

# **Licensing Act 2003**

## **Guidance for the public**

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## Guidance for the public

The Licensing Act 2003 gave licence holders greater flexibility in operating their premises but also provided several safeguards for residents and local businesses.

This means that there are opportunities for residents and local businesses to have their say both at the time the licence is granted and if the operation of the premises causes problems.

### How to complain about a licensed premises

If you are being affected by the operation of licensed premises, or wish to report unlicensed activities or breaches of the terms and conditions of a licence please contact us at [licensing.team@colchester.gov.uk](mailto:licensing.team@colchester.gov.uk)

We will investigate and where appropriate take action to try and remedy the issues. The Council has a stepped enforcement approach and so this action may range from giving informal advice to prosecution for a criminal offence or the review of a licence.

We may involve other partner agencies in this work and there are some matters which we would advise you to report to them first.

Noise - [Report a noise nuisance · Colchester City Council](#)

Crime and anti-social behaviour –

- Report online: <https://www.essex.police.uk>
- Use Live Chat to share information or speak to someone specific.
- Call 101 if you want to speak to someone.
- Call 999 if it is an emergency, if a crime is happening right now, or if life or property is at risk.
- Use textphone service 18000 or text 999 if you have a hearing or speech impairment and have pre-registered with the emergency SMS service.

Planning – issues relating to planning consent should be reported to [planning.services@colchester.gov.uk](mailto:planning.services@colchester.gov.uk) Businesses carrying on licensable activities will require both a premises licence and the appropriate planning consent before they are legally entitled to operate.

Public Safety – the licensing objectives include public safety and the prevention of public nuisance; however, the Licensing Act 2003 is not the primary legislation for these matters so you should in the first instance report these matters to Essex Fire and Rescue or Environmental Protection.

## Making representations

When an application is made for a new licence or to vary or review an existing licence, you can have your say by making a representation. You can do this to support or oppose the application. All relevant representations are considered before the application is determined.

### How will I know that an application has been made?

The applicant must advertise their application; this is done by placing a notice on the premises, in a prominent place where it can be easily read by the public, for the entire 28-day period for representations. The notice will be pale blue and at least A4 in size. Minor variation notices will be white and there is only a 10-working day period for representations.

A notice must also be placed in the notices section of a local newspaper or in some limited circumstances in a local magazine. Details of applications are also available on [the Council's website](#).

### Who can make a representation?

Any person is entitled to make a representation. Representations can also be made by the responsible authorities who are the Police, Fire Authority, Planning, Health and Safety, Children's Safeguarding Service, Environmental Control, the Health Trust, Trading Standards, the Home Office and the Licensing Authority. Anonymous representations will not be accepted.

### How do I make a representation?

To be regarded as a relevant representation under the Act, your objection must be specific to the premises concerned and relate to the impact of the application on one or more of the licensing objectives. The licensing objectives are:

- prevention of crime and disorder
- prevention of public nuisance
- public safety
- protection of children from harm

The operating schedule of the application will indicate how the applicant intends to promote the licensing objectives and how it addresses the requirements of the Council's Statement of Licensing Policy.

Representations will not be accepted if they are –

**Frivolous** – one that does not have a serious purpose and would be unreasonable to consider.

**Vexatious** - one that is not genuine and arises, for example, because of a dispute between the applicant/licence holder and the other party.

**Repetitious** - that is identical or substantially similar to a one previously considered by the Council in the last 12 months.

Your representation must also be based on evidence or experience and not on fear or speculation.

Representations relating to competition from other businesses or to the need for further licensed premises will not be considered.

Your representation must:

- Be made in writing, it can be made on the [Council website](#), sent by email to [licensing.team@colchester.gov.uk](mailto:licensing.team@colchester.gov.uk) or made by letter to the Licensing Manager, Colchester City Council, PO Box 889, Rowan House, 33 Sheepen Road, Colchester CO3 3WG
- Include your name and address.
- Be specific to the premises and their application, any matters not relevant to the premises, application or licensing act will be disregarded.
- Be received within the statutory time period.

