



## Guidance in requesting a Review of a premises licence

You may apply for a review of a licence or certificate that is in force. A licensing authority may reject the application for review if it is satisfied that the grounds for review are not relevant to one or more of the licensing objectives:

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

The licensing authority can reject any ground for review if it considers it to be “frivolous”, “vexatious” or a “repetition”.

### What do “frivolous” and “vexatious” mean?

Frivolous and vexatious have their ordinary meaning. Whether representations are frivolous or vexatious will be for the licensing authority to determine. For example, the licensing authority might find representations vexatious or frivolous if they arise because of disputes between rival businesses or frivolous if they clearly lacked seriousness.

### What does “repetitious” mean?

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 (the licensing authority’s “register of licences” will include all applications for reviews made to them in the past)
- Representations considered by the licensing authority when the premises licence was first granted
- Representations made when the application for the premises 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 the 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 licensing authorities themselves to judge what should be regarded as a “reasonable interval” in these circumstances. However, the Secretary of State (in Guidance to Licensing Authorities) suggests that more than one review from an interested party 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).

You may not apply for a review anonymously, even if somebody else (e.g. a local MP or councillor) is applying for a review on your behalf. This is because for example, if the if you are a resident or local business, the licensing authority

needs to be satisfied that they are not being vexatious. Similarly, it is important that the licence holder is also able to respond to an application for a review. If you are concerned about possible intimidation, you could consider asking the police, or another appropriate responsible authority to apply for a review on your behalf.

Before applying for a review, you may want to consider whether your concern(s) could be effectively dealt with outside of the formal review process. This could involve, for example:

- Talking to the licence or certificate holder to determine whether there are any steps they may be willing to take to rectify the situation
- Asking the licensing department at your council to talk to the licensee on your behalf
- Ask your local MP or Councillor to speak to the licence or certificate holder on your behalf
- Talking to the relevant “responsible authority” (e.g. environmental health in relation to noise nuisance, or the police in relation to crime and disorder) to determine whether there is other legislation that could help resolve the issue

### **Things you may want to consider when seeking a review:**

It may be helpful to get the backing of other people living, or businesses, or other “responsible authorities”. Look at your licensing authority’s official records about the premises, kept in their ‘licensing register’. This will show you if other people have made representations, or asked for a review of a premises in the past.

If you want to ask another person such as an MP or local Councillor (or perhaps a solicitor, if you are a Councillor making representations) to represent you at the review, it is advisable to make such a request in writing so that the individual can demonstrate he or she was asked. It will be a matter for the MP or Councillor to decide whether they should agree to your request. They are not obliged to do so, however, most elected representatives are happy to help residents with this sort of issue, and there is no requirement for them to live in the vicinity of the premises in question for them to be able to make representations on behalf of residents that do. It should be noted that Councillors who are part of the licensing committee hearing the application will not be able to discuss the application with you outside the formal hearing, so it is suggested that you do not approach them to try to.

If you are a Councillor making representations you must comply with the Local Authorities (Model Code of Conduct) Order 2007 at all stages of the process.

There is no requirement for anyone to produce a recorded history at a premises to support their representations. However, it is important to be able to back up your claims. You could do this by keeping a diary over a period of time, for example. Sound or video recordings may also be helpful. It may also be a while before any hearing, so it is good to keep a clear record. Try to get as much information as possible about any official response to any individual incidents (e.g. – police being called out)

You may also be able to back up your application with data such as crime statistics. However, it should be noted that conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and his staff or agents, but can directly impact on the behaviour of those under the licensee's direction when on his premises or in the immediate vicinity of the premises as they seek to enter or leave.

If there is general noise nuisance on streets because of licensed premises, you will probably need to show how it relates to the specific premises. Residents or businesses applying for a review following a particular incident should be cautious, as a licensee may argue that this was a one off problem that can be rectified without a review.

Have a good idea how you'd like the situation to be resolved.

### **Applying for a Review**

An application for the review of a premises licence or club premises certificate should normally be given in writing and be in the prescribed application form, which is available to print or download from the council's website by clicking [Application to review a premises licence \(71kb, PDF\)](#)

### **What happens after a request for a review has been made?**

The licensing authority must advertise requests for a review of a licence or certificate. They will do this by displaying a notice at the premises that is subject to review, and at the licensing authority offices, for 28 consecutive days starting the day after the day on which the application is given to them. The licensing authority may also advertise the review on their website. Other people and responsible authorities then have this period of 28 consecutive days starting the day after the day on which the application was given to make representations about the review.

If the request for a review is not rejected then the licensing authority must hold a hearing at the licensing authority to consider the application, unless all parties agree that this is unnecessary. For example, the licensing authority may offer to try to resolve matters via a negotiated agreement outside a formal hearing. You will need to decide if this is appropriate for you but you can, of course, insist upon the hearing.

The licensing authority will write to you with the date and time of the hearing and will inform you of the procedure to be followed at the hearing.

As the person or body requesting the review, you are required to give notice to the licensing authority at least 5 working days before the start of the hearing, stating:

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

You must let the licensing authority know as soon as possible by written notice if you want to withdraw your application.

## **Hearings**

Hearings will generally be held in public, unless the licensing authority decides it is in the public interest to hold all, or part of the hearing in private. The licensing authority shall ensure that a record is taken of the hearing.

Hearings will normally take the form of a discussion and will be led by the licensing authority, which will consist of three local authority elected councillors (this will be the Licensing panel drawn from a full licensing committee of 15 councillors). The licensing authority will explain the procedure to be followed. It will determine any request for additional persons to appear at the hearing. It will consider evidence produced in support before the hearing and can consider evidence produced by a party at the hearing, but only if all parties agree.

Further evidence may also be produced if this was sought for clarification of an issue by the authority before the hearing. Cross-examination of another party during a hearing is not allowed, unless the licensing authority thinks it necessary. The parties are entitled to address the authority and will be allowed equal time to address the authority and, if they have been given permission by the authority to do so, they will be given equal time to ask any questions of any other party. The authority will disregard any information it considers to be irrelevant.

It is important that you consider what you are going to say at the hearing, as the licence or certificate holder and the committee will have seen your application for review, and may get the chance to question what you are saying.

**NB - A hearing can still go ahead in the absence of any party (e.g. - applicant or interested party)**

### **What happens after a hearing?**

If no decision is made at the hearing, the committee has a maximum of 5 days from the day or the last day of the hearing to come to a decision. Following a review, a licensing authority 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