

Guidance for a Review of Premises Licence or Club Premises Certificate under the Licensing Act 2003

Background

From the 24th November 2005, the new licences issued by the Licensing Authority to a wide variety of premises such as pub, nightclubs, off-licences and late night takeaways which serve hot food between the hours of 11pm and 5am, came into effect. All of these premises must have a licence from the Licensing Authority in order to trade.

Before applying for a review, you may wish to consider whether the problem may be able to be dealt with by other means. This could involve:

- Talking to the Licence or Certificate holder to see whether there may be any steps that can be taken to rectify the situation;
- Ask Breckland Council to talk to the Licence/Certificate holder on your behalf;
- Ask you Local Councillor or MP to speak to the licence or certificate holder on your behalf;
- Talking to the relevant responsible authority (e.g. Police in relation to Crime and Disorder or to the Environmental Health Section in relation to noise nuisance).

The Licensing Authority may reject an application for review unless it relates to one of the licensing objectives, which are:

- Prevention of crime and disorder;
- Promotion of public safety;
- Prevention of public nuisance;
- Protection of children from harm.

In addition, applications for review must not be “frivolous”, “vexatious” or “repetitious”.

What does “frivolous” and “vexatious” mean?

“Frivolous” or “vexatious” will bear their ordinary meaning. Whether representations are frivolous or vexatious will be for the Authority to decide. For example a representation may be found vexatious if they arise because of disputes between rival businesses or frivolous if they clearly lacked seriousness.

What does “repetitious” mean?

This could be a representation that is identical or substantially similar to:

- A ground for review in an earlier application, which has already been determined. (The Licensing Authority has a Register that will include these details)
- Representations that have already been considered by the Licensing Authority when the Premises Licence or Club Certificate was first granted; and
- 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 where;

- 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 as a ‘second bite of the cherry’ following the failure of representations to the Licensing Authority on earlier occasions. The Authority will not permit more than one review from an interested party on similar grounds within a period of twelve months, unless there are compelling reasons to do so (e.g. where new problems have arisen) or where it arises following a closure order.

Interested parties cannot apply for a review anonymously even if somebody else (e.g. a local councillor) is applying for the review on their behalf. This is because the Licensing Authority will need to be satisfied that the person requesting the review lives in the vicinity of the premises and is not being vexatious or repetitious. It is also important to enable the licence holder to respond to an application for a review.

If interested parties are concerned about possible intimidation they could consider asking the police or another appropriate responsible authority to apply for the review.

Gathering evidence

When applying to review a premises licence you will need to provide evidence of the problems you are encountering over a period of time. To assist with this, you should take a detailed description of specific incidents. There is a report form that you can use to record these incidents which is available from Breckland Council. For example things to make a note of are:

- Name and address of the premises
- Licence Holder if known
- Date and time of the incident or incidents
- Nature of disturbance
- How long the disturbance continued for – start and finish
- How far away you live from the premises
- If the windows and doors of the premises were open at the time.

Any detail is always useful even if you think it is irrelevant; the more information the better.

Other matters that you may wish to consider are:

- Getting the backing of other people living, or businesses operating in the vicinity of the premises, or other “responsible authorities”.
- Check the Licensing Register. This will show 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 is important to ensure that the Licensing Authority can determine whether all the signatories live in the vicinity of the premises. So, including their names and addresses and indicating clearly what grounds they are all asking for a review would be helpful. It would also help if a spokesperson could volunteer to receive details about the hearings etc. and that they would be willing to speak on behalf of everybody on the petition at the hearing.
- If you wish 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 MP or Councillor concerned can demonstrate that they were asked. It will be a matter for the MP or Councillor concerned whether they agree to your request as they are not obliged to do so. However, most elected representatives are happy to help residents or businesses with this sort of issue and there is no requirement for them to live in the vicinity of the premises in question for them to be able to help. It should be noted that Councillors who are part of the Licensing Committee that hear the application will not be able to discuss the application with you outside of the formal hearing, so please do not approach them to try to discuss the matter.

- For individual incidents, try to get as much information as possible about any official response (e.g. the police being called out). You may also be able to back up your application with 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 premises, but can impact on behaviour when on the premises or when in the immediate vicinity as they enter or leave. If there is a general problem on the streets you will have to be able to show how it relates to the specific premises.

Applying for a review

The Licensing Act requires an application for review to be made on a standard form that you can obtain from Breckland Council.

On the same day that you send your review application, together with any accompanying documents, to the Council, you must also send copies to:

- the holder of the premises licence (this information is available from the Council's Licensing Section or on the Summary of the Licence or Certificate, which will be displayed at the premises concerned); and
- each Responsible Authority.

The contact details for the relevant Responsible Authorities are shown below. (If the premises licence is in respect of a vessel there are additional Responsible Authorities, details of which are available from the Council's Licensing Team).

Breckland Council's Licensing Team:

Licensing
Breckland Council
Elizabeth House
Walpole Loke
Dereham
NR19 1EE

The Police:

Norfolk Constabulary
4th Floor
Vantage House
Fishers Lane
Norwich NR2 1ET

Fire Service:

Chief Fire Officer
c/o Norfolk Fire Service

Norwich Road
Thetford IP24 2HT

Environmental Health:

Environmental Health
Breckland Council
Elizabeth House
Walpole Loke
Dereham
NR19 1EE

Planning:

Head of Development Control
Breckland Council
Elizabeth House
Walpole Loke
Dereham
NR19 1EE

Norfolk Safeguarding Children Board

Room 60, Lower Ground Floor
County Hall
Martineau Lane
Norwich
NR1 2UG

Trading Standards:

Norfolk Trading Standards
Norfolk County Council
County Hall
Martineau Lane
Norwich NR1 2DH

Local Health Board

Public Health Director
Norfolk County Council
7th Floor
County Hall
Martineau Lane
Norwich NR21 2DH

The enforcing authority for Health and Safety will be notified by the Licensing Authority

Advertising a review

When the Licensing Authority receives an application to review a premises, it has to advertise the application on or near the premises concerned, at the Council Offices and on the Council's website. The advertising has to take place for 28 consecutive days starting the day after the day on which the application was received and contain details of the grounds for review.

Hearing a review

The Licensing Authority has a month, following the end of the advertising period, to hold a hearing to consider the review application, unless all parties agree that this is unnecessary. Everybody who has made representations, including the premises licence/certificate holder, will be invited to attend the hearing which will be held in public. All papers relevant to the hearing will also be publicly available.

At the Hearing the Committee can, if it considers necessary for the promotion of the licensing objectives, modify the licence conditions, exclude activities from the licence, suspend the licence or revoke the licence.