

Review – Guidance notes for applicants

This guidance relates to the application form for a review of a Premises Licence or Club Premises Certificate under the Licensing Act 2003 ('the Act'). It also contains information about the consultation and hearings process that will result from a valid application.

Applications must be made to the local licensing authority within whose area the premises is situated, this will be Sevenoaks District Council for all premises situated within the district of Sevenoaks. Application forms can be obtained from the Sevenoaks Licensing team or on our website.

More help

This guidance is intended to help applicants complete the application form. The Sevenoaks Licensing team may be able to help you with any further queries in respect of making an application. You may also wish to consider engaging professional assistance, such as a legal advisor or licensing agent, or contacting other relevant organisations such as a resident's group, or the Citizens Advice Bureau.

The review process

All businesses and organisations who wish to carry on 'licensable activities' (which include the supply of alcohol, the provision of regulated entertainment, and the sale of late-night refreshment) on a regular basis are required to be licensed by the licensing authority (the local council) for that area. The licence permitting these activities is called a Premises Licence. A small number of social members' clubs may instead hold an alternate type of authorisation known as a Club Premises Certificate – however, both are very similar, and the processes for reviewing either are identical. Throughout these guidance notes, the term 'licence' will mean either a Premises Licence or a Club Premises Certificate.

If the operation of a specific premises which is covered by a licence is causing issues, then any person affected by that premises may apply to the licensing authority to have the licence reviewed. The grounds for review must relate to one or more of the 'licensing objectives', which are:

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

An application for the review of a licence must be made in writing, setting out the full grounds on which the review is requested. The licensing authority will assess the review application when it receives it and can reject applications for review if the grounds are considered to be frivolous, vexatious or repetitious.

If the application is accepted, the licensing authority will accept other representations (for example, from other people affected by the premises, or from statutory bodies including the police, fire service, planning, noise, trading standards, etc.) for a 28-day period. Statutory notices with details of the application will be displayed at or near the premises during this period.

After the end of the period for representations, the review application will be considered by the council's Licensing Sub-Committee at a public hearing, to decide what action to take in respect of the licence.

What does 'frivolous, vexatious or repetitious' mean, and why will review grounds be refused?

Processing a review application can take up a lot of time and cost the council a lot of money. We have a duty to ensure that we use our resources wisely to tackle the most serious issues, and as such frivolous or vexatious grounds for review will be rejected. We will follow the dictionary definitions of both of these terms – frivolous meaning grounds without any serious or substantial purpose, and vexatious meaning grounds that are intended solely to annoy, irritate, frustrate or aggravate another party. For example, the licensing authority might find certain grounds for review to be vexatious if they arise because of commercial disputes between rival businesses.

Repetitious grounds are those that are identical or substantially similar to grounds for recent review applications in respect of the same licence, or of representations made against an application for the grant of the licence, where a reasonable interval has not passed since that application was made. The reason for this is that the review process is not intended to be used simply as a second bite of the cherry following a failure to persuade the licensing authority on earlier occasions. The licensing authority will decide what constitutes a 'reasonable interval' in each case – however, the Government's Guidance to Licensing Authorities suggests a period of twelve months will usually be appropriate, unless there are exceptional circumstances (e.g. where new problems have arisen).

Can I apply for a review anonymously?

All review applications must be made by a specific person or body, whose details must be given in the application form. It is not possible to apply for a review anonymously, as the licensing authority needs to know who is requesting the review in order to determine the relevance of the grounds, and to ensure that the grounds are not frivolous, vexatious or repetitious. In addition, applications for review are treated as a 'quasi-judicial' process, and to ensure fairness we must allow the operator of the premises concerned the right to reply to the review application and the grounds contained within it.

If persons wishing to apply for a review have genuine concerns about the possibility of intimidation, they could consider asking another person, such as an elected representative (e.g. a councillor or MP), a representative body (a residents association or business forum), or a responsible authority (such as the police, trading standards, noise, planning, etc.) if they have grounds to initiate a review of the licence themselves.

Before applying

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

- Talking or writing to the licence or certificate holder to determine whether there are any steps they may be willing to take to rectify the situation;
- If the premises are owned by a larger chain, talking to their head office or a regional manager about your concerns;
- Asking the council's licensing section to talk to the licensee on your behalf;
- Asking your local MP or councillors to speak to the licence or certificate holder on your behalf;
- Talking to a 'responsible authority' (e.g. the police, fire brigade, noise, trading standards, planning) to determine whether there is other legislation that could help resolve the issue.

