

Guidance on applying for the review of a licence

SECTION 1 – INTRODUCTION

1. The purpose of this guidance is to offer assistance to members of the public who wish to make application to review an existing Premises licence or Club Premises certificate.

This guidance will explain:

- who can apply for a review
 - how to apply for a review
 - the format for the application
 - what happens after an application has been received by the Council.
2. Further details about the Licensing Act and the Council's Licensing Policy can be found on the Council website www.solihull.gov.uk and more guidance/regulations etc on the website for the Department for Culture, Media and Sport www.culture.gov.uk

SECTION 2 – WHO CAN ASK FOR A LICENCE TO BE REVIEWED

3. Any interested party, or Responsible Authority, may apply for the review of a licence or certificate that is in force.

An interested party can be any one of the following:

- A person living in the vicinity of the premises
- A body representing persons who live in that vicinity
- A person involved in a business in the vicinity of the premises
- A body representing persons involved in those businesses

The Responsible Authorities are:

- West Midlands Police
- West Midlands Fire Service
- Solihull MBC Environmental Health
- Solihull MBC Child Protection
- Solihull MBC Planning Department
- Solihull MBC Trading Standards

SECTION 3 – HOW DO I APPLY FOR A REVIEW OF A LICENCE?

4. The application must be made in writing on the prescribed form. This is available from the Council website www.solihull.gov.uk or the website of the Department for Culture, Media and Sport www.culture.gov.uk/beer_and_entertainment/licensing_Appforms.

Filling in the form

5. In the opening statement, complete your name and indicate whether you are applying for the review of a “premises licence” or “club premises certificate” by deleting as appropriate.
6. **Part 1** asks for the address and some other details of the premises concerned. Details of the licence holder’s name and licence number are available on the licence summary, which should be displayed at the premises, or from the Licensing Office.
7. **Part 2** asks you to indicate in what capacity you are applying for a review. As an “interested party” you should tick one of the boxes at 1) and then complete Section (A) with your details.
8. 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: -
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm

you should indicate which licensing objective(s) your application relates to by ticking the appropriate box(es), and then state the grounds for review. Try to provide as much information as possible, using extra sheets of paper if necessary. It would be helpful to gather evidence to support your claim. For specific individual events, try to obtain as much information as you can about any official response, e.g. the police being called out. Otherwise, keep a diary over a period of time, or sound recordings and photographs may also assist. As it may be a while before any hearing takes place, ensure your record keeping is clear and accurate.

It may also be helpful to get the backing of other people living, or businesses operating in the vicinity of the premises, or other Responsible Authorities.

9. You must state whether you have made application for a review in relation to the premises before, and if you have previously made any representations in respect of the premises. This information will be used to determine if the application for review is “repetitious”.
10. **Checklist and declaration** you must notify the holder of the premises licence or club premises certificate and each Responsible Authority that you are applying for a review by sending them a copy of the application, together with any accompanying documents, on the same day that you submit your application to the Council. This is to give the Responsible Authorities the opportunity to back your application, or present their own on different grounds should they wish to do so.
11. Finally, the application form must be signed either by you or your authorised agent.

SECTION 4 - WHAT HAPPENS AFTER A REQUEST FOR A REVIEW HAS BEEN MADE?

12. The Licensing Authority are required to advertise requests for licence reviews. A notice will be displayed outside the premises concerned, and on the Council website, for a period of 28 days giving other interested parties an opportunity to make representations about the review.

13. After this time, unless all parties agree that it is not necessary, a hearing will be arranged. It may be that the Licensing Authority or other Responsible Authority can resolve the matter by negotiated agreement outside a formal hearing. However, if this cannot be achieved, or you are not satisfied, a hearing will proceed.
14. The Licensing Authority will write to you with the date and time of the hearing and invite you to attend. You must let them know at least 5 working days before the date:
 - If you will attend the hearing in person
 - If you will be represented by someone else, e.g. Councillor, MP
 - If you wish another person to attend the hearing and how they may be able to assist in relation to the application
 - If you wish to withdraw your application

SECTION 5 – WHAT HAPPENS AT A HEARING?

15. The hearing will be open to the public and take the form of a discussion led by the Council.
16. The Council has established a Licensing Committee of 15 Councillors. This Committee has created Licensing Sub Committees of 3 Councillors. One of the Sub Committees will be responsible for considering representations at a hearing. In making decisions, the Sub Committee will take into account the licensing objectives as set out in the Act, the Council's licensing policy and the guidance given by the Secretary of State.
17. Each party may ask questions, subject to permission of the Committee, and each party may address the Committee.
18. After hearing all representations and considering the evidence, the Committee will make their decision, which will be:
 - Decide that no action is necessary
 - 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

SECTION 6 – APPEALS

19. Any party to a hearing, who is aggrieved by the decision of the committee, may challenge it by way of appeal to the Magistrates' Court.
20. Appeals must be commenced within 21 days of any decision made by the committee.
21. An application for judicial review may be made by a person with sufficient interest to challenge the council on a decision. The application needs to be made within 3 months.
22. The person challenging the council is advised to seek independent legal advice before making any appeal.

This document should be used as a guidance tool. Only the Courts can give an authoritative opinion on statute law. Every effort has been made to ensure it is both comprehensive and accurate but in an attempt to simplify the law omissions have been made. Please refer to the Licensing Act (2003) and associated regulations for full details of the law.

You should seek your own legal advice on the matters raised in this guidance.