

Gathering Evidence for a Review of a Premises Licence and Submitting an Application for Review

Reviewing a Premises Licence or Club Premises can be a significant potential sanction against a premises that is proved to be causing problems because the Licensing Authority can decide to impose new conditions, restrict operating hours, restrict capacity in certain instances, licensable activities or even suspend or revoke the licence altogether. A review could therefore have an enormous detrimental impact on a business's ability to trade successfully, so most licence holders will want to take very seriously any legitimate concerns you have about the way they are running their premises and will wish to work with residents or responsible authorities for example to find a solution to specific problems without the need for a review hearing to be held.

Reviews can be initiated by responsible authorities such as the Police or the Council's Environmental Health noise team and interested parties or persons such as residents, local businesses, Ward Councillors or even your local MP, so if a premises is causing you unreasonable problems, it is worth while, depending on what the problem is, contacting the relevant responsible authority and getting their views or asking them if they have had any complaints about the premises in question and if so what they were and how long ago they were made etc. They may even be prepared to join you in calling for a review if they feel there is compelling evidence or the need to do so.

Having the evidence to enable a successful application for a review of a premises licence to be made is not just necessary for the process, it is vital to the process. Without appropriate evidence it is unlikely that a review application will be successful or that it can be defended in Court if it is appealed against by the licence holder. Gathering clear and factual evidence over a reasonable period of time and which clearly demonstrates the problems you are experiencing, is at the heart of presenting a successful case. Evidence must therefore exist before applying for a review in order for an application to be accepted by the Licensing Authority.

Evidence can be gathered and presented in many different ways. For example a simple and often effective way of recording your complaint about a premises is to keep a log of what the problems are. List the date and time they occur and brief details of what happens. If you keep this over a reasonable number of weeks it helps to provide a background to the problems being experienced which the Licensing Sub Committee sitting to hear your review application can consider and take into account. It also helps to determine whether the problem is an ongoing one rather than a temporary or one off problem. Again talking with other responsible authorities such as the Police in respect to crime and disorder or the Council's Environmental Health team in regards to noise from premises may assist you in this process. It will also help to determine whether there are grounds to review the premises licence, or whether there is other statutory ways or means of dealing with the problem which should be tried first, or instead of, using the Licensing Act 2003.

If you are able to get other people to also keep logs or sign to verify your log such as close or nearby neighbours who are also experiencing the same problems as you, then this can help to show that it is not just you, but that other people also share your concerns and therefore that you do not have an unsubstantiated or irrational grudge against the premises for example. The important factor is to be precise in showing that the problems you are experiencing actually do relate to the premises you are complaining about and not to either another premises or problems in the area generally and which the licence holder is not responsible for and cannot be expected to be responsible for.

A list of Responsible Authorities and contact details for them can be found by clicking on the following link: [Responsible authorities list](#)

Evidence can also be gathered in other ways such as digital recordings of noise from music or by video camera/recording from a mobile phone for example, but you need to be very careful that this does not compromise your own safety when doing so, or the privacy of persons who may have nothing to do with problems being experienced by you, or have nothing to do with the premises that you are complaining about for example. If such recordings do comprise the privacy of other persons it is very unlikely that they will be able to be considered or taken into account at the review hearing.

Finally, you should be certain that the information you provide to the Licensing Authority relates to one or more of the licensing objectives (**i.e. the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm**), is factual and is not a one off problem but something that keeps recurring. It is also helpful to all sides if you can be clear at the outset what the outcome is that you are seeking. For example, do you really want the licence suspended or revoked or would another type of restriction or condition on the licence deal with the problem(s) that you are experiencing?

Where can I get an application to review a Premises Licence or Club Premises Certificate?

On request from the Licensing team by e-mailing licensingsection@tendringdc.gov.uk or by phoning 01255 686565.

