

# **PART 5: PREMISES LICENCES**

## **5.1 INTRODUCTION**

5.1.1 A premises licence authorises the use of any premises (any vehicle, vessel or moveable structure or any place or a part of any premises) for licensable activities.

5.1.2 Railway vehicles and aircraft engaged on journeys are exempted from the requirement to have an authorisation to carry on licensable activities (although a magistrates' court can make an order to prohibit the sale of alcohol on a railway vehicle if this is appropriate to prevent disorder). Stationary aircraft and railway carriages used as restaurants and bars are subject to the provisions of the 2003 Act.

## **5.2 GRANT OF LICENCE<sup>39</sup>**

5.2.1 Subject to paragraph 5.2.2, an application for a premises licence may be made by anyone who carries on or proposes to carry on a business involving licensable activities on premises situated wholly or mainly in the district of Hambleton.

5.2.2 An applicant for a premises licence must be:

- one or more individuals aged 18 years or over;
- a business;
- a partnership;
- a person exercising a statutory function (for example, a local authority);
- a person exercising any function by virtue of the Royal prerogative (for example, a body exercising functions by virtue of a royal charter);
- a recognised club;
- a charity;
- an educational institution;
- a health body in the public and private sector; or
- the police

5.2.3 An application for the grant of a premises licence must be accompanied by:

- the requisite fee;
- an operating schedule (see below);
- a plan of the premises (see paragraph 5.12);
- proof of the applicant's right to work in the UK (see paragraph 5.15); and
- a form of consent from the individual who is to be specified in the licence as the designated premises supervisor (only if the application involves the supply of alcohol).

5.2.4 An application for the grant of a premises licence must be advertised:

- in a local publication on at least one occasion within ten working days of the application date; and
- on the premises for a period of 28 days (see Annex D for more information).

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<sup>39</sup> [Section 17 of the Licensing Act 2003](#)

### **5.3 VARIATION OF LICENCE<sup>40</sup>**

5.3.1 The holder of a premises licence may apply for a variation of the licence. An application for a variation of a premises licence must be accompanied by:

- the requisite fee;
- an operating schedule (see paragraph 5.13);
- the existing premises licence; and
- if the variation relates to any structural alterations, a plan of the premises (see paragraph 5.12);

5.3.2 An application for the variation of a premises licence must be advertised:

- in a local publication on at least one occasion within ten working days of the application date; and
- on the premises for a period of 28 days (see Annex D for more information).

### **5.4 MINOR VARIATION<sup>41</sup>**

5.4.1 The Act allows for a simplified procedure for varying a licence where the changes cannot have an adverse effect on the licensing objectives.

5.4.2 Changes to the structure of the premises will not fall within the definition of a minor variation if it increases the capacity for drinking on the premises, or if it impedes the effective operation of a noise reduction measure such as an acoustic lobby.

5.4.3 An application for a minor variation of a premises licence must be accompanied by:

- the requisite fee;
- the existing premises licence; and
- if the variation relates to any structural alterations, a plan of the premises (see paragraph 5.12).

5.4.4 An application for a minor variation of a premises licence must be advertised on the premises for a period of 10 working days (see Annex D for more information).

### **5.5 CHANGE OF DPS<sup>42</sup>**

5.5.1 A premises licence may be varied to specify an individual as designated premises supervisor.

5.5.2 The police may object to the appointment of a new designated premises supervisor where, in exceptional circumstances, they believe that it would undermine the prevention of crime and disorder objective.

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<sup>40</sup> [Section 34 of the Licensing Act 2003](#)

<sup>41</sup> [Section 41A of the Licensing Act 2003](#)

<sup>42</sup> [Section 37 of the Licensing Act 2003](#)

5.5.3 An application to specify an individual as designated premises supervisor must be accompanied by:

- the requisite fee;
- the existing premises licence; and
- a form of consent from the individual who is to be specified as the designated premises supervisor.

## **5.6 TRANSFER OF LICENCE<sup>43</sup>**

5.6.1 Any person who may apply for the grant of a premises licence (see paragraph 5.2.2) may apply for a premises licence to be transferred to them.