If the above steps have not resolved the issue, then before submitting your review application you may wish to consider the following matters:

- It may be helpful to get the backing of other local people, local businesses, elected members or responsible authorities – they will be able to make their own representations if your application is accepted. Although petitions will be considered by the licensing authority when it determines the review, individual representations setting out each person's experiences with the premises will generally have more weight
- If you do want to arrange a petition, it is important to ensure that the grounds for people signing it are clearly stated, and that each signatory also gives their full name and address. 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 public hearing, it is advisable to make such a request in writing so that they can demonstrate they were 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. Councillors on the Licensing Sub-Committee that will hear 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 or anti-social behaviour 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
- Persons 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 reasonably resolved. The Licensing Sub-Committee will be trying to achieve a balance between your rights to peaceful enjoyment of your home, or the ability to run your business without interference, against the council's duty to promote and support responsible economic activity in the area. If you think that the issues could be controlled through a number of additional conditions, then the Committee will take these into account when making their decision. Revoking a licence is the most serious power available and will only be used in the most serious cases where there are no other suitable steps.

Completing the form

All review applications must be made in writing, and on the prescribed form. It is not possible to apply for the review of a licence online, as reviews were specifically excluded from the scope of the EU Services Directive.

In the opening statement, you should give the name of the person or body applying for the review – e.g. 'Fred Smith' or 'Example House Residents' Association'.

You should also indicate whether you are applying for the review of a 'premises licence' or a 'club premises certificate', by deleting the appropriate part of the statement.

Part 1 - premises details

This section asks for the address and some other details of the premises to which the review relates. Please include the trading name of the premises and as much of the postal address as possible, including the post code if you know it. It may not always be appropriate to use a postal address – licences can be granted to a wide range of premises, including event sites on open land, parks, vessels, vehicles/movable structures and buildings that may not have a formal postal address:

- If the premises has no postal address, please describe the location of the premises and/or give the Ordnance Survey map reference
- If the application relates to a vessel, please give the name of the vessel and describe the location at which it is usually moored or berthed (if you know this)
- If the application relates to a vehicle or other movable structure, please give details of the vehicle or structure, and the place in which it is situated while carrying on licensable activities.

You are also asked to give the name of the holder of the licence, and the licence number. This information should be available on the 'Summary' of the licence or certificate, which will be displayed at the premises. If you do not know these details, you can either leave the boxes blank, or contact the Licensing team for confirmation of the details.

Part 2 - applicant details

This section asks you to state the capacity in which you are applying for a review of the licence. Unless you represent a statutory responsible authority, most applicants will need to tick the first box (an individual, body or business), unless they are a member of a club seeking to review that club's licence.

After ticking the appropriate box, the applicant's details should be given in the appropriate section – either in section (A) if applying as an individual, or section (B) if applying as a body or business. Section (C) should only be used by responsible authority applicants. Please ensure that all contact details given are correct, to avoid any delays should we need to speak with you about your application.

Grounds for review

An application for a review of a licence must relate to the effect the licence is having on at least one of the four licensing objectives. You should indicate which licensing objective(s) the application relates to by ticking the appropriate box(es).

In the following box, please set out the grounds for your review application in as much detail as you consider necessary. This information will form the basis of the public hearing at which the review application will be determined, so it is important to ensure that you have referred to all matters you wish to be taken into account. If the grounds relate to specific incidents, please give details of those incidents including

dates/times, and the effect of those incidents on you. You can use this and the following box to provide as much information as possible to support the application, using extra sheets if necessary.

If you also wish to include any supporting documents or other evidence (e.g. letters you have sent to or received from the premises, diary sheets listing incidents, photos, video or audio files that are relevant to your review request) as part of the review, please submit these with your application. You may wish to list or otherwise refer to these documents within the details of your grounds.

You are asked to confirm whether you have made an application for a review relating to this premises before, and to give further details of any representations you have previously made in respect of this premises. This information will be used in determining whether the review application is repetitious.

Checklist and declaration

The checklist asks you to confirm that you have (or will) satisfied the notification requirements that relate to review applications. By completing the checklist, you are making a declaration that you have carried out the listed actions.

