

**Licensing Act 2003**

#### Applying for a Review of a Premises Licence / Club Premises Certificate

**Guidance for Interested parties**

This guidance describes how to apply for a review of a premises licence or club premises certificate under the Licensing Act 2003. It also contains information about the hearings process that follows.

An individual, body or business may apply for a review of a licence or certificate that is in force. A licensing authority may reject an 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
* 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 does “frivolous” and “vexatious” mean?****

“Frivolous” or “vexatious” will bear 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 to be vexatious if they arise because of disputes between rival businesses or frivolous if they clearly lack 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 public register 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 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.

Q:LLC & Licensing\Licensing\Template\PREMISE PACK – REVIEW (April 2017)

Under the Licensing Act 2003, the applicant cannot apply for a review anonymously. This is because, for example, the licensing authority needs to be satisfied that the applicant is not being vexatious. Similarly, it is important that the licence holder is also able to respond to an application for a review, for example, if they believe the applicant is being vexatious. If applicants are concerned about possible intimidation, they could consider asking the police, or another appropriate responsible authority to apply for a review on their behalf.

B**efore applying for a review, the applicant may want to consider whether their concern(s) could be effectively dealt with outside of the formal review process. This could involve, for example:**

* **Talking to the licence holder or premises supervisor to determine whether there are any steps they may be willing to take to rectify the situation.**
* **Asking the Licensing Team to talk to the licence holder or premises supervisor 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 individuals, bodies or businesses, or other “responsible authorities”.
* Look at your licensing authority’s public register about the premises. This will show you if other people have made representations, or asked for a review of a premises in the past.
* If you are thinking of raising a petition, it would be helpful to include the petitioners name, address and grounds for the review. It would also help if a spokesperson could volunteer to receive details about the hearings etc. from the licensing authority and may be willing to speak on behalf of the petitioners at the hearing.
* If you want to ask another person such as an MP or local Councillor 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 with this sort of issue. 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.
* For individual incidents, try to get as much information as possible about any official response (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. 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.
* Anyone 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 must be given in writing using the prescribed application form, which is available from the Licensing Team.

Filling in the form

In the opening statement you should give the name of the person applying for the review – e.g. ‘I John Smith’... You should also indicate whether you are applying for the review of a “premises licence” or “club premises certificate” by deleting, as applicable.

Part 1 – Premises or club premises details

This section asks for the address and some other details of the premises concerned in the review. If the premises has no postal address you should describe the location of the premises.

You are also asked to give the name and number of the premises licence holder or club. This information should be available on the “Summary” of the licence or certificate, which will be displayed at the premises, concerned in the review, or will be available on request from the Licensing Team.

Part 2 – Applicant details

This section asks you to indicate in what capacity you are applying for a review. As an individual, body or business, you should tick box (1), then complete section (A) – Details of individual applicant, and/or section (B) – Details of other applicant (e.g. – another individual or body or business).

An application for a review of a licence or certificate must be about the effect the licence is having on at least one of the four licensing objectives (see above). You should indicate which licensing objective(s) the application relates to.

You should state the ground(s) for review, and provide as much information as possible to support the application. You may use extra sheets of paper if necessary. Details may include, for example, dates that problems occurred and how the problem affected you.

You should state whether you have made an application for a review relating to this premises before, and give the further details of any representations you have made previously relating to this premises. This information will be used to determine whether the application for a review is “repetitious” (see above).

Checklist and declaration

The person or body requesting the review must notify the holder of the premises licence or club premises certificate and each “responsible authority” of their request, by sending them a copy of the application, together with any accompanying documents, on the same day as the application is given to the licensing authority. Responsible authorities can then, if they wish, join or back up your application for review, or use the opportunity to make their own application for a review on different grounds. The licensing authority also has to advertise the review to enable other individuals, bodies or businesses to join it.

Responsible authorities include the following:

* West Yorkshire Police, Licensing Section, Trafalgar House Police Station, Bradford, BD5 0EW

Email: bradford.licensing@westyorkshire.pnn.police.uk

* Planning Services, Bradford Council, Britannia House, Hall Ings, Bradford BD1 1HX

Email: Planning.Enforcement@bradford.gov.uk

* Bradford Children and Families Trust, Sir Henry Mitchell House, 4 Manchester Road, Bradford, BD5 0QL

Email: child.exploitation@bradfordcft.org.uk;

* West Yorkshire Trading Standards, Nepshaw Lane South, Morley, Leeds, LS27 0QP

Email: licensing@wyjs.org.uk

* West Yorkshire Fire & Rescue Service, Fire Protection Dept, Oakroyd Hall, Birkenshaw, BD11 2DY

Email: fire.safety@westyorksfire.gov.uk

* Environmental Services, Bradford Council, Britannia House, Hall Ings, Bradford, BD1 1HX

Email: eh.admin@bradford.gov.uk

* Public Health, Dr Anita Parkin, Britannia House, Hall ings, Bradford BD1 1HX

Email: liz.barry@bradford.gov.uk

*Where the local authority is not the enforcing authority for the Health and Safety at Work Act the application must also be served on the Health and Safety Executive. Examples of such premises include civic suites, educational establishments and hospitals (****not public houses, night clubs or off licence premises****). If you are unsure contact the Licensing Team who will advise you further.*

* Health & Safety Executive, The Lateral, 8 City Walk, Leeds, LS11 9AT

By ticking this list you are making a declaration that you have carried out the listed actions.