5.6.2 The police may object to the transfer of a premises licence where, in exceptional circumstances, they believe that the transfer would undermine the prevention of crime and disorder objective.

5.6.3 An application for the transfer of a premises licence must be accompanied by:

- the requisite fee;
- the existing premises licence;
- proof of the applicant's right to work in the UK (see paragraph 5.15); and
- a form of consent from the existing premises licence holder.

## **5.7 COMMUNITY PREMISES – ALTERNATE MANDATORY CONDITION**

5.7.1 Where the management committee of community premises makes an application for the grant of a premises licence authorising the supply of alcohol, the application may include a request to disapply the mandatory conditions in sections 19(2) and 19(3) of the Act concerning the supervision of alcohol sales by a personal licence holder and the need for a designated premises supervisor who holds a personal licence<sup>44</sup>.

5.7.2 In cases where the mandatory conditions have already been imposed on a community premises licence, the holder of the licence may submit an application to disapply the mandatory conditions in sections 19(2) and 19(3) of the Act concerning the supervision of alcohol sales by a personal licence holder and the need for a designated premises supervisor who holds a personal licence<sup>45</sup>.

5.7.3 An application for the mandatory conditions to be disapplied must be accompanied by:

- the requisite fee;
- the existing premises licence; and
- details of the proposed arrangements to supervise alcohol sales.

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<sup>43</sup> [Section 42 of the Licensing Act 2003](#)

<sup>44</sup> [Section 25A of the Licensing Act 2003](#) as inserted by [article 3 of the Legislative Reform \(Supervision of Alcohol Sales in Church and Village Halls &c.\) Order 2009](#)

<sup>45</sup> [Section 41D of the Licensing Act 2003](#) as inserted by [article 4 of the Legislative Reform \(Supervision of Alcohol Sales in Church and Village Halls &c.\) Order 2009](#)

## **5.8 INTERIM AUTHORITY NOTICE<sup>46</sup>**

- 5.8.1 Where a premises licence lapses due to the death, incapacity or insolvency of the licence holder, but no application for transfer has been received to reinstate the licence under section 50 of the Act, a person who has an interest in the premises may, during the initial 28 day period, give notice to the licensing authority in respect of the licence. A similar notice must also be given to the chief officer of police within this period.
- 5.8.2 Where an interim authority notice is given, the premises licence is reinstated for a maximum period of three months from the day the notice was given to the licensing authority to allow for applications to transfer the licence.

## **5.9 PROVISIONAL STATEMENTS<sup>47</sup>**

- 5.9.1 Where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for one or more licensable activities, investors may be unwilling to commit funds unless they have some assurance that a premises licence covering the desired licensable activities would be granted for the premises when the building work is completed.
- 5.9.2 A business or an individual (aged 18 or over) with an interest in any particular premises may therefore apply for a “provisional statement”.
- 5.9.3 An application for a provisional statement must be accompanied by:
- the requisite fee;
  - a statement made by or on behalf of the applicant including particulars of the premises to which the application relates and of the licensable activities for which the premises are to be used; and
  - plans of the work being or about to be done at the premises.
- 5.9.4 An application for a provisional statement must be advertised:
- in a local publication on at least one occasion within ten working days of the application date; and
  - on the premises for a period of 28 days.
- 5.9.5 When a person applies for a premises licence in respect of premises (or part of the premises or premises which are substantially the same) for which a provisional statement has been made, representations by responsible authorities and other persons will be excluded where:
- the application for a licence is in the same form as the licence described in the provisional statement;
  - the work in the schedule of works has been satisfactorily completed;
  - given the information provided in the application for a provisional statement, the responsible authority or other person could have made the same (or substantially the same) representations about the application then but failed to do so without reasonable excuse; and

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<sup>46</sup> [Section 47 of the Licensing Act 2003](#)

<sup>47</sup> [Section 29 of the Licensing Act 2003](#)

- there has been no material change in the circumstances relating either to the premises or to the area in the proximity of those premises since the provisional statement was made.

## **5.10 CHANGES DURING PERIOD OF LICENCE<sup>48</sup>**

5.10.1 The holder of a premises licence must notify the licensing authority of any changes to his/her name or address or that of the designated premises supervisor.

