



New Forest

DISTRICT COUNCIL

Licensing Act 2003 Guidance

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The contents of this document are provided as an information guide only. They are not a full and authoritative statement of the law and do not constitute or replace professional or legal advice.

1. Introduction

The Licensing Act 2003 licensing legislation covers:

- The retail sale of alcohol (for consumption on or off the premises)
- Supply of alcohol to members of a qualifying club
- Provision of regulated entertainment and
- Provision of late night refreshment

The Act provides legislation which permits the Licensing Authority to licence the following:

- Personal licence holders
- Premises Licences (either with or without alcohol)
- Club Premises Certificates and
- Temporary Event Notices

This guidance provides information on personal and premises licence applications. Separate guidance is available for Clubs and Temporary Events

There are four Licensing Objectives that underpin the Act and these are required by law to be promoted and upheld by those licensed by the Authority. These will be referred throughout this document.

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

2. Personal licences

A personal licence enables the holder to authorise the sale of alcohol at premises licensed for the sale of alcohol. It also enables the holder to be nominated as the Designated Premises Supervisor on a premises licence which includes the sale of alcohol. The DPS has a legal responsibility for authorising the sale of alcohol and control of the day to day management of that premises under the terms of the licence. If the designated premises supervisor is not physically on the premises, there must be a clear management structure with which staff are familiar.

Not every person retailing alcohol at premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be authorised by a personal licence holder.

Personal licences do not have an expiry date unless surrendered, suspended, revoked or declared forfeit by the courts. Once granted, the licensing authority which issued the licence originally must be notified of any change of address during the life of the licence, even if the holder moves away from the original Council area. It is an offence if changes are not notified to the licensing authority and failure to do so may result in a large fine. If the licence holder has a change of name, through marriage or deed poll you must submit a marriage certificate or evidence of the deed poll change.

Personal licences consist of two parts, a plastic card with a photograph and a paper document.

2.1 The application process

Applications for personal licences must be made to the local authority in whose area the applicant normally resides.

To make an application for a personal licence must be able to show that you have sufficient knowledge of licensing law and the social consequences of selling alcohol. This is proved by successfully completing an appropriate training course. Lists of suitable courses are available from the BII (British Institute of Innkeepers) and can be located on their website. There are a number of different course providers that run courses in the area for **Level 2 Personal Licence Holders**.

There is also a requirement to submit a document in the form of a basic disclosure check, to prove that you have not been convicted of any relevant offences.

From January 2018, you should apply to the Disclosure and Barring Service (DBS) for your report.

<https://www.gov.uk/request-copy-criminal-record>

You are able to use the new online application route that is available on www.gov.uk to obtain your DBS. Alternatively, you can use a 'Responsible Organisation' (RO) – a third party registered with DBS – to submit a check on your behalf. A list of Responsible Organisations can be found at <https://www.gov.uk/guidance/responsible-organisations>.

*******NOTE: The DBS must be less than one month old*******

Personal licence applicants must submit the following:-

- A completed application form and disclosure form
- The appropriate fee (37.00) (cheques payable to New Forest District Council)
- Two passport sized photographs, one of which should be endorsed on the back by a solicitor, notary, teacher, lecturer or other professional person as a true likeness.
- Evidence of passing the approved Personal Licence training course to level 2
- Basic DBS disclosure
- Copies of identification documents that indicate the applicant's Right to Work in the UK (See 2.2 below)

A duplicate copy does not need to be sent to the Police, but if any relevant offences are declared, the Licensing Authority will inform the Police who may raise representations against the issue of a licence.

If you have no relevant convictions, are suitably trained, over 18 and have the right to work in the UK there is no reason why you should not qualify for a personal licence.

Personal licences are not required in qualifying clubs, permitted temporary events and for premises licences that do not retail alcohol. Although, personal licence holders are not prevented from giving temporary event notices.

2.2 Right to Work/Immigration status

A personal licence may not be issued to an individual who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any personal licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensing activity.

Please submit copies or scanned copies of the following documents DO NOT SEND ORIGINALS.

List of documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.

If sending in passport documents YOU MUST SEND COPIES OF THE FOLLOWING:-

- (i). any page containing the holder's personal details including nationality;
 - (ii) any page containing the holder's photograph;
 - (iii) any page containing the holder's signature;
 - (iv) any page containing the date of expiry; and
 - (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work. or
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
 - A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
 - A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
 - A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
 - A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.

- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **full** birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.

- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
 - evidence of the applicant's own identity – such as a passport,
 - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
 - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
 - (i) working e.g. employment contract, wage slips, letter from the employer,
 - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
 - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
 - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

2.3 Relevant offences under the Act

One of the qualifying criteria for obtaining a personal licence is that a person has no unspent convictions for the 'relevant offences' specified in the Act.

These relevant offences are as follows:-

1 An offence under the Licensing Act 2003

2 Any convictions under any of the following enactments:-

- a) Schedule 12 to the London Government Act 1963 (c. 33) (public entertainment licensing);
- b) The Licensing Act 1964 (c. 26);

- c) The Private Places of Entertainment (Licensing) Act 1967 (c. 19);
- d) Section 13 of the Theatres Act 1968 (c. 54);
- e) The Late Night Refreshment Houses Act 1969 (c. 53);
- f) Section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c.30);
- g) The Licensing (Occasional Permissions) Act 1983 (c. 24);
- h) The Cinemas Act 1985 (c. 13);
- i) The London Local Authorities Act 1990 (c. vii)

3 An offence under the Firearms Act 1968 (c. 27)

4 An offence under Section 1 of the Trade Descriptions Act 1968 (c. 29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.

5 An offence under any of the following provisions of the Theft Act 1968 (c. 60):-

- a) Section 1 (theft);
- b) Section 8 (robbery);
- c) Section 9 (burglary);
- d) Section 10 (aggravated burglary);
- e) Section 11 (removal of articles from places open to the public);
- f) Section 12A (aggravated vehicle-taking), in circumstances where subsection (2) (b) of that section applies and the accident caused the death of any person;
- g) Section 13 (abstracting of electricity);
- h) Section 15 (obtaining property by deception);
- i) Section 15 A (obtaining a money transfer by deception);
- j) Section 16 (obtaining pecuniary advantage by deception);
- k) Section 17 (false accounting);
- l) Section 19 (false statements by company director, etc.);
- m) Section 20 (suppression, etc. of documents);
- n) Section 21 (blackmail);
- o) Section 22 (handling stolen goods);
- p) Section 24A (dishonesty retaining a wrongful credit);
- q) Section 25 (going equipped for stealing, etc).

6 An offence under section 7 (2) of the Gaming Act 1968 (c. 65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).

7 An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38):-

- a) Section 4 (2) (production of a controlled drug);
- b) Section 4 (3) (supply of a controlled drug);
- c) Section 5 (3) (possession of a controlled drug with intent to supply);
- d) Section 8 (permitting activities to take place on premises).

8 An offence under either of the following provisions of the Theft Act 1978 (c. 31):-

- a) Section 1 (obtaining services by deception);
- b) Section 2 (evasion of liability by deception).

9 An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c. 2):-

- a) Section 170 (disregarding subsection (1) (a) (fraudulent evasion of duty, etc.);
- b) Section 170B (taking preparatory steps for evasion of duty).

10 An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c.7):-

- a) Section 8 G (possession and sale of unmarked tobacco);
- b) Section 8 H (use of premises for sale of unmarked tobacco).

11 An offence under the Forgery and Counterfeiting Act 1981 (c. 45) (other than an offence under Section 18 or 19 of that Act)

12 An offence under the Firearms (Amendment) Act 1988 (c. 45)

13 An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48):-

- a) Section 107 (l) (d) (iii) (public exhibition in the course of a business of article infringing copyright);
- b) Section 107 (3) (infringement of copyright by public performance of work, etc.);
- c) Section 198 (2) broadcast, etc. of recording of performance made without sufficient consent);
- d) Section 297 (l) (fraudulent reception of transmission);
- e) Section 297 A (l) (supply, etc. of unauthorised decoder).

14 An offence under any of the following provisions of the Road Traffic Act 1988 (c. 52):-

- a) Section 3A (causing death by careless driving while under the influence of drink or drugs);
- b) Section 4 (driving, etc. a vehicle when under the influence of drink or drugs);
- c) Section 5 (driving, etc. a vehicle with alcohol concentration above prescribed limit).

15 An offence under either of the following provisions of the Food Safety Act 1990 (c. 16) in circumstances where the food in question is or includes alcohol:-

- a) Section 14 (selling food or drink not of the nature, substance or quality demanded);
- b) Section 15 (falsely describing or presenting food or drink).

