

GUIDANCE NOTES

REVIEW OF PREMISES LICENCE/CLUB PREMISES CERTIFICATES

INDEX

	<u>Page</u>
What is a Review?.....	2
Who can make an Application for a Review?	2
How can an Application for Review be made?	4
Where should Representations be sent?	4
What happens when an Application is made?	5
What happens if the Review Application is considered relevant?	5
How is the Application considered?	5
Can an Application or Representations be withdrawn?	5
What happens if I do not attend the hearing?	6
What action is available to the Licensing Sub-Committee?	6
What actions can be taken if an Applicant for Review, Licence Holder, Responsible Authority or Interested Party is unhappy with the decision of the Licensing Sub-Committee?	6

What is a Review?

The Licensing Act 2003 allows a Responsible Authority or Interested Party to make an application to the Licensing Authority for the review of a Premises Licence or Club Premises Certificate.

An "Interested Party" is defined as one of the following:

- A person living in the vicinity of the premises
- A body (e.g. a residents association) representing people that live in that vicinity
- A person involved in a business in the vicinity of the premises
- A body (e.g. a trade association) representing people involved in businesses in the vicinity of the premises

There is no clear definition of what 'in the vicinity' means. The Guidance indicates that Licensing Authorities, when making a decision as to whether an individual or body qualifies as an interested party, may look at whether a party is likely to be directly affected by disorder or nuisance occurring or potentially occurring from either inside or immediately outside the premises for which an application is being made.

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, which are:

- The Prevention of Crime and Disorder
- Public Safety
- The Protection of Children from Harm
- The Prevention of Public Nuisance

The Statutory Guidance issued by the Secretary of State, in accordance with the Licensing Act 2003, makes it clear that the ability to apply for a review of a Licence represents 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 Statutory Guidance recognises that the promotion of the Licensing Objectives relies heavily on a partnership between Licence Holders, Authorised Persons, Interested Parties 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, the Guidance suggest that Interested Parties should consider whether their concerns could be effectively dealt with outside of the formal review process. Such steps could include the following:

- Talking with the Licence or Certificate Holder yourself to establish whether there are any steps they may be willing to take to rectify the situation.
- Asking the Licence Section to talk to the Licence Holder on your behalf.
- Ask your Local Authority, local MP or Councillor to speak to the Licence Holder on your behalf.
- Talking to the relevant Responsible Authority, for example the Police in relation to Crime and Disorder, to establish whether there is other action that can be taken to resolve the problem.

Who can make an Application for a Review?

The Licensing Act specifies that only Responsible Authorities or Interested Parties may seek a Review of a Premises Licence and, in the case of a Club Premises Certificate, the members of the Club.

RESPONSIBLE AUTHORITIES

A copy of the completed ORIGINAL application including copies of the plans must be sent to one of the following addresses:

The **Salisbury** Office deals with all applications relating to Salisbury, Amesbury, Downton, Mere, Hindon and Tilshead as well as the rest of the old Salisbury District Council Area:

Salisbury Area

The Licensing Officer
Wiltshire Council
Public Protection Services and Licensing
Bourne Hill
Salisbury
Wiltshire
SP1 3UZ

All other areas please send applications to the address below:

Wiltshire Council
Public Protection Services and Licensing
Monkton Park
Chippenham
Wiltshire
SN15 1ER

A copy of the complete application must also be sent to:

1. The Licensing Officer
Wiltshire Police
Trowbridge Police Station
Polebarn Road
Trowbridge
Wiltshire
BA14 7EP
2. Wiltshire Council
Public Protection Services
Pollution Team
(Relevant Address as per above instructions for Original application)
3. Wiltshire Council
Planning Department
(Relevant Main Office Address – See List Below)
4. Wiltshire Fire & Rescue Service
Fire Safety Department
Fire Station
Hilperton Road
Trowbridge
Wiltshire
BA14 7JB
5. Wiltshire Council
Public Protection Services
Trading Standards Department
County Hall
Bythesea Road
Trowbridge
Wiltshire BA14 8JN

NOTE: If the premises is one for which the Health and Safety Executive (HSE) is responsible for enforcing the HASAWA, (these will include schools and other Local Authority premises, Government property, factories and underground stores), copies must be sent to the following:

1. The Services Group
Health and Safety Executive
The Pithay
Bristol
BS1 2ND
Email: keith.derrick@hse.gsi.gov.uk

Wiltshire Council has four main offices where correspondence can be sent. Please use the Office covering the area in which the premises are situated or follow the specific instruction if provided. Contact details are as follows:

Chippenham: **Wiltshire Council, Monkton Park, Chippenham, Wiltshire, SN15 1ER**

(This office deals with all applications relating to Chippenham, Calne, Corsham and Royal Wootton Bassett as well as the rest of the old North Wiltshire District Council area)

