

REVIEW OF PREMISES LICENCE GUIDANCE

The information is provided as guidance only and is not intended to be either a comprehensive nor exhaustive explanation of the requirements and obligations under the relevant pieces of legislation.

If you have any queries please contact **Mid Devon District Council**. Alternatively, you may also wish to consider other sources of assistance, such as independent legal advice.

What is a review?

The Licensing Act 2003 (“the Act”) sets out a procedure whereby a responsible authority or other person may make an application to the Licensing Authority for the review of a premises licence or club premises certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

In every case, the representation must relate to particular premises for which a licence or certificate is in force and must be relevant to the promotion of the licensing objectives.

The Statutory Guidance issued by the Secretary of State in accordance with the Act (“the Guidance”) considers that the procedures to allow a review of a licence represent a key protection for a community where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.

It should be noted that the Guidance recognises that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, other persons and responsible authorities in pursuit of common aims. It is considered good practice for authorised persons and responsible authorities to give licence holders' early warning of their concerns about problems identified at the premises concerned and of the need for

improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.

Similarly, in the case of other persons, consideration should be given to whether their concerns could be effectively dealt with outside of the formal review process. Such steps could include:

- Talking with the licence or certificate holder to establish whether there are any steps they may be willing to take to rectify the situation
- 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 establish whether there is other action that can be taken to resolve the problem
- Asking the Licensing Team to talk to the licence holder on your behalf
- Ask your local MP or Councillor to speak to the licence holder on your behalf

Who can make an application for a review?

The Act specifies that responsible authorities or ‘other’ persons may seek a review of a premises licence or club premises certificate. The responsible authorities are:

- Devon & Cornwall Constabulary
- Devon Fire & Rescue Service
- Devon County Council - Local Safeguarding Children’s Board
- Devon Trading Standards (Weights and Measures)
- Health and Safety Executive
- Mid Devon District Council Environmental Health Services
- Mid Devon District Council Planning Services
- Mid Devon District Council Licensing Services
- Director of Public Health – Devon County Council

What are the licensing objectives?

Applications for review can only be made on the grounds of the licensing objectives and they are:

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

How can an application for review be made?

Any applicant for the review of a premises licence or club premises certificate must fully complete the prescribed application form and send it to the Licensing Authority. The application form is available on our website. On the same day as the application is served on the Licensing Authority, the applicant must send copies of the application to all of the responsible authorities and the holder of the premises licence or club premises certificate.

The addresses for responsible authorities are as follows:

Devon & Cornwall Constabulary

Licensing Department

Devon & Cornwall Police HQ

Middlemoor

Exeter

Devon

EX2 7HQ

Tel: 01392 452225

Email: licensingeast@devonandcornwall.pnn.police.uk

Devon Fire & Rescue Service

East Division

Agriculture House

Pynes Hill, Rydon Lane

Exeter

Devon

EX2 5AZ

Tel: 01392 266833 - Email: tstreat@dsfire.gov.uk

Devon County Council - Local Safeguarding Children's Board

Follaton House
Plymouth Road

Totnes

TQ9 5RS

Tel: 01392 383000

Email: cpchecks@devon.gcsx.gov.uk

Devon Trading Standards (Weights and Measures)

Trading Standards Service

County Hall

Topsham Road

Exeter

Devon

EX2 4QH

Tel: 01392 381381

Email: tsslicensingact2003@devon.gov.uk

Health and Safety Executive

North Quay House

Sutton Harbour

Plymouth

PL4 0RA

Tel: 01852 226024

E-mail: formsadmin.bristol@hse.gsi.gov.uk

Mid Devon District Council

Environmental Health Services

Phoenix House

Phoenix Lane

Tiverton

Devon

EX16 6PP

Tel: 01884 255255

E-mail: ehadmin@middevon.gov.uk

Mid Devon District Council

Planning Services

Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP
Tel: 01884 255255
Email: devcon@middevon.gov.uk

Mid Devon District Council

Licensing Services

Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP
Tel: 01884 255255
Email: licensing@middevon.gov.uk

Director of Public Health

Devon DAAT
NHS Devon, Room 255
County Hall, Topsham Road
Exeter
Devon
EX2 4QL
Tel: 0845 002 3456
Email: alcohollicensing-mailbox@devon.gov.uk

What happens when an application is made?

The Licensing Authority must first consider whether the reasons for the review are relevant to one or more of the licensing objectives. Secondly, in the case of an application from any person, the Licensing Authority must be satisfied that the application is not frivolous, vexatious or repetitious.

As a general guide:

- Frivolous and vexatious “Frivolous” or “vexatious” will bear their ordinary meaning. For example, the Licensing Authority might find the representations were vexatious if they arise because of disputes between rival businesses or frivolous if they clearly lacked seriousness.
- Repetitious 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
 - Representations considered by the Licensing Authority when the premises licence was first granted
 - Representations made when the application for the 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 a 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 the Licensing Authority to judge what should be regarded as a “reasonable interval” in these circumstances.

What happens if the review application is considered relevant?

The Licensing Authority will make arrangements for the display of a notice of the application for review of the licence or certificate as follows:

- Depending on the circumstances, a notice shall be prominently displayed at, on or near the site of the premises so that it can conveniently be read from the exterior of the premises by the public
- At the Council Offices and on the Councils website

The notice is required to be displayed for a period of 28 days (or, in the case of a review following a closure order by the Police, 7 days), during which time, any responsible authority or other person may make a representation concerning the application.

Where should representations be sent?

Any representations from any person or responsible authority must be in writing and include details of the party's full name and address. They should be sent to:

Licensing, Mid Devon District Council, Phoenix House, Phoenix Lane, Tiverton, Devon, EX16 6PP.

Representations must be received by the Licensing Section no later than the last date specified in the notice, as the Act does not allow the Licensing Authority to consider late representations.

How is the application considered?

Copies of any representations received will be sent to the holder of the premises licence or club premises certificate in respect of which the application has been made and arrangements will be made for the Council's Licensing Sub-Committee to hear the application and representations. Hearings will take place in public, although the Sub-Committee may, in certain instances, decide that it is in the best interest of the public to hold the hearings in private.

The details of all representations (including names and addresses) will be included in a report that will be prepared by officers from the Licensing Section. These reports are public documents.

The applicant for the review, the holder of the licence or certificate, any responsible authorities and/or persons will be invited to attend the hearing. Any party to the proceedings will be able to be assisted or represented by any person at the hearing, regardless of whether or not that person is legally qualified.

Details of the date and time of the hearing together with details of the procedures to be followed will be sent to all those involved at least 10 working days before the day of the hearing.

The applicant for review, other persons and responsible authorities must respond to the Licensing Authorities 'notice of hearing' at least 5 working days before the start of the hearing.

Can representations be withdrawn?

Yes, representations can be withdrawn by way of giving notice to the Licensing Section no later than 24 hours before the day of the hearing or in person on the day of the hearing.

What happens if I do not attend the hearing?

The Licensing Sub-Committee can still consider the application and any representations in the absence of any party.

What action is available to the Licensing Sub-Committee?

The Act sets out what steps the Sub-Committee can take in relation to an application for review of a premises licence or club premises certificate.

The Sub-Committee can either make a decision at the end of hearing or have up to a maximum of 5 days from the day of the hearing, or the last day of the hearing, to come to a decision.

Following consideration of the application, the 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

What action can be taken if an applicant for review, licence holder, responsible authority or other relevant person is unhappy with the decision of the Licensing Sub-Committee?

All parties to the hearing have a right of appeal to the Magistrates Court against the decision of the licensing authority. This must be made within 21 days of receiving written notification of the Sub-Committee's decision.