

LICENSING ACT 2003

GUIDANCE FOR INTERESTED PARTIES - APPLYING FOR A REVIEW

This leaflet describes how to apply for a review of a Premises Licence or a Club Premises Certificate under the Licensing Act 2003. It also contains information about the hearings process that follows.

An 'interested party' may apply for a review of a licence or certificate that is in force if they feel that the premises are causing problems.

The grounds for review must be 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 review process is not intended to be used as a further opportunity to oppose a licence following the failure of a representation to persuade the licensing authority on earlier occasions

Before applying for a review

Interested parties 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 licensee 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 the Council, your local MP or Councillor to talk to the licensee 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 can help resolve the issue.

An application for a review of a premises licence or a club premises certificate must be given in writing and in the prescribed form from the Council. The form is available from the Licensing Office or the Council's website.

Things you may want to consider when seeking a review

- It may be helpful to get the backing of other people living, or businesses operating in the vicinity of the premises, or other 'responsible authorities'.
- Look at the Council's public register about the premises. This will show if other people have made representations or asked for a review of the premises in the past.

- If you are thinking of raising a petition, it is important that the Council can determine whether all the signatories are within the 'vicinity' of the premises. So including their addresses and indicating clearly what grounds they are all asking for a review would be helpful. It would also be helpful if a spokesperson could volunteer to receive details about the hearing from the Council and be willing to speak on behalf of the petitioners at the hearing.
- You may 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 that he or she was asked. It will be a matter for the individual to decide whether they should agree to your request. 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, 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 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, but can directly impact on the behaviour of those under his or her discretion when on the 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.
- In relation to noise nuisance it is important that you are able to back up your claims. It is advisable for you to contact the Council's Environmental Protection Team who will provide advice and assistance. They may ask you to keep a diary over a period of time, showing when the nuisance occurs and how you are affected or they may make sound recordings to use as evidence.

The review process

Once you have completed the application for review form you must:

- Notify the holder of the premises licence or club premises certificate and each 'responsible authority' of your request by sending them a copy of the application, together with accompanying documents on the same day as the application is given to the Council.
- 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 review on different grounds.
- The Council must then advertise the application to enable other 'interested parties' to join it. They will do this by displaying a notice at the premises that is subject to the review and at the Council offices for a period of 28 days, within which other interested parties or responsible authorities may make representations.

The Council may reject an application for review if it considers it to be 'frivolous', 'vexatious' or 'repetitious'.

For example, the Council may find representations were 'vexatious' if they arise because of disputes between rival businesses or 'frivolous' if they clearly lack seriousness. A 'repetitious' representation is one that is identical or substantially similar to a ground for review at an earlier application which has already been determined, a representation that was considered by the Council when the licence or provisional statement was first granted or a representation made when a reasonable interval has not elapsed since any earlier review or the grant of the licence.

If the request for review is not rejected the Council must hold a hearing to consider the application, unless all parties agree that this is not necessary.

The Council 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 Council 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.
- Whether you think that a hearing is unnecessary, if for example you 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 Council in relation to the application.

You must let the Council know, by written notice, no later than 24 hours before the start of the hearing or orally at the hearing if you want to withdraw your application.

The hearing

Hearings will generally be held in public and will normally take the form of a discussion led by the Licensing Sub-Committee. This sub-committee will consist of 3 elected Councillors drawn from the full Licensing Committee of 15 Councillors.

The Sub-Committee will explain the procedure to be followed and will determine any request for additional persons to appear at the hearing.

It will consider evidence produced in support of the application before the hearing and can consider evidence produced by a party at the hearing, but only if all parties agree.

All parties are entitled to address the sub-committee and will be allowed equal time to do so, and with the permission of the sub-committee all parties will be given equal time to ask any questions of any other party.

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

In making their decision the Council's Licensing Sub-Committee 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.

If you need any further information about applying for a review contact Middlesbrough Council Licensing Office on 0642 729779 or visit www.middlesbrough.gov.uk