## **5.11 REVIEWS<sup>49</sup>**

5.11.1 A responsible authority or any other person may apply for a review of the licence in the event of any perceived failure to promote one or more of the licensing objectives.

5.11.2 Reviews allow the Licensing and Appeals Hearings Panel, if necessary, to modify the licence conditions, remove the designated premises supervisor or to suspend or revoke all or part of the licence.

5.11.3 If a review application has been made by a person other than a responsible authority (e.g. a local resident, residents' association, local business or trade association), the licensing authority must consider whether the complaint being made is frivolous, vexatious or repetitious.

5.11.3.1 A review may be regarded as frivolous where the concerns are minor and no remedial steps would be warranted or proportionate.

5.11.3.2 A review may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification.

5.11.3.3 A review may be considered to be repetitious if it is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence; or
- representations considered by the licensing authority when the premises licence was granted

5.11.4 The licensing authority is expected to prevent review applications made merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. Accordingly, a review application in relation to a particular premises would not generally be permitted within a 12 month period on similar grounds unless the licensing authority is satisfied that there are exceptional circumstances.

5.11.5 In borderline cases, the benefit of the doubt about any aspect of a review application should be given to the applicant. The subsequent hearing would then provide an opportunity for the person applicant to amplify and clarify the grounds for review. Any person who is aggrieved by a rejection of their review application may lodge a complaint through the council's corporate complaints procedure or they may seek to challenge the authority's decision by way of judicial review.

<sup>48</sup> [Section 33 of the Licensing Act 2003](#)

<sup>49</sup> [Section 51 of the Licensing Act 2003](#)

5.11.6 Although the licensing authority may act in its capacity as a responsible authority to apply for a review of a premises licence, it will not normally do so on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review in their own right if they have grounds to do so.

5.11.7 Where the licensing authority does act as a responsible authority and applies for a review, it will make provision for an appropriate separation of responsibilities in order to ensure procedural fairness and eliminate conflicts of interest.

## **5.12 PLANS OF PREMISES**

5.12.1 Premises plans are not required to be submitted in any particular scale, but they must be in a format which is “clear and legible in all material respects<sup>50</sup>” (i.e. they must be accessible and provide sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application).

5.12.2 There is no requirement for plans to be professionally drawn as long as they clearly show all of the prescribed information (see Annex B).

## **5.13 OPERATING SCHEDULE**

5.13.1 In completing an operating schedule, applicants must describe the steps that are appropriate for the promotion of the licensing objectives having had regard to this policy. Applicants are expected to include positive proposals in their application on how they will manage any potential risks.

5.13.2 While applicants are not required to seek the views of responsible authorities before formally submitting an application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application.

## **5.14 SUBMITTING APPLICATIONS**

5.14.1 Applications may be submitted:

- by post using the application forms available on the council’s website;
- via email using the application forms available on the council’s website; or
- online via [www.gov.uk](http://www.gov.uk)

5.14.2 If an applicant submits any part of their application by post, the applicant will be responsible for sending copies to each of the appropriate responsible authorities. However, if an application is submitted online or via email, the licensing authority will be responsible for copying it to responsible authorities.

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<sup>50</sup> [Regulation 23 of the Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005](#) as amended by [regulation 5 of the Licensing Act 2003 \(Premises licences and club premises certificates\) \(Amendment\) \(Electronic Applications etc\) Regulations 2009](#)

5.14.3 If information is missing or incorrect, the licensing authority may 'hold' the application until the applicant has supplied all of the required information. This effectively resets the time period for determining an application and may be done any number of times until the application form is complete.

## **5.15 RIGHT TO WORK IN THE UK**

5.15.1 Individuals and partnerships (which are not limited liability partnerships) applying for a premises licence must be entitled to work in the UK. The Immigration Act 2016 amended the Licensing Act 2003 with effect from 6 April 2017 so that an application made on or after that date by someone who is not entitled to work in the UK must be rejected.

5.15.2 In order for the licensing authority to be satisfied that an applicant has the right to work in the UK, applicants must submit a copy of one of the documents listed in Annex E to show that the applicant has permission to be in the UK and to undertake work in connection with a licensable activity.

