



LEGAL

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How not to deal with a summary review of your premises licence

David Clifton advises how to avoid the fate that has befallen Elizabeth Pargetter at Lower Loxley Hall

Am I the only person who fails to understand why, in what must surely be the biggest crisis to have hit Lower Loxley since Nigel Pargetter fell off its roof, his widow Elizabeth did not take specialist licensing law advice following the summary review, and subsequent suspension, of its premises licence?

For those of you who have no idea what I'm talking about, it is one of the most perplexing storylines ever in the long-running BBC radio soap, *The Archers*.

To explain, Lower Loxley Hall is a fictional country house that operates primarily as a conference centre and function venue. Elizabeth Pargetter owns and runs it. On 3 August, her teenage son Freddie (who lives with his mother at Lower Loxley) was arrested at a beer festival held in its grounds and charged with possession of a controlled drug with intent to supply. He was subsequently jailed for 12 months.

On 9 August, Elizabeth learned that, because of her son's arrest, the police had applied for a summary review of the premises licence, which was suspended as an interim step. Having taken some dud advice from a local solicitor with no experience in licensing law, Elizabeth turned up at the full review hearing before the Licensing Committee on 2 September, unrepresented by a lawyer, with just a local bigwig to give a character reference. All we know, as I write this, is that the Committee refused to restore the licence, meaning it either remained suspended (up to three months' maximum) or was revoked. So now for the advice, in case you find yourself in similar circumstances.

To apply for a summary review, the police must form the view that the premises are associated with serious crime, serious disorder or both. The relevant 'serious crime' test is whether an offence has been committed (a) for which a person aged 21 or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for three years or more or (b) that involves substantial financial gain. The answer in relation to Lower Loxley is "no" on both counts.

The police (and, when assessing whether to impose interim steps, the Licensing Committee) should take account of the premises' track record on the basis that, according to the government's section 182 guidance, a summary review is not expected to be used as a first response to a problem and summary reviews triggered by a single incident should be the exception. Despite Lower Loxley's previous clean record, the most severe interim step (suspension of the licence) was imposed without Elizabeth being given an opportunity to make representations.

Once she knew about the suspension, Elizabeth should have immediately made representations against it, which would have resulted in a hearing within 48 hours. She didn't. Instead she waited for the full hearing (that took place within the required 28 days from

receipt by the Licensing Authority of the summary review application), but then she made a complete pig's ear of it, not surprisingly as she had taken no proper advice beforehand.

She had 21 days from notification of the Licensing Committee's decision to appeal to the magistrates court. However, she didn't do that, again not surprisingly as she didn't seem to even know whether the licence remained suspended or had been revoked.

My advice? Don't be an Elizabeth. 



QUESTIONS & ANSWERS

Q: What is behind the current Airside Alcohol Licensing consultation?

A: Current licensing legislation disapplies the Licensing Act 2003 from licensable activities airside at all international airports in England and Wales except Doncaster-Sheffield Airport. However, in April 2017, following public safety concerns about disruptions caused by drunken airline passengers, the House of Lords Select Committee on the 2003 Act recommended that this exemption should be revoked. The Home Office has therefore published a call for evidence to better understand the problem. The consultation paper is available on the gov.uk website. If you want to respond, the consultation runs until 11.45pm on 1 February 2019, but you should note that sales of alcohol at international airports in Northern Ireland and Scotland are outside its scope as they are separately regulated.

Q: Where can I find some common-sense guidance on acrylamide?

A: A very helpful Industry Guide to Acrylamide has been published to help businesses in the food and catering industries comply with new legislation that came into force on 11 April 2018. It's available on the UKHospitality website.

Q: Can a licensing committee grant a premises licence for a limited probationary period?

A: This is what the London Borough of Tower Hamlets purported to do for the All Points East Festival on the basis that "this would allow the applicants the opportunity to demonstrate their event management plans" on the basis that they "would then be able to apply for the remaining term of the contract". On appeal, the district judge agreed that such a decision was wrong in law. If the length of the licence was a material consideration, parliament would have introduced a renewal process. This judgment is not binding on other courts but it has helped to underline that the Licensing Act 2003 was intended to provide "light touch" regulation while, at the same time, providing an appropriate degree of "balance" by means of the licence review process.