

## **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 the Licensing Standards Officer (LSO) 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 reporting these to the Procurator Fiscal. Separately the LSO has 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 local licensing officers from Police Scotland or the LSO prior to considering an application for a review.

### **Grounds for review**

- (1) that having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence
- (2) 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
- (3) 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 and young persons from harm

### **Procedure for review**

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

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

The Board would encourage any member of the public wishing to make a premises licence review application to use the attached form. The application must specify the alleged ground of review.

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.

Amended 17 March 2023

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 and all information supplied in support of it will be sent to the premises licence holder, the LSO and Police Scotland.

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 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 (including LSO)**

Licensing Team  
Legal services  
West Lothian Council  
West Lothian Civic Centre  
Howden South Road  
Livingston  
West Lothian EH54 6FF

Team email address: [licensing@westlothian.gov.uk](mailto:licensing@westlothian.gov.uk)

LSO email address: [lso@westlothian.gov.uk](mailto:lso@westlothian.gov.uk)

Telephone number: 01506 281632

Police Scotland can be contacted by calling 101.

### Premises Licence Review Application

Full name of applicant(s)

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Address

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.....

Postcode

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Details of premises which you wish to be reviewed.

Premises Name

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Address

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Grounds for review – please indicate which grounds you consider re applicable to your application for review (Please tick ✓)

(1) That having regard to the licensing objectives the licence holder is not a fit and proper person to be the holder of a premises licence

(2) A licence condition has been breached  
Please give details of condition/s.

(3) Relevant Licensing Objective has been breached

Preventing crime and disorder

Securing public safety

Preventing public nuisance

Protecting and improving public health

Protecting children and young persons from harm

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

- (1) information to support your view that the licence holder is not a fit and proper person
- (2) specific details of the events which have occurred at the premises which have led you to make this application for review; and
- (3) 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.

Amended 17 March 2023

Signature of each applicant

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Date

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