Signatures

The application form must be signed. An applicant’s agent (for example a solicitor) may sign the form on their behalf, provided they have authority to do so. Where there is more than one applicant, both applicants, or their respective agents, must sign the form.

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.**

Other individuals, bodies or businesses 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 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, body or business 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 an agreement has been reached)
* 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 no later than 24 hours before the start of a hearing, or orally at the hearing) 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). 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 can 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, 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 have questions regarding what you are saying.

A hearing can still go ahead in the absence of any party.

**What happens after a hearing?**

Decisions are usually made on the day of the hearing. However, if no decision is made at the hearing, the Panel 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

*This leaflet has been made as comprehensive as possible. However, in attempting to simplify the law, certain requirements have been omitted. Full details of what is required are in the legislation itself. Laws can and do change. This information was accurate when produced, but may have changed since. The Council must advise that only the Courts can give an authoritative opinion on statute law.*

*Bradford Council*

*Licensing Team*

*Shearbridge Depot*

*Shearbridge Road*

*Bradford BD7 1PU*

***Telephone: 01274 432240***

***E-mail: licensing@bradford.gov.uk***



Licensing Team, Shearbridge Depot Shearbridge Road Braford BD7 1PU

|  |
| --- |
| **Application for the review of a premises licence or club premises certificate under the** **Licensing Act 2003****PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**Before completing this form please read the guidance notes at the end of the form.If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.You may wish to keep a copy of the completed form for your records.  |
| **I** |       |
|  *(Insert name of applicant)* |
| **apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)** |
|  |
| **Part 1 – Premises or club premises details**  |
| **Postal address of premises or, if none, ordnance survey map reference or description**      |
| **Post town**       | **Post code** **(if known)**       |
|  |
| **Name of premises licence holder or club holding club premises certificate (if known)**      |
|  |
| **Number of premises licence or club premises certificate (if known****)**       |

|  |
| --- |
| **Part 2 - Applicant details**  |
|  |
| I am | Please tick ✓ yes |
| 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below) |   |
| [ ]  |
|  |
| 2) a responsible authority (please complete (C) below) | **[ ]**  |
|  |
| 3) a member of the club to which this application relates (please complete (A) below) | **[ ]**   |

|  |
| --- |
| **(A) DETAILS OF** **INDIVIDUAL APPLICANT** (fill in as applicable) |
| Please tick ✓ yes |
| Mr | **[ ]**  | Mrs | **[ ]**  | Miss | **[ ]**  | Ms | **[ ]**  | Other title |       |
|  | (for example, Rev) |
|  |
| **Surname** |  | **First names** |
|       |  |       |
|  |
|  | Please tick ✓ yes |
| **I am 18 years old or over** | **[ ]**  |
|  |
| **Current postal** **address if** **different from premises address** |       |
|  |
| **Post town** |       | **Post Code** |       |
|  |
| **Daytime contact telephone number** |       |
|  |
| **E-mail address (optional)**  |       |

|  |
| --- |
| **(B) DETAILS OF OTHER APPLICANT** |
|  |
| Name and address      |
| Telephone number (if any)      |
| E-mail address (optional)       |

|  |
| --- |
|  **(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT** |
| Name and address      |
| Telephone number (if any)      |
| E-mail address (optional)       |

|  |
| --- |
| **This application to review relates to the following licensing objective(s)** |
|  | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | **[ ]**  |
| 2) public safety | **[ ]**  |
| 3) the prevention of public nuisance | **[ ]**  |
| 4) the protection of children from harm | **[ ]**  |

|  |
| --- |
| **Please state the ground(s) for review** (please read guidance note 2)      |

|  |
| --- |
| **Please provide as much information as possible to support the application** (please read guidance note 3)      |
|  **Please tick ✓ yes** |
| Have you made an application for review relating to thepremises before | **[ ]**  |
|  |
| If yes please state the date of that application |

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|

|  |  |  |
| --- | --- | --- |
| Day | Month | Year |
|   |   |   |   |   |   |   |   |

 |

 |

|  |
| --- |
| **If you have made representations before relating to the premises please state what they were and when you made them**      |

|  |
| --- |
|  **Please tick ✓ yes** |
| * I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
 | **[ ]**  |
| * I understand that if I do not comply with the above requirements my application will be rejected
 | **[ ]**  |

|  |
| --- |
| **IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.** |
|  |
| **Part 3 – Signatures** (please read guidance note 4) |
|  |
| **Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.** |
|  |
| Signature ………………………………………………………………………………………………… |
|  |
| Date       ………………………………………………………………………………………………… |
|  |
| Capacity      ………………………………………………………………………………………………… |

|  |
| --- |
| **Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 6)      |
| **Post town**      | **Post Code**      |
| **Telephone number (if any****)**       |
| **If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)**       |

|  |
| --- |
| **Notes for Guidance** 1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.
 |