There is no automatic right to review a premises licence and an application will be considered in its own right and on its own merits and will particularly take into consideration whether under the Licensing Act 2003 the application for review could be considered as vexatious, repetitious or frivolous. If it is, the application will be rejected. Further advice on what might constitute a vexatious, repetitious or frivolous review application can be found in the Section 182 Guidance that accompanies the Licensing Act 2003 and which can be viewed via the pages of www.gov.uk web site. It is always best to discuss with the licensing team whether a review is appropriate in the first instance as there may be steps that could be taken such as mediation for example that may make the considerable expense of holding a licensing hearing unnecessary for all parties concerned.

Submitting the review application?

There are precise procedural steps under the Licensing Act 2003 that must be followed correctly when submitting applications and this is no different for review applications. The Licensing Authority has no discretion to accept review applications that do not comply with the timeframes/requirements set out under the Act and will reject an application that does not completely meet these timeframes and requirements.

When submitting the application by post, please send your original application and any relevant documents to the licensing team.

On the same day as submitting the application for the review of a premises licence, you must provide copies of the application and accompanying documents to all of the Responsible Authorities* and also to the person who holds the premises licence or club premises certificate i.e. the licence holder.

*Contact details for Responsible Authorities can be found by clicking on the link shown above in this text.

What happens once the application has been submitted?

Upon receipt of a review application Tendring District Council's Licensing Authority will consider the application and either:

- Accept the application – and notify acceptance to the person or body making the application; or
- Reject the application - the person or body who requested the review will be notified in writing as soon as reasonably practicable that the application has been rejected and the reasons why

Upon receipt of a valid review application the Licensing Authority will:

- Advertise the review for 28 days, from the day after the application was made:
- at, or near the site of the premises to which the application relates (and where it can conveniently and easily be read from the exterior)
- within the main office of the Licensing Authority and also on the alcohol and entertainment pages of Tendring District Council's web site. www.tendring.gov.uk

(Except in the case of a review following a closure order, which can only be made by the Police, when the period for advertisement is no less than 7 days starting with the day after the application was made.)

Can other persons/parties/responsible authorities comment on a review application?

During the 28-day consultation period, a Responsible Authority or interested party for example may submit representations to Tendring District Council's Licensing Authority in connection with the review. The time limits for making representations will be set out in the notice displayed at the premises and the notice displayed in the main office of the Licensing Authority or on the alcohol and entertainment pages of Tendring District Council's web site www.tendring.gov.uk

What happens following the consultation period?

Tendring District Council's Licensing Authority (Licensing Sub Committee) will consider the review application, and any relevant representations that have been made, at a licensing sub committee hearing. This will ordinarily be held within 20 working days of the end of the 28-day consultation period.

Where the Licensing Authority considers that action under its statutory powers are appropriate and proportionate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management
- suspend the licence for a period not exceeding three months

- revoke the licence

It could also for example decide that it is appropriate or proportionate in the circumstances to take no further action (because the licence holder has already taken reasonable steps to address the problem that all parties are content with for example), or issue an informal or formal warning to the licence holder in regards to possible future conduct.

Any remedial action taken will be directed at addressing the concerns to which the representations relate and the promotion of the licensing objectives. Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months for example.

Will I be notified of the review hearing?

The applicant, the licence holder and anyone who has made a relevant representation will be sent a letter advising them of the date of the review hearing and invited to attend. They must in return advise if they intend to attend the hearing or be represented at it or advise that they think the hearing is unnecessary. They must also give their permission for a party or person to represent them along with the name of that party or person and a brief description of the point or points which may be able to assist the licensing authority in relation to the application, representations or notice of the party or person making the request.

Confirmation of attendance and relevant notifications to the licensing authority must be given no later than five working days before the day or the first day on which the hearing is to be held.

This advice and guidance does not constitute legal advice neither is it intended to do so. Should you require legal advice you are advised to seek this independently and by your own means.

Licensing Team

Amendment 3 August 2016.