

Requesting a Review of a Premises Licence

In terms section 36 of the Licensing (Scotland) Act 2005, any person may apply to their local Licensing Board for a review of a premises licence allowing the sale of alcohol. In practice most applications for review are received either from Police Scotland or Licensing Standards Officers (LSOs) employed by the Council.

Police Scotland are responsible for the enforcement of the 2005 Act i.e. the investigation of offences which may have been committed under the 2005 Act and their reporting to the Procurator Fiscal. Separately the LSOs have a role in monitoring compliance with the conditions applicable to premises licences, concerning the operation of the licence in practice, with which the licence holder is legally required to comply. For these reasons it is suggested that you should discuss any concerns you have regarding the operation of licensed premises with either Police Scotland or the LSOs prior to considering an application for a review.

Grounds for review

- (1) that one or more of the conditions to which the premises licence is subject has been breached (for all premises licences this includes both the mandatory conditions contained in Schedule 3 of the 2005 Act and any specific conditions which apply to the licence); or
- (2) any other ground relevant to one or more of the licensing objectives

The Licensing Objectives are

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

Procedure for review

The Board may reject a premises licence review application which it considers is

- (a) frivolous or vexatious; or
- (b) does not disclose any matter relevant to any ground for review.

The Board requires the use of the attached form when any member of the public wishes to make a premises licence review application. The application must specify the condition(s) alleged to have been breached or the licensing objective(s) to which the alleged ground of review relates.

The Board recognises that it has the power to recover expenses from an applicant for a premises licence review if it considers the application to be frivolous or vexatious. However, it wishes to make clear that it will not consider using that power unless there is information before it to suggest that the application was deliberately frivolous or vexatious rather than submitted on the basis of a genuine misunderstanding of the licensing system.

If the Board agrees to hold a review then it will advise you of the date, time and venue for the hearing and a copy of the review application will be sent to the licence holder and the LSO. The hearing must be held in public. The Board may obtain further information from such persons

(including Police, Fire, Environmental Health Noise Team etc.), and in such manner, as the Board thinks fit.

At the review hearing you will be asked to address the Board in support of your request and the licence holder will be given an opportunity to respond. The Board will also consider a report from the LSO and any further information obtained from other advisers.

Possible action which can be taken if ground for review established

If the Board is satisfied that a ground for review is established and it considers it necessary or appropriate for the purposes of any of the licensing objectives, it may: -

- (1) issue a written warning to the licence holder
- (2) make a variation of the licence which may apply for such period as the Board determine
- (3) suspend the licence for such period as the Board may determine
- (4) revoke the licence

There is more information regarding the review procedure in Section 14 of the Board's Statement of Licensing Policy which is available on the alcohol licensing pages of the Council's website.

Contact details for Licensing Team

Licensing Team
Licensing Administration and Democratic Services
East Lothian Council
John Muir House
Haddington
East Lothian EH41 3HA

Team email address: licensing@eastlothian.gov.uk

LSO email address: rfruzynski@eastlothian.gov.uk

LSO Telephone number: 01620827363

Police Scotland can be contacted by calling 101 and asking for the East Lothian Licensing Officer

Premises Licence Review Application

Full name of applicant(s) _____

Address _____

Postcode _____

Contact Tel No. _____

Email address _____

Details of premises you wish to be reviewed.

Premises Name _____

Address _____

Grounds for review

either

A licence condition has been breached
Please give brief details of condition/s.

or

Relevant Licensing Objective has been breached (Please tick ✓)

Preventing crime and disorder

Securing public safety

Preventing public nuisance

Protecting and improving public health

Protecting children from harm

In addition, **please attach a separate document** to this application giving

- (1) specific details of the events which have occurred at the premises which have led you to make this application for review; and
- (2) if applicable, the reasons why you consider that any of the above licensing objectives have been breached.

This document will form the basis for the review and should contain details of all matters which you believe to be relevant.

Signature of each applicant _____

Date _____

Please use this sheet to provide a statement with full details of the event(s) which occurred and led to this application for a review. (times, dates, places, actions names etc. in the order events occurred). This statement will be presented to the Licensing Board as evidence of your concerns.
(If you require more space, please use additional pages)