16 An offence under Section 92 (1) or (2) of the Trade Marks Act 1994 (c. 26) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.

17 An offence under the Firearms (Amendment) Act 1997 (c. 5).

18 A sexual offence, being an offence —

- (a) listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003, other than the offence mentioned in paragraph 95 (an offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts));

- (b) an offence under section 8 of the Sexual Offences Act 1956 (intercourse with a defective);
- (c) an offence under section 18 of the Sexual Offences Act 1956 (fraudulent abduction of an heiress).

19 A violent offence, being any offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, including an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition).

20 An offence under section 3 of the Private Security Industry Act 2001 (c. 12) (engaging in certain activities relating to security without a licence).

21 An offence under section 46 of the Gambling Act 2005 if the child or young person was invited, caused or permitted to gamble on premises in respect of which a premises licence under this Act had effect.

22 An offence under the Fraud Act 2006.

22A An offence under regulation 6 of the Business Protection from Misleading Marketing Regulations 2008 (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.

23 An offence under regulation 8, 9, 10, 11 or 12 of the Consumer Protection from Unfair Trading Regulations 2008 (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol.

3. Licensable activities

3.1 Retail sale of alcohol

Any retail sale of alcohol requires a licence .

If you include alcohol as part of a ticket price (e.g. cheese and wine), this is still a retail sale and must be licensed either by a premises licence, club premises certificate or a Temporary Event Notice (TEN).

The supply of alcohol by a club or to a member of a club requires that the club must have a Club Premises Certificate. Only qualifying clubs that are suitably constituted, such as working men's clubs, can make use of such certificates.

3.2 Regulated entertainment

Due to legislative changes there has been a partial deregulation of regulated entertainment since the introduction of the Licensing Act in 2005.

Subject to the conditions, definitions and the exemptions, the types of entertainment regulated by the Licensing Act 2003 Act are:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;

- a boxing or wrestling entertainment; (indoor and outdoor)
- live music;
- recorded music;
- performances of dance; and
- entertainment of a similar description to that falling within the performance of live music, recorded music and the performance of dance, but only where the entertainment takes place in the presence of an audience and is provided at least partly to entertain that audience.

However there are certain exemptions, as outlined below.

3.2.1 Exemptions

	timings	days	audience	Premises type	notes
Live unamplified music	Between 08.00 and 23.00	any	Less than 500 persons	any	
Live amplified music	08.00 and 23.00	any	Less than 500 persons	Alcohol on-licensed premises*	Premises must be open for customers under the terms of the licence
Live amplified music	08.00 and 23.00	any	Less than 500 persons	Non-licensed workplace	
Live amplified music	08.00 and 23.00	any	Less than 500 persons	Non-licensed Church hall, village hall, community hall or similar	Consent required from person responsible for premises
Live amplified music	08.00 and 23.00	any	Less than 500 persons	Non-licensed residential premises of a local authority, hospital,	Consent required from organisation responsible for premises
Recorded music	08.00 and 23.00	any	Less than 500 persons	Alcohol on-licensed premises	Premises must be open for customers under the terms of the licence
Recorded music	08.00 and 23.00	any	Less than 500 persons	Non-licensed Church hall, village hall, community hall or similar	Consent required from person responsible for premises
Recorded music	08.00 and 23.00	any	Less than 500 persons	Non-licensed residential premises of a local authority, hospital,	Consent required from organisation responsible for premises
Any entertainment	08.00 and 23.00	any	Less than 500 persons	Local authority premises, hospital, school	Entertainment provided by the local authority, health care provider or school

Plays	08.00 and 23.00	any	Less than 500 persons	Any premises	
Dance	08.00 and 23.00	any	Less than 500 persons	Any premises	
Films	08.00 and 23.00	any	Less than 500 persons	Community premises	Not for profit event Consent required from organisation responsible for premises Screening is suitable for age of attendees
Indoor sporting events	08.00 and 23.00	any	Less than 1000 persons	Any premises	
Greco-Roman wrestling or Freestyle wrestling	08.00 and 23.00	any	Less than 1000 persons	Any premises	
Travelling circuses	08.00 and 23.00	any	No limit	Any moveable structure that the audience is held within	Circus may not be located on same site for more than 28 days

*Unless a specific condition relating to live music has been placed on the licence/CPC following a review

Notes on live music

- Karaoke is generally classed as a performance of live music
- A backing track, drum beat or band that accompanies live singer(s) is classed as amplified live music
- Any performance of dance of a sexual nature will require a licence

Further examples of activities that do not require a licence. However this list is not exhaustive, for further clarification please contact the licensing section or seek independent legal advice.

