



## **GUIDANCE - APPLYING FOR A REVIEW OF A PREMISES LICENCE**

### **INTRODUCTION**

**This guidance describes how to apply for a review of a premises licence or club premises certificate, under the Licensing Act 2003. It also contains information about the hearings process that follows.**

Any person may apply for a review of a premises licence or certificate that is in force. “Any person” can be an individual, body or business, regardless of where they live or are based. The review application must be made to the relevant licensing authority for the area in which the licensed premises is situated; North Kesteven District Council is the licensing authority for the District. The licensing authority will, in most cases, hold a hearing to decide the application.

A licensing authority may reject an application for review if it is satisfied that the grounds for review are not relevant to one or more of the licensing objectives:

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

The licensing authority can also reject an application for review if it considers it to be “frivolous”, “vexatious” or a “repetition”.

#### **What does “frivolous” and “vexatious” mean?**

*“Frivolous” or “vexatious” will bear their ordinary meaning. Whether representations are frivolous or vexatious will be for the licensing authority to determine. 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.*

### **What does “repetitious” mean?**

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 (the licensing authority’s “register of licences” will include all applications for reviews made to them in the past)
- ❖ Representations considered by the licensing authority when the premises licence was first granted
- ❖ 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, 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 simply as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a “reasonable interval” in these circumstances. However, the Secretary of State (in their Guidance to Licensing Authorities) suggests that more than one review from an interested party should not be permitted within a period of twelve months on similar grounds, save in compelling circumstances (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 MP or councillor) is applying for a review on their behalf. This is because the licensing authority needs to be satisfied that the person who wants the review is not being vexatious. Similarly, it is important that the licence holder is also able to respond to an application for a review. If parties are concerned about possible intimidation, they could consider asking the police, or another appropriate responsible authority to apply for a review on their behalf.

### **NORTH KESTEVEN’S LICENSING POLICY**

**Before making representations, interested parties may wish to look at North Kesteven’s “Licensing Policy Statement”. This sets out our policy about licensing, and it may be of assistance when seeking a review.**

For more information about the four licensing objectives, and local authorities’ statements of licensing policy, talk to us, or visit the Home Office website:

<http://www.homeoffice.gov.uk/drugs/alcohol/alcohol-licences/>

## **POINTS TO CONSIDER**

Before applying for a review, persons 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 licence or certificate holder to determine whether there are any steps they may be willing to take to rectify the situation
- ❖ Consider asking us to talk to the licensee on your behalf
- ❖ Ask your local MP or Councillor to speak to the licence or certificate holder 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 could help resolve the issue
- ❖ 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 our official records about the premises, kept in the ‘licensing register’. This will show you 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, include the full addresses of the signatories and indicate clearly on 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. 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 review, it is advisable to make such a request in writing so that the individual can demonstrate he or she was 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. It should be noted that Councillors who are part of the licensing sub-committee hearing 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 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.
- ❖ Residents or businesses 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 resolved.

## **APPLYING FOR A REVIEW**

An application form is available on request from us at the address below, or by visiting our business licensing pages.

<http://www.n-kesteven.gov.uk/business/licensing/>

### **Filling in the form**

**In the opening statement you should give the name of the person applying for the review – e.g. 'John Smith'. You should also indicate whether you are applying for the review of a “premises licence” or “club premises certificate” by deleting, as applicable.**

### **PART 1 – Premises or club premises details**

This section asks for the address and some other details of the premises concerned in the review. If the premises have no postal address you should describe the location of the premises or give the ordnance survey map reference.

You are also asked to give the name and number of the premises licence holder or club. This information should be available on the “Summary” of the licence or certificate, which will be displayed at the premises, concerned in the review, or may be available on request from the licensing department at your local authority.

### **PART 2 – Applicant details**

**This section asks you to indicate in what capacity you are applying for a review.**

An application for a review of a licence or certificate must be about the effect the licence is having on at least one of the four licensing objectives (see above). You should indicate which licensing objective(s) the application relates to.

You should state the ground(s) for review, and provide as much information as possible to support the application. You may use extra sheets of paper if necessary. Details may include, for example, dates that problems occurred and how the problem affected you.

You should state whether you have made an application for a review relating to this premises before, and give the further details of any representations you have made

previously relating to this premises. This information will be used to determine whether the application for a review is “repetitious” (see above).

### **Checklist and declaration**

The person or body requesting the review must notify the holder of the premises licence or club premises certificate and each “responsible authority” of their request, by sending them a copy of the application, together with any accompanying documents, on the same day as the application is given to us. 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 a review on different grounds. We also have to advertise the review to enable other persons or responsible authorities to join it. By completing the checklist you are making a declaration that you have carried out the listed actions.

