

Licensing Act 2003

**Objections
and
Premises Licence Reviews**



**Licensing Unit
Environmental Services**

Objections and Premises Licence Reviews

The Law is Changing!

This leaflet gives guidance on who can object to licence applications or request a review of a Premises Licence once it has been granted.

What needs licensing?

- Retail sale or supply (registered clubs) of alcohol;
- Provision of regulated entertainment, or
- Provision of hot food or hot drink after 11pm and before 5am.

The Council as "Licensing Authority," will licence these activities from February 2005. After a period of transition, the Courts will not be involved in granting liquor licences from November 2005.

What new licences will there be?

There will be a Premises Licence and if that permits the sale of alcohol then whoever sells the alcohol will need a Personal Licence as well. The Premises Licence will be a single licence that will permit any or all of the licensable activities. There will also be Club Premises Certificates for "qualifying" clubs, and a system of Temporary Event Notices for ad-hoc events.

Who can object to applications?

The legislation defines those who can generally lodge objections as the following:

"Interested Party"

- * A person living in the vicinity of the premises,
- * A body representing persons who live in the vicinity of the premises
- * A person involved in a business in that vicinity,
- * A body representing persons involved in such businesses.

Local Members of Parliament or Councillors cannot object on behalf of constituents, although they can object in their own right if they fall into any of the above categories.

"Responsible Authority" includes

- * West Mercia Constabulary,
- * Hereford & Worcester Fire Brigade,
- * Health and Safety enforcing authority (either the Council or HSE depending on type of premises),
- * Worcestershire Social Services Child Protection Team
- * The Council - in each of the following roles:
 - * Planning Authority
 - * Pollution Control authority
 - * Health and Safety enforcing authority (see above).

The Licensing Authority has no power itself to object to any licence or variation application, and is not able to "call in" a contentious application for consideration by a licensing sub-committee. Nor can the licensing authority initiate a review of a Premises Licence.

Other parts of the Council such as the Planning Division or the Environmental Health Division (acting in their Pollution Control role) may be able to object or request a Premises Review - where there is evidence of an unresolved problem - and they would then be treated as any other objector.

The Licensing Authority has no choice other than to grant an application if there are no valid "representations" (objections). In such a case, the Licensing Authority is not allowed to add conditions of its own.

Converting existing licences

Liquor licences are currently granted by the Magistrates Court at Worcester, whilst we issue Public Entertainment, theatre and cinema licences. Existing licensees can apply after 7th February 2005 to convert their current licences to new "Premises" and "Personal" Licences, which will come into force on 7th November 2005. Only the Police are able to object to conversions. All conversion applications must be received by 6th August 2005.

Variations and New Licences

Converted licences will be granted on a "like for like" basis. If the licensee wants to change anything then they have to apply for a variation of their licence. Similarly any changes to a new Premises Licence must be via a Variation application. Variations can be objected to by any Interested Party or Responsible Authority.

Interested Parties and Responsible Authorities can object to applications for new Premises Licences or variations to existing ones.

New Personal Licences

Only the Police can object to the grant of a Personal Licence. This will happen if the applicant has a criminal conviction and the grant of the licence would undermine crime prevention.

Temporary Event Notices

A Temporary Event Notice is used to authorise events lasting not more than 96 hours, which are for not more than 499 people. Please see our separate leaflet on these. These Notices are served on the Council not less than 10 days before the event. Only the Police can object to such Notices. If they don't object, the Council must endorse the Notice and the function can go ahead. The Council cannot attach conditions to the Notice.

How will I know if an application has been made?

Applications for variations and new premises have to be advertised on the premises and in a newspaper - they will also be summarised on our web site and in our Licensing Register.

Premises Licence Reviews

Any Interested Party or Responsible Authority may, at any time, apply to the Licensing Authority for a review of a Premises Licence.

What grounds can be used for an objection or Review ?

The Licensing Act is based around four principles: crime and disorder, public safety, public nuisance, and protection of children from harm. Reviews must be relevant to these issues. For example, felling of trees after the grant of a licence would not be relevant.

Representations must be in writing and may be amplified at the subsequent hearing. But only those original issues may be addressed at the hearing - nothing else.

Frivolous, Vexatious, or Repetitious

The law requires the Licensing Authority to reject representations that it considers to be frivolous or vexatious. A request for a review can also be denied if it repeats the grounds of a previous Review - normally only permitted after at least 12 months.

What happens to a valid objection?

A valid request for review ("representation") will be heard by a sub-committee of three Councillors. Copies of representations are given to the licence holder in advance, and he or she is allowed to make a defence. Please note that the Licensing Officers are not able to work on behalf of objectors to help them to prepare representations, and cannot speak on their behalf.

The sub-committee may grant a licence with or without additional conditions, exclude from the licence a licensable activity, revoke or suspend for up to 3 months an existing licence, or reject the application or Review request. There is no power to grant a licence for a limited trial period.

Appeals

The applicant and anyone who lodged an objection may appeal against the decision of the Council, to the Magistrates Court.

Other Legislation

The licensing system is not the only way of regulating licensed premises and more appropriate legislation will apply.

Further Advice

If you are in doubt as to your responsibilities you can contact us for advice.

This leaflet provides advice based on information available at the time of writing and this may change. It is intended for guidance only and does not provide authoritative legal advice.

We would welcome your comments on this or any other of our leaflets, so as to ensure that they meet the needs of the users of our services.

We can make this leaflet available as a large print version or on audio cassette. Please contact us to ask for either of these versions

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