- Background music ancillary to licensable activities is exempt ie background music in a restaurant
- Acts of religious worship
- Activities in places of public worship
- Education-teaching students to perform
- The demonstration of a product
- the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing (or similar) ;
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;

- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors).

Any activity that falls outside the above definitions is classified as a licensable activity and therefore must be licensed under a premises licence, club premises certificate or a TEN.

3.3 Late night refreshment

Late night refreshment means the supply of hot food or hot drink to the public, for consumption on or off the premises, between 11.00 pm and 5.00 am, or the supply of hot food or hot drink to any persons between those hours on or from premises to which the public has access. This includes hot food delivered from a premises.

Food or drink is “hot” for the purposes of the Act if it is heated above ambient air temperature on the premises or elsewhere before it is supplied, or if it may be heated on the premises for this purpose after it is supplied.

3.3.1 Late night refreshment exemptions

There are some instances where the provision of hot food and hot drink do not need to be licensed under the Act. These are:

- Hot drink consisting of, or containing alcohol (although a premises licence will still be required for the supply of alcohol);
- Hot drink distributed by means of a vending machine where the payment for the hot drink is inserted into the machine by a member of the public and the hot drink is supplied directly by the machine to the member of the public (this exemption does not apply to hot food);
- Hot food or hot drink supplied free of charge, where there is also no charge for admission to any premises, or for some other item to obtain the hot food or hot drink;
- Hot food or hot drink supplied by a registered charity or by a person authorised by a registered charity;
- Hot food or hot drink supplied on a vehicle, which is not permanently or temporarily parked at the time (mobile catering vehicles which park up each evening to serve customers from busy licensed premises) need to be licensed
- Supplies of hot food or hot drink are also exempt when the premises are used exclusively for guests of hotels or similar premises – that is guest houses, lodging houses, hostels, caravan or camping sites or other premises supplying accommodation as their main purpose;
- Members of recognised clubs and their guests;
- Employees of a particular employer and their guests- for example, where refreshment is made available to employees whose shift patterns require them to be present at the workplace between 11.00 pm and 5.00 am;
- A person who is engaged in a particular profession or who follows a particular vocation – for example, a tradesman carrying out work at particular premises.

4. The application process

Applicants proposing to carry on a business involving licensable activities on the premises may be an individual, (18 or over), a business, a qualifying club, a charity, a proprietor of educational establishment, health service body or a Chief Officer of Police.

The application for a licence can be made by a party although they may not have day to day input at the premises. However the overall responsibility for the licence and the payment of the annual fee lies with the Premises Licence Holder. In respect of most leased public houses, a tenant may run the business in agreement with the pub operating company. In such cases it will not be a matter for the Council to decide who should apply for the premises licence, but a matter for the tenant and the operating company to agree contractually.

For new applications that request the sale of late night refreshment or the sale of alcohol Individuals and individuals in partnerships (but not those in non-limited liability partnerships) will have to produce documents which prove the prospective PLH applicant has the right to work in the UK. A copy of the application must also be sent to the Home Office (Immigration enforcement).

4.1 Applications

Applications for a premises licence must be made to the licensing authority for the area in which the premises is situated. To make an application the following must be submitted: -

- A completed application form;
- A plan of the premises;
- The prescribed fee
- If the licensable activities include the supply of alcohol, by a form of consent in the prescribed form, given by the individual whom the applicant wishes to have specified in the premises licence as the Designated Premises Supervisor (DPS)
- Copies of documents to prove that the applicants(s) have the right to work in the UK

The applicant must also ensure that copies of the application are submitted to responsible authorities which are: -

- The Police
- The Fire Authority
- New Forest Health and Safety department
- New Forest Environmental Health Department (noise prevention)
- Child Protection Committee (Hampshire County Council Social Services)
- New Forest Planning Department
- Trading Standards Department (Hampshire County Council)
- The Health Authority
- The Secretary of State (Home Office-Immigration Enforcement)

See contact details at Section 7 of this document

******IMPORTANT: Incomplete applications will be returned to the applicant and no action taken on them.**

4.2 Applicant's Right to Work/Immigration status

Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this by providing with this application copies or scanned copies of the following documents (which do not need to be certified).

4.3 Designated Premises Supervisor