If you have any evidence to support your representation, please include it with your representation. This evidence might include complaints made to the responsible authorities, diary sheets, video evidence etc. Such evidence may add weight to your representation and enable those determining the application to fully understand your concerns.

## Petitions and group representations?

We can accept petitions but before organizing a petition please note: -

- The organizer of the petition will be the central point of contact. We may need to make contact to verify and/or discuss certain matters and if we are unable to do this it could invalidate the petition.
- Each page of the petition should contain information on the purpose of the petition so that signatories know what they are signing.
- Full names, addresses and where possible, email addresses must be supplied.
- All signatories must be made aware that a copy of the petition will be supplied to the applicant and a copy will be included in the Sub-Committee agenda so their details will become public knowledge.

## How long do I have to make representations?

28 days (10 working days for minor variations) starting from the day after the application is accepted by us. The end date for representations will be shown on the Council's website and stated in the notice.

Please try not to leave it to the last day to make your representation. If there are problems in submitting your application or it is rejected as not being relevant it is helpful to have a few days in which to resolve problems or reframe your representation.

Late representations will not be considered under any circumstances.

## What evidence do I need?

Any decision taken by the Licensing Sub-Sub-Committee must be appropriate and justified by the evidence presented. Therefore, it is essential that you have evidence to support your case.

You should be very clear about what your concerns are and if appropriate gather clear factual evidence which demonstrates your concern. The evidence you gather may include, but is not limited to, keeping a note of the time and date of any incidents and in the case of already granted licence, any breach of condition, noise complaint diaries, correspondence with responsible authorities or the licence holder and photographic or video evidence.

You may wish to consider getting the backing of other people who are also affected or responsible authorities where appropriate.

## Will my representation be public?

We are required to pass the name and address details of those making representations to the applicant, as set out in the Section 182 Guidance which accompanies the Licensing Act 2003. There are limited circumstances in which your name and address may be withheld. Please contact us at [licensing.team@colchester.gov.uk](mailto:licensing.team@colchester.gov.uk) if you have serious and genuine concerns about your safety.

Your name and address will not be included in any paperwork for the hearing, only your representation and the road name in your address will appear. Please be aware however that any information considered at the hearing will be in the public domain.

## What happens next?

We will try to mediate between objectors and applicants to see if a compromise can be reached. All correspondence should go through the Council so you should not be contacted directly by the applicants.

Where mediation is not possible or is unsuccessful, the application and representations made in respect of it will be considered by the Licensing Sub-Committee.

## Licensing Sub-Committee Hearings

The applicant and all other persons who have made relevant representations will be invited to attend the hearing and address the Sub-Committee.

You will receive notification of the hearing at least 10 working days before the hearing and a link to the paperwork will be sent out at least 5 working days before the hearing takes place.

You may address the Sub-Committee on the matters raised in your representation. If you wish, you can ask someone else to speak on your behalf, for example a ward councillor.

Where several people have made similar representations, a single spokesperson can be nominated to address the Sub-Committee.

Having heard all the evidence, the Sub-Committee will retire to determine the application. It may grant it, add extra conditions or restrictions, or refuse the application. All parties will have a right of appeal against the decision.

## Reviews

Once a premises licence or club premises certificate has been granted it lasts in perpetuity or until surrendered by the licence holder. To safeguard residents and businesses the Licensing Act 2003 enables the public and responsible authorities to make an application for the licence to be reviewed.

A review can take place if there are concerns regarding the operation of the premises which it has not been possible to resolve by mediation or other enforcement measures.

### On what grounds can an application be made for a Review?

A request for a review must be based upon matters arising at or in the vicinity of the premises and be related to the adverse effect of the licensed premises on one or more of the licensing objectives which are-

- prevention of crime and disorder
- prevention of public nuisance
- public safety
- protection of children from harm

An application to review a licence may be rejected if it does not meet the criteria set out above. In addition, the request should not be –

**Frivolous** – An example would be a pub without a history of complaints which has one noisy event on New Year's Eve when some disturbance could be expected.

