

LICENSING ACT 2003 - PREMISES LICENCES

A guide for applicants for new licences

The New Law

The Licensing Act 2003 changed the law relating to the sale and supply of alcohol, with responsibility for granting licences transferring from the Magistrates Court to Local Authorities such as Newcastle upon Tyne City Council. In addition, the law relating to Public Entertainment, Cinemas, Theatres and premises providing Late Night Refreshment was also replaced.

All licences issued under the Local Government (Miscellaneous Provisions) Act 1982, and the Licensing Act 1964, including Justices' Licences, ceased to have any legal effect from 24 November 2005. From that date the only valid licences for activities covered by the Licensing Act 2003, such as the sale of alcohol, are "Premises Licences" issued by Local Authorities.

A Premises Licence licences businesses to use the premises for one or more licensable activities contained in the Licensing Act 2003. Licensable activities include the sale of alcohol for consumption on or off the premises. Other licensable activities which are covered in the new Act are the provision of entertainment such as music and dancing, late night refreshment (i.e. hot food or hot drink available between the hours of 11 p.m. and 5 a.m.) cinemas and theatres.

Where premises are to be used for the sale of alcohol, there must be a named person who has day to day responsibility for the management of the premises. This person is known as the Designated Premises Supervisor (DPS). All sales of alcohol must be made or authorised by a person who holds a "Personal Licence". A DPS must hold a Personal Licence.

Under the Licensing Act 2003, all applications for licences, and decisions made by the City Council when considering applications, must promote the four licensing objectives, which are:

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

When considering applications for licences, the Council will also have regard to its Licensing Policy. A statement of that Policy has been published and is available from the Licensing Office at Newington Road East or it can be viewed and downloaded via www.newcastle.gov.uk

Who is the Designated Premises Supervisor?

The 'Designated Premises Supervisor' (DPS) is the person who has overall day to day responsibility for the premises, and can be the holder of the premises licence. Only one DPS can be nominated but if that person should leave your employment you cannot continue to sell alcohol until another Personal Licence holder has been

nominated as a DPS. An application must be made to the City Council immediately to replace the DPS on the Premises Licence. We therefore recommend that more than one person connected with the premises holds a Personal Licence.

What is a 'Personal Licence'?

All sales of alcohol must be made by or under the authority of a Personal Licence holder. Applicants who meet the relevant criteria will be granted Personal Licences by the Local Authority in whose area they reside. There can be any number of Personal Licence holders working in a premises but a Premises Licence requires one of the Personal Licence holders to be named as a Designated Premises Supervisor.

Separate advice has been prepared in respect of Personal Licences.

How do I obtain a Premises Licence?

1. Applications must be made on the appropriate form. You will be required to send the following documents to the Licensing Office at the City Council :

- **The appropriate completed application form.**
- **A plan of the premises – Scale 1:100** (see separate notes)
- **The appropriate fee.**(see separate notes)
- **If you intend to sell alcohol, the consent form completed and signed by the person who will be the 'Designated Premises Supervisor'**

Your application will not be considered to have been received by us until all the above documents, together with the correct fee, are provided.

Application forms can either be provided by post (contact the Licensing Office, Newington Road East, tel: 0191 2783864) or via the City Council website www.newcastle.gov.uk/licensing.nsf/a/home, or from the government's Department of Culture Media & Sport website: www.culture.gov.uk

Licensing Solicitors will also have copies.

2. There is a requirement within the application form to complete an 'Operating Schedule', which should address the licensing objectives referred to above.
3. The fee for a Premises Licence is based on the non-domestic rateable value of premises. Once a licence has been granted there is no need to apply to renew it, but there is an annual charge. A fact sheet relating to fees is provided.
4. You are required to advertise your application both in a newspaper (Newcastle Journal or Chronicle) and on the premises. (See separate fact sheet.)
5. You must also send a copy of your application form and accompanying documents to the '**Responsible Authorities**' listed on the attached sheet. **The forms must be sent on the same day that the application is sent to the City Council.**

Can I make an application for a Premises Licence even though the premises I propose to use have not yet been constructed or need altering or adapting?