The person or body making the application must give a copy of the application form and any supporting documents to the holder of the licence, and to each of the responsible authorities, on the same day that they give it to the licensing authority. Contact details for all of the responsible authorities are contained towards the front of this application pack. The address of the licence-holder can be confirmed by contacting the licensing section, using the details at the start of this document.

If you post the application to any of these parties, we strongly recommend either using a tracked delivery service, or obtaining a 'certificate of posting' from your local Post Office, as these will be useful in order to demonstrate when applications were served upon that party, if challenged.

This section ends with a statement that it is a criminal offence to make a false statement in connection with the application. By submitting the application, you are declaring that the information you provide is, to the best of your knowledge, factually correct in all regards. Review applicants may be prosecuted if found to have knowingly or recklessly given false or misleading information, and if convicted could be fined up to £5,000.

Part 3 - signatures and contact details

The application form must be signed. If you have obtained legal or professional assistance in making your review application, for example, from a solicitor or licensing agent, they may sign the form on your behalf, providing you have authorised them to do so.

If the application has been made jointly by more than one person or body, each applicant must sign the application.

If there is a particular address or set of contact details you wish us to use for correspondence relating to this application, these details can be entered in the section after the signatures. If this section is left blank, we will correspond with you via the details provided in Part 2 of the form.

What happens next?

Upon receiving a review application, the licensing authority will firstly check the application to ensure that it has been correctly completed, that the grounds are relevant and not frivolous, vexatious or repetitious, and that copies have been served on all of the parties required by law.

Once satisfied that the application is valid, the licensing authority must advertise the application, by displaying a notice at or near the premises to which the application relates, for 28 consecutive days starting the day after the day on which the application is given to them. Details of the application will also be displayed at our offices, and on our website. The purpose of the notices is to alert other residents and bodies to the application, and advise them that they may make representations in respect of the review within the 28 day period. These representations may be made either in support of your application, or in support of the premises, or from a more neutral point of view.

If the application has been deemed valid, then, following the period for representations, a public hearing will be arranged, to take place at the council's offices, so that the Licensing Sub-Committee can hear from all parties and consider the review application and any representations made. The licensing authority will write to all parties to formally invite them to the hearing, and will provide details of the procedures that the hearing will follow.

You may wish to engage with the licence-holder and attempt mediation after making your application, and if you agree a mutually acceptable resolution, this may be accepted by the licensing authority without the need for a hearing. However, for the application to be determined without a hearing, all parties, including anyone who has made representations, will need to agree that the hearing is not necessary. You are under no obligation to engage in mediation – you will need to decide if this is appropriate for you and you can, of course, insist upon the hearing.

Hearings

Notice of the hearing will be sent at least 10 working days before the date of the hearing. You will be asked to confirm whether you intend to attend the hearing, or if you have asked someone to represent you and speak on your behalf at the hearing (or if you have mediated a resolution, when you believe the hearing to be unnecessary).

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. A record will be kept of the hearing, in order for minutes to be published after the hearing.

All committee reports and minutes relating to Licensing Sub-Committee hearings can be [viewed on the Council's website](#).

The Licensing Sub-Committee is made up of three of the authority's elected councillors, who have received specialist training in licensing matters. One of these councillors will be selected as the Chairperson. Hearings will normally take the form of a discussion and will be led by the Chairperson, who will start by explaining the procedure to be followed. A licensing officer will then present the application to the hearing, outlining the grounds on which the review has been requested, and any representations received. The review applicant will then be given an opportunity to address the hearing, and to answer any questions that the Sub-Committee may have, before the holder of the licence is given the same opportunity. Any persons who submitted representations may also address the hearing.

The Sub-Committee will consider any evidence submitted in advance of the hearing. New evidence may only be introduced at the hearing with the consent of all parties, or if it has been specifically requested by the licensing authority. Cross-examination of another party during a hearing is not generally permitted, unless the licensing authority thinks it necessary. A hearing may go ahead in the absence of any party, in which case the Sub-Committee will consider any written material previously submitted by that 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 Sub-Committee and the licence-holder will have seen your application for review, and may have questions about your submissions.

After the hearing

The Sub-Committee will usually announce their decision at the end of the hearing, but in some cases where further deliberation is required the decision may be communicated within five days from the end of the hearing. The steps open to the Sub-Committee include:

- 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 three months)
- Revoke the licence.