

Licensing Act 2003 Review Guidance

What is a review?

A review is an application to the Licensing Authority to consider whether a particular premises are managed and operated in accordance with their licence and the terms of the Licensing Act 2003, and to consider taking appropriate action.

A review should not be the first stage in taking action to deal with concerns about licensed premises. Anyone with concerns about such premises should consider whether these could be dealt with by other means, for example:

- Asking the licence holder or club secretary to take steps to rectify the situation
- Asking the relevant responsible authority whether there is other legislation which could be used to solve the problem. For instance, the Environmental Health Officer may be able to help deal with noise nuisance or the Police may be able to help in cases of crime and disorder at licensed premises.

Who can make an application for review?

Under the Licensing Act 2003 a responsible authority or any other person (this includes an individual, body or business) can make an application for review of a premises licence or review of a club premises certificate.

Who are the responsible authorities?

The responsible authorities are:

- Cleveland Police
- Cleveland Fire Service
- Environmental Health
- Trading Standards
- Planning
- Public Health
- Protection of Children from Harm

What can applications for review be made about?

Only review applications that relate to at least one of the four licensing objectives can be considered. The licensing objectives are:

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

Review applications must clearly relate to the premises for which the review application is being made. For example, representations on the basis of general noise and disturbance, without evidence of a causal link to specific premises, are unlikely to be persuasive.

What does the applicant for review need to do?

It is the responsibility of the applicant for review to complete the prescribed form in full, and to serve the original on the licensing authority, send copies to each of the responsible authorities and to the holder of the premises licence or club secretary.

Failure to fully complete the form and serve the copies on each responsible authority and the premises licence holder as required will render the application void.

Will every review application be considered?

If the review application is valid in every other respect, the licensing authority is obliged to consider whether the review is frivolous, vexatious or repetitious.

Frivolous:

As a general rule, frivolous representations are likely to lack seriousness. This does not mean that a trivial complaint would always be considered frivolous, but it must be serious and be of some substance; it must also relate to one or more of the licensing objectives.

Vexatious:

Vexatious representations may, for example, arise because of disputes between rival businesses.

Repetitious:

A review application will be repetitious if it is identical or substantially similar to a ground of a previous review or representation on an application for the same premises, and a reasonable interval has not elapsed since the previous consideration by the Council. Statutory guidance suggests that 12 months may be a "reasonable interval" in most circumstances.

If a review application is declared frivolous, vexatious or repetitious, the application will be rejected and the applicant will be notified of the reasons for the decision. The legislation does not provide any right of appeal against such a decision, other than by way of application for judicial review to the High Court

What happens if the review application is valid?

The licensing authority will arrange for the display of a notice of the application for review on or adjacent to the premises, and on the Stockton Trading Standards and Licensing Website for a period of 28 days during which any responsible authority or other person may make a representation about the application.

Petitions

The Licensing Authority will accept petitions, but there are some important factors to consider before organizing a petition:

- We ask that the instigator of the petition identifies themselves as a central point of contact. We may need to make contact in order to verify certain matters and if we are unable to do this it could invalidate the petition.

- Each page of the petition should contain information as to the purpose of the petition so that all persons know what they are signing.
- Full names and addresses must be supplied.

All signatories must be made aware that a copy of the petition will be supplied to the applicant and a copy will be contained within the committee papers, so their personal details will become public knowledge.

We will not write to each signatory separately, but instead assume that the instigator will advise each signatory of the hearing date and the final outcome of the application. It is expected that the instigator will represent the signatories at the hearing and to speak for them.

Who should representations be sent to?

Representations, which must be in writing and include your name and full address, should be sent to the Licensing Authority at the address above.

The Licensing Authority **must** receive representations no later than the last date specified in the notice of application, as the Act does not allow the licensing authority to consider late representations.

What happens when representations are relevant?

A copy of the representations will be sent to the applicant and arrangements will be made for the Council's Licensing Sub-Committee to hear the application for review and the representations made to it. Hearings will take place in public.

The details of all representations (including names and addresses) will be included in a report that the Licensing Section will prepare for the hearing. These reports are public documents.

Persons will be invited to attend the hearing, as will the applicant and any responsible authorities that have made representations. Any party may be assisted or represented by any person at the hearing regardless of whether that person is legally qualified.

Persons will be notified of the date and time of the hearing and provide details of the procedure to be followed at the hearing.

At the hearing, the legislation allows the Sub-Committee to take one or more of the following steps:

- to take no further action;
- to modify the conditions of the licence;
- to exclude a licensable activity from the scope of the licence;
- to remove the designated premises supervisor;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

Can responsible authorities and other persons be represented at the hearing?

Yes, but they will need to specifically authorise someone to act on their behalf for example, a legal representative or friend, to act on their behalf.

Is a hearing always required?

Yes, the licensing sub committee will need to meet even if to endorse any prior agreements made by all parties or, where no agreement has been reached, to hear the review application on merit and make any decision based on promoting the licensing objectives.

Can representations be withdrawn?

Yes, by giving notice to the Licensing Authority no later than 24 hours before the day of the hearing or in person at the hearing.

Who makes the decision?

The Licensing Committee is made up of elected Members of the Council and the Licensing Sub-Committee will comprise of any three of those Members. The Sub-Committee considers applications quasi-judicially - evidence is not heard on oath as in a court, but the Sub-Committee is required to determine applications in accordance with the evidence before it at the hearing.

Is there a right of appeal against the decision of the Sub-Committee?

The applicant for the review, licence holder, responsible authorities or an interested party can appeal to the Magistrates' Court within twenty-one days of the decision of the sub-committee.

Anyone considering an appeal is strongly advised to take professional legal advice prior to commencing this potentially costly course of action.