

Licensing Act 2003

This leaflet gives advice on what you can do about a licensed premises which causes a problem or which makes an application for a change of their licence which you think will cause a problem.

What needs licensing?

Any retail sale, or supply in clubs, of alcohol, the provision of regulated entertainment, or the provision of hot food after 11.00 pm. The Council, as the Licensing Authority, now licences all of these activities.

Applications

Anywhere that wants a new licence or which wishes to change the conditions of its existing licence must make an application to the Council. If you think that the application, if granted, would cause a problem to you, then provided you are an interested party as defined below, and the problem relates to one of the four licensing objectives, listed below, you can make a representation against the application.

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

Who can make representations?

The legislation stipulates that only the following may make representations:

An Interested Party

A person living in the vicinity of the premises, or
A body representing persons who live in the vicinity of the premises, or
A person involved in a business in that vicinity, or
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.

A Responsible Authority

This includes the Police, Surrey Fire and Rescue, Health and Safety enforcing authority, Planning Authority, the Council as Pollution Control authority, Surrey Trading Standards and Surrey Child Protection Team.

The Licensing Authority has no power itself to object to any licence or variation application or to call in a contentious application so that it can be considered by a licensing sub-committee. It cannot itself initiate a review of the 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 make a representation or request a Licence Review and they would then be treated as any other objector.

If any licence application is not objected to, then the Council must grant the application and cannot attach any conditions of its own to the licence.

We have a form that can be used to make a representation and whilst this does not have to be used it does guide you into giving the right information. We can post it to you or you can download it from our website.

How will I know if an application has been made?

Applications are entered into a public register held at the Civic Centre and have to be advertised at the premises and in a local newspaper. We will put details of applications on our website. We would not normally write to neighbouring properties to advise them of applications in their area.

Problem Premises

Occasionally things may go wrong once a licence has been granted. In the first case, we strongly advise that you talk to the manager of the premises to try and arrange an informal resolution.

If you have a complaint about any activities allowed under a licence, the Council's Licensing Section will be pleased to help you try and resolve it. Some complaints may not be the Council's responsibility to deal with, but we can advise you who would be the most appropriate agency in these circumstances.

Other Legislation

The licensing system is not the only way of regulating licensed premises and other legislation does apply.

If the premises are newly converted it may be that Planning Permission was required and that conditions were attached to the permission which are not being adhered to.

Noise problems in particular may be more effectively dealt with by our Pollution Control Officers.

If the problem is one of safety then you may need to contact the Fire Prevention Officer (Surrey County Council) or our own Health and Safety inspectors.

If underage drinking is taking place then you should contact Surrey County Council Trading Standards.

If the problem is one of rowdiness, vandalism drunkenness etc then you should contact the Police.

Premises Licence Reviews

If the premises continues to cause problems, and these relate to one of the four licensing objectives, then any Interested Party or Responsible Authority may, at any time, apply to the Council, for a review of a Premises Licence. A statutory form for such a request is available from us or from our website.

What grounds can be used for an objection or Review ?

Any request for a review must contain good evidence of the problems caused and must show how these relate to one or more of the licensing objectives.

Frivolous, Vexatious, or Repetitious

The law requires that if a representation or a request for a review, is considered by the Council to be frivolous or vexatious, then the representation or request will be deemed invalid. A request for a review can also be denied if it is repetitious. Reviews on similar grounds would not normally be permitted within 12 months of a previous review. There is no appeal against such a decision.

What happens to a valid representation or a review request?

The application, or review request, is required to go before a sub-committee of three Councillors who will hear the matter. 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.

Temporary Event Notices

A Temporary Event Notice is used to authorise an event which lasts not more than 4 days, and which is for not more than 500 people. 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 or refuse to endorse the Notice.

Noise control legislation would still apply to the function and if an event is causing a

problem or you think it is very likely to do so please contact one of our Environmental Health Officers.

We have a separate free booklet which gives more detailed advice on making a representation or requesting a review of a Premises Licence. Please contact us to obtain a copy or else you can download it from our website.

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.

If you would like more information in your own language, large print, on tape, or in Braille please contact us at the address and telephone number shown below.

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Problem Premises - What You Can Do



**Environmental Health
& Licensing**



**Elmbridge
Borough Council**

... bridging the communities ...