Devizes: **Wiltshire Council, Kennet House, Sergeant Rogers Way, Hopton Park Industrial Estate, Devizes, Wiltshire, SN10 2ET**

(This office deals with all applications relating to Devizes, Pewsey, Marlborough and Tidworth as well as the rest of the old Kennet District Council area)

Salisbury: **Wiltshire Council, Bourne Hill, Salisbury, Wiltshire, SP1 3UZ**

(This office deals with all applications relating to Salisbury, Amesbury, Downton, Mere, Hindon and Tishead as well as the rest of the old Salisbury District Council area)

Trowbridge: **Wiltshire Council, County Hall, Bythesea Road, Trowbridge, Wiltshire, BA14 8JN**

(This office deals with Trowbridge, Bradford-on-Avon, Melksham, Warminster and Westbury as well as the rest of the old West Wiltshire District Council area)

Applications can be sent to any of the above addresses, but it will speed processing if they are sent directly to the office covering the area in which the premises is situated.

Please note that in relation to a vessel only the Responsible Authorities will include Navigation Authorities within the meaning of Section 221(1) OF THE Water Resources Act 1991, which are as follows:

- The Environment Agency
- The British Waterways Board
- The Maritime and Coastguard Agency

How can an Application for Review be made?

Any person applying for a Review of a Premises Licence or Club Premises Certificate must fully complete the prescribed application form and send it to the Licensing Authority. 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 Licence or Certificate.

A copy of the Application Form and Guidance issued by the Department of Culture, Media and Sport can be downloaded from their web site - [www.culture.gov.uk/what we do/alcohol and entertainment/application forms](http://www.culture.gov.uk/what%20we%20do/alcohol%20and%20entertainment/application%20forms).

Where should a Representation be sent?

Any Representations from an Interested Party or Responsible Authority must be put in writing and include details of the full name and address of those making the representations. They should be sent to the Licensing Department, Wiltshire Council, Public Protection Services & Licensing to the **relevant address as per above instructions for Original application**.

Any Representations must be received by the Licensing Section no later than the last date specified in the Notice, as the Licensing Act 2003 does not allow the Licensing Authority to consider late Representations.

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 an Interested Party, the Licensing Authority must be satisfied that the Application is not frivolous, vexatious or repetitious. As a general guide, definitions of these terms are as follows:

- Vexatious - if a representation is made that is considered by the Licensing Authority to have arisen purely to cause annoyance.
- Frivolous - if a representation is made that is considered by the Licensing Authority to clearly lack seriousness.
- Repetitious - if a representation is made that is considered by the Licensing Authority to be 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 is 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 ground, 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. However, the Guidance suggests that more than one review from an Interested Party on the similar grounds should not be permitted within a period of twelve months, unless in compelling circumstances (where new problems have arisen) or where it arises following a Closure Order.

What Happens if the Review Application is Considered Relevant?

The Licensing Authority will make arrangement for the display of a Notice of the Application for Review of the Licence of 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, in a central and conspicuous place and the Licensing Authority`s web site.
- 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 this time any Responsible Authority or Interested Party may make a representation concerning the Application.

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 representation, including any interested parties names and addresses, will be included in a report that will be prepared by Officers from the Licensing Section. These reports are public documents and the Council is required to publish them.

The Applicant for the Review, the holder of the Licence or Certificate, any Responsible Authorities and/or Interested Parties 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 ten working days before the day of the Hearing.

The Applicant for Review, any Interested Parties and Responsible Authorities must give notice to the Licensing Authority at least five working days before the start of the Hearing stating the following:

- Whether they will attend the Hearing in person.
- Whether they will be represented by some else, for example, a Lawyer.
- Whether they think a Hearing is unnecessary, for example, if parties have reached an agreement before the Formal Hearing.
- Any request for another person attending the Hearing, including how they may be able to assist the Licensing Authority in relation to the Application.

Can an Application or Representations be withdrawn

Yes. An Application for Review of a Licence or Certificate, or any 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 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 Licensing Act 2003 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 the Hearing or has a maximum of five days from the date of the Hearing, or the last day of the Hearing, to come to a decision.

Following consideration of the Application the Sub-Committee may do one of the following:

- 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.

What Action can be taken if an Applicant for Review, Licence Holder, Responsible Authority or Interested Party is Unhappy with the Decision of the Licensing Sub-Committee

If an Applicant, Licence Holder, Responsible Authority or Interested Party is aggrieved by the decision of the Sub-Committee, they can appeal against the decision to the Magistrates Court within 21 days of receiving written notification of the Sub-Committee's decision. Any persons considering such action are advised to take professional advice prior to commencing such proceedings.