It is possible to apply for a Premises Licence before new premises have been constructed or extended or changed where clear plans of the proposed structure exist and an operating schedule is capable of being completed about the activities to

take place there, the time at which such activities will take place, the proposed hours of opening, the steps to be taken to promote the licensing objectives and where the sale of alcohol is involved, whether it is proposed for consumption to be on or off the premises (or both).

If all of the above information is not available it is possible to make an application for a "Provisional Statement". It is important to note, however, that the granting of a Provisional Statement will not automatically guarantee the granting of a Premises Licence at a future date.

1. To make an application for a "Provisional Statement" You will need to send the following documents to the Licensing Office of the City Council :

- **The appropriate completed application form.**
- **The appropriate fee.**(see separate notes)
- **A schedule of works.** (this must include:-
 - (i) a statement by the applicant about the premises to be used and licensable activities for which the premises are to be used
 - (ii) plans, to a scale 1:100, of the work being or about to be done at the premises)

Your application will not be considered to have been received by us until all the above documents, together with the correct fee, are provided.

Application forms can either be provided by post (contact the Licensing Office, at Newington Road East, tel: 0191 2783864) or via the City Council website www.newcastle.gov.uk/licensing.nsf/a/home, or from the government's Department of Culture Media & Sport website: www.culture.gov.uk

Licensing Solicitors will also have copies.

2. The fee for a Premises Licence is based on the non-domestic rateable value of premises. Once a licence has been granted there is no need to apply to renew it but there is an annual charge.
3. You are required to advertise your application both in a Newspaper (Newcastle Journal or Chronicle) and on the premises. (Details of the requirements are in the attached fact sheet.)
4. You must also send a copy of your application form and accompanying documents to the '**Responsible Authorities**' (see separate sheet). **These forms must be sent on the same day that the application is sent to the City Council.**

The **Responsible Authorities** are: Northumbria Police, Tyne & Wear Fire Authority, Local Planning Authority, Health & Safety Authority, Public Health & Environmental Authority, Social Services Children's Section, and Trading Standards Office.

If I obtain a "Provisional Statement" will I be granted a Premises Licence?

An application for a Premises Licence would still need to be made, but even if a Provisional Statement had been granted previously, the subsequent granting of a Premises Licence is not guaranteed.

Where a provisional statement has been issued and the application for the premises licence is for the same activities etc. as the provisional statement, and the work described in the schedule of work has been satisfactorily completed, and there has

been no material change in the circumstances relating either to the premises or to the area in the vicinity of those premises since the provisional statement was made, then the grounds upon which a representation could be made are restricted.

Representations about a Premises Licence application in these circumstances would be excluded if the relevant person could have made that same representation at the time of the provisional statement application but failed to do so without reasonable excuse.

However if any of the above criteria is not satisfied, representations which could be valid can be still be made and the Council would be obliged to give consideration to them. This could lead to the refusal of the application for a Premises Licence.

How will my applications be dealt with?

Responsible authorities, local residents and businesses have a right to raise representations or objections to your application within 28 days of your making the application. Representations can be made with regard to the likely effect of the grant of the Licence on the promotion of any of the licensing objectives.

If no representations are received the Licence will be granted subject to the terms and conditions detailed in your operating schedule.

If a representation is made, you will be advised accordingly. Your application will be considered by members of the City Council's Licensing Committee. They will listen to the evidence from all parties before making their decision. They may either:

- grant the licence in accordance with the operating schedule, or
- grant the licence with additional conditions, or
- refuse the licence.

If your licence is refused, or if you are aggrieved by any of the conditions imposed on the licence, you would have a right of appeal to the Magistrates' Court.

If you require further information, you may wish to consult a Licensing Solicitor. You can also contact the City Council's Licensing Office on the e-mail address: licensing@newcastle.gov.uk

Licensing Office
Newcastle City Council,
Newington Road East
NEWCASTLE UPON TYNE
NE6 5BD