Responsible authorities include the following, for the area in which the premises are situated:

- ❖ The chief officer of police
- ❖ The fire authority
- ❖ The health and safety authority
- ❖ The local planning authority
- ❖ The environmental health authority
- ❖ The body recognised as being responsible for protection of children from harm
- ❖ Inspectors of Weights and Measures (trading standards officers)
- ❖ The primary care trust or local health board for the area
- ❖ The licensing authority

A detailed list of the Responsible Authorities for the North Kesteven District, including contact details, is available on our web site:

<http://www.n-kesteven.gov.uk/business/licensing/comment-on-alcohol-and-entertainment-licence-applications/>

### **Signatures**

The application form must be signed. An applicant’s agent (for example a solicitor) may sign the form on their behalf, provided they have authority to do so. Where there is more than one applicant, both applicants, or their respective agents, must sign the form.

**Please note that any representation, along with your details, will normally be released to the applicant and/or their agents as part of the process. It may also be read out in public at the sub-committee hearing and made public, including being published on this council’s website. If you feel there are exceptional circumstances where you believe that your details should not be released please contact the Licensing Team.**

## **WHAT HAPPENS AFTER AN APPLICATION FOR A REVIEW HAS BEEN MADE?**

We must advertise applications for a review of a licence or certificate. We will do this by displaying a notice at the premises that is subject to review, and at our offices, for 28 consecutive days starting the day after the day on which the application is given to us. We will also advertise the review on our website. Other parties and responsible authorities may also make representations about the review during this 28 day period.

If the request for a review is not rejected then we must hold a hearing by the Alcohol and Entertainment Licensing Sub-Committee to consider the application, unless all parties agree that this is unnecessary. For example, we may offer to try to resolve matters via a negotiated agreement outside a formal hearing. You will need to decide if this is appropriate for you but you can, of course, insist upon the hearing.

We 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.

## **LICENSING SUB COMMITTEE HEARINGS**

**Parties that made representations are sent a Notice of Actions which they need to return to us at least 5 working days before the start of the hearing, stating:**

- **Whether they will attend the hearing in person**
- **Whether they will be represented by someone else (e.g. councillor / MP / solicitor)**
- **Whether they think that a hearing is unnecessary (if, for example they have come to an agreement before the formal hearing)**
- **If they want another person to appear at the hearing (not to represent them), a request for permission for the person to attend, and details of their name and how they may be able to assist the authority in relation to the application**

Parties must let us know as soon as possible (by a notice no later than 24 hours before the start of a hearing, or orally at the hearing) if they wish to withdraw their representation.

Hearings will generally be held in public, unless the Licensing Sub-Committee decides it is in the public interest to hold all, or part of the hearing in private. We will ensure that a record is taken of the hearing.

Hearings will normally take the form of a discussion and will be led by the Licensing Sub-Committee, which will consist of 3 local authority elected councillors. It will determine any request for additional persons to appear at the hearing. It will consider evidence produced in support before the hearing and can consider evidence produced by a party at the hearing, but only if all parties agree. The 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, they will be given equal time to ask any questions of any other party. The Sub-Committee will disregard any information it considers to be irrelevant.

NB - A hearing can still go ahead in the absence of any party, including that of the applicant.

### **Hearing Decisions**

As a result of the hearing, the Licensing Sub-Committee must then decide how to proceed in order to promote the licensing objectives. It may:

- ❖ Take no further action.
- ❖ Modify the conditions of the licence.
- ❖ Exclude a licensable activity from the scope of the licence
- ❖ Remove the designated premises supervisor
- ❖ Suspend the premises licence for a period not exceeding three months.
- ❖ Revoke the licence.

The Licensing Sub-Committee must give notice of its decision within 5 working days (if it does not give a decision at the hearing) and include information on the right of a party to appeal against the decision. A Decision Notice will then be sent to all parties who made representations and the applicants. Any party to the proceedings has a right of appeal to the Magistrates; any such appeal must be made to the relevant Magistrates Court within 21 days of the date of the decision.

### **CONTACT US**

IF YOU HAVE UNANSWERED QUESTIONS ABOUT REVIEWS OR THE LICENSING ACT THEN PLEASE CONTACT US BY:

Visiting the Council's website [www.n-kesteven.gov.uk](http://www.n-kesteven.gov.uk)

Telephone the Licensing Team on 01529 414155

e-mail [licensingteam@n-kesteven.gov.uk](mailto:licensingteam@n-kesteven.gov.uk).

Alternatively you can make an appointment with an officer of the Licensing team.

The Licensing Team  
Environment and Public Protection  
North Kesteven District Council  
District Council Offices  
Kesteven Street  
Sleaford  
Lincolnshire  
NG34 7EF

**PLEASE NOTE THAT THE INFORMATION CONTAINED IN THIS GUIDANCE DOCUMENT IS THE LICENSING AUTHORITY'S UNDERSTANDING OF THE CURRENT LEGISLATION. APPLICANTS ARE STRONGLY ADVISED TO SEEK ADVICE FROM A QUALIFIED PROFESSIONAL.**