5.15.3 Applicants should provide photocopies or scanned copies of the documents. Original documents should not be sent to the licensing authority.

5.15.4 If an applicant has restrictions on the length of time they may work in the UK, a premises licence may still be issued, but the licence will cease to have effect when the right to work lapses.

5.15.5 All applicants will be treated in the same way. Assumptions will not be made about a person's right to work in the UK or their immigration status on the basis of their nationality, ethnic origin, accent, the colour of their skin, or the length of time they have been resident in the UK.

## **5.16 DETERMINING UNCONTESTED APPLICATIONS**

5.16.1 In the absence of any representations in respect of any duly made application, a licence will be granted as applied for, subject only to any mandatory conditions and those conditions which form part of the operating schedule.

## **5.17 REPRESENTATIONS**

5.17.1 Responsible authorities and any other persons may make relevant representations in respect of applications for the grant or variation of a premises licence. In these cases, the application will be referred to the Licensing and Appeals Hearings Panel for determination.

5.17.2 Representations must be made in writing and may be amplified at the subsequent hearing. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.



- 5.17.3 Any representations must relate to the likely adverse effect that granting the application would have on the licensing objectives. Representations about the commercial damage caused by competition from new licensed premises would not be considered relevant. Similarly, matters of morality, public health (as opposed to public safety) and commercial demand are not relevant matters for the licensing authority to consider in discharging its licensing functions.
- 5.17.4 If a representation has been made by a person other than a responsible authority (e.g. a local resident, residents' association, local business or trade association), the licensing authority must consider whether the complaint being made is frivolous or vexatious.
- 5.17.4.1 A representation may be regarded as frivolous where the concerns are minor and no remedial steps would be warranted or proportionate.
- 5.17.4.2 A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification.
- 5.17.5 In borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making representation. The subsequent hearing would then provide an opportunity for the person applicant to amplify and clarify the grounds for objection. Any person who is aggrieved by a rejection of their representation may lodge a complaint through the council's corporate complaints procedure or they may seek to challenge the authority's decision by way of judicial review.
- 5.17.6 The licensing authority will accept all reasonable and proportionate representations made by responsible authorities unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. It remains incumbent on the responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing<sup>51</sup>.

## **5.18 HEARINGS**

- 5.18.1 The licensing authority must hold a hearing within a prescribed period where relevant representations are made.
- 5.18.2 Notices will be sent to each party informing them of the date so that they may attend if they wish to give evidence at the hearing.
- 5.18.3 The procedure for hearings is attached at Annex C.

## **5.19 PERIOD OF VALIDITY<sup>52</sup>**

- 5.19.1 Unless it has been granted only for a limited period, a premises licence will remain valid until:
- it is suspended;
  - it is surrendered;

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<sup>51</sup> 9.12 of the [Home Office Guidance](#) issued under section 182 of the Licensing Act 2003 (April 2018)

<sup>52</sup> [Section 26 of the Licensing Act 2003](#)

- it is revoked;
- it lapses where the holder of the licence:
  - dies;
  - lacks capacity to hold a licence within the meaning of the Mental Capacity Act 2005;
  - becomes insolvent;
  - is dissolved;
  - ceases to be entitled to work in the United Kingdom; or
  - if it is a club, ceases to be a recognised club.

## 5.20 APPEALS

5.20.1 Any party aggrieved by the decision of the Licensing and Appeals Hearings Panel can appeal to the Magistrates' Court.

## 5.21 CONDITIONS

5.21.1 Conditions on premises licences will fall into one of three categories as follows:

- Mandatory conditions;
- Conditions consistent with the applicant's operating schedule; and
- Conditions imposed by the Licensing and Appeals Hearings Panel.