**Vexatious** – one that is not genuine and arises, for example, because of a dispute between the licence holder and the other party.

**Repetitious** – one that is identical or substantially similar to a ground for review that has already been considered by the Council, or to a representation made by a responsible authority or other body to the grant or variation of a premises licence that was excluded, and a reasonable interval has not elapsed since the consideration of the representation.

### What evidence do I need?

We strongly suggest that before initiating a review all other enforcement avenues should be explored and exhausted. We expect you to have reported any problems to the appropriate responsible authority and for these to have been investigated before submitting a review application.

If, having explored other options, you believe that a review of a licensed premises is necessary to promote the licensing objectives you should collect evidence to support your application and, where appropriate, permit authorised officers from the



responsible authorities to enter your premises to witness any potential nuisance. It can help enormously if the evidence submitted is corroborated by the Police with regards to crime and disorder or alcohol related anti-social behaviour, or by the Council's Environmental Protection team when it comes to noise nuisance from loud music for example.

In submitting the review, it is also useful to have an idea of what you are seeking; do you want the licence completely revoked or would changing the times or adding conditions be sufficient to achieve the desired outcome?

### How do I submit a Review application?

There are certain procedural steps that must be followed correctly. It is advisable to write to us stating the grounds on which you want the licence to be reviewed. Your request can then be considered by the Licensing Manager and if the review is considered relevant the appropriate information on making an application can be sent to you.

If you decide to submit your application by post, or hand delivery, please send the original application and any relevant documents to the Licensing Team **and** on the same day you must provide copies of the application and accompanying documents to all the responsible authorities and to the person who holds the premises licence or club premises certificate. Details of these are available from the Licensing Authority.

### How often can a review be initiated?

The review process is not intended to provide a further opportunity to consider representations that failed to persuade the Licensing Authority on earlier occasions. The Statutory Guidance on this matter allows the Licensing Authority to judge what is a reasonable interval between reviews. The Guidance does suggest that more than one review from a particular party should not be permitted within a period of 12 months on similar grounds unless there are compelling circumstances or where it arises following a closure order. Every application will be considered on its own merits.

### What happens next?

Once a valid application has been made, we will advertise the application at the site, on Council premises and on the Council's website.

There is a period of 28 days in which responsible authorities and other persons can make representations. At the end of the 28-day period, a hearing must be arranged. The hearing will take place within 20 working days of the end of the objection period.

### What happens at the Hearing?

The review application will be considered at a meeting of the Licensing Sub-Committee. The meeting will be held in public unless it is determined that it is in public interest to hold it in private. The Sub-Committee comprises three Councillors who will

hear the facts and evidence from all parties including the licence holder and determine what action to take.

At the review hearing you will be able to address the Sub-Committee on the matters you raised in your request for a review. You will not be permitted to raise additional issues.

The options open to the Sub-Committee which are-

- Modification – of the licence conditions, which includes adding, amending, and removing conditions and amending the hours during which a licensable activity is permitted.
- Exclusion – of a licensable activity from the licence
- Removal – of the Designated Premises Supervisor if it considers the problems at the premises are because of poor management.
- Suspension – of the licence for a period of up to 3 months
- Revocation – of the Licence
- Take no action.

Any action taken will be directed at addressing the concerns that gave rise to the review and to promote the licensing objectives. The Sub-Committee cannot act on matters that were not raised as part of the review application. Modifications of conditions and the exclusion of licensable activities may be imposed either permanently or for a temporary period of up to three months.

The decision of the Sub-Committee will be sent in writing to all parties. The outcome of the review will not take effect until the 21-day period for appeal has passed or until the determination of such an appeal.

### What happens if I am not happy with the outcome?

All parties to the review process have a right of appeal to the Magistrates Court. The appeal should be lodged within 21 days of being notified of the Sub-Committee's decision. Appeals should be made to the Magistrates Court, Essex Magistrates Court, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, CM2 5PF.

For more information on anything in this guidance, please contact [licensing.team@colchester.gov.uk](mailto:licensing.team@colchester.gov.uk).