5.21.2 Mandatory conditions are attached to all premises licence, where appropriate, to ensure that:

- No supply of alcohol is made under a premises licence at a time when there is no designated premises supervisor in respect of the premises licence<sup>53</sup>;
- No supply of alcohol is made under a premises licence at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended<sup>54</sup>;
- Every supply of alcohol under the premises licence is made or authorised by a person who holds a personal licence<sup>55</sup>;
- The admission of children to the exhibition of any film is restricted in accordance with any recommendation by the film classification body or the licensing authority<sup>56</sup>;
- Any individual carrying out a security activity in accordance with a licence condition is authorised under the Private Security Industry Act 2001<sup>57</sup>;
- An age verification policy is adopted and implemented in relation to the sale or supply of alcohol<sup>58</sup>;
- The age verification policy requires individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification

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<sup>53</sup> [Section 19\(2\)\(a\) of the Licensing Act 2003](#)

<sup>54</sup> [Section 19\(2\)\(b\) of the Licensing Act 2003](#)

<sup>55</sup> [Section 19\(3\) of the Licensing Act 2003](#)

<sup>56</sup> [Section 20 of the Licensing Act 2003](#)

<sup>57</sup> [Section 21 of the Licensing Act 2003](#)

<sup>58</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

bearing their photograph, date of birth and either a holographic mark or an ultraviolet feature<sup>59</sup>;

- No alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price<sup>60</sup>;
- Staff do not carry out, arrange or participate in any irresponsible promotions in relation to the premises<sup>61</sup>;
- No alcohol is dispensed directly into the mouth of a customer (except when an individual is unable to drink without assistance due to a disability). For example, drinking games such as the 'dentist's chair' are prohibited<sup>62</sup>;
- Free potable water is provided on request to customers where it is reasonably available<sup>63</sup>;
- The following drinks (if sold on the premises) are available in the following measures:
  - beer or cider - half pint
  - gin, rum, vodka or whisky - 25ml or 35ml
  - still wine in a glass - 125ml<sup>64</sup>.

5.21.3 The mandatory conditions are prescribed in legislation and are subject to periodic change. The licensing authority will not necessarily replace licences following every change but the changes will be reflected when any other amendments are made by the licence holder. A full schedule of the current mandatory conditions will be maintained on the council's website.

5.21.4 Licence holders should be aware that mandatory conditions will apply to their licence, even if they are not printed upon it, and as such are encouraged to periodically check for updates to the current conditions.

5.21.5 Proposals put forward by an applicant to promote the licensing objectives may, at the discretion of the licensing authority, be imposed on a licence in the form of clear and enforceable conditions. Any such conditions must be consistent with the applicant's operating schedule. Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule

5.21.6 The Licensing and Appeals Hearings Panel may impose additional conditions upon receipt of relevant representations if it is satisfied as a result of a hearing (unless all parties agree that a hearing is not necessary) that it is appropriate in order to promote one or more of the four licensing objectives.

5.21.7 The licensing authority will be alive to the indirect costs that can arise as a result of conditions being imposed on premises licences. Conditions may be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. In any case, licensing authorities have a general responsibility to avoid imposing unnecessary regulatory burdens on businesses<sup>65</sup>.

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<sup>59</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

<sup>60</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2014](#)

<sup>61</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

<sup>62</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

<sup>63</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

<sup>64</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

<sup>65</sup> [Regulators' Code](#) - Better Regulation Delivery Office – April 2014

## **5.22 PLANNING PERMISSION**

- 5.22.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency.
- 5.22.2 The planning and licensing regimes involve consideration of different (albeit related) matters. The Licensing and Appeals Hearings Panel is not bound by decisions made by a planning committee and vice versa.
- 5.22.3 There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time.
- 5.22.4 Premises operating in breach of their planning permission would be liable to prosecution under planning law.

## **5.23 CUMULATIVE IMPACT**

- 5.23.1 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. It should not, however, be confused with any question of ‘need’ which relates to the commercial demand for a particular type of premises. The issue of ‘need’ is a matter for market forces to influence and for the planning authority to regulate. It is not a matter for the licensing authority to consider in discharging its licensing functions or formulating its statement of licensing policy.
- 5.23.2 The licensing authority recognises that, in accordance with the statutory guidance, it may adopt a special policy in response to a cumulative impact issue in a defined area. Consideration of such a policy may be prompted by submissions from responsible authorities or other persons, evidenced appropriately and linked to one or more of the licensing objectives.
- 5.23.3 The licensing authority will not seek to introduce quotas of licensed premises, nor will it seek to impose general limitations on trading hours in particular areas. Instead, consideration will be given to the individual characteristics of the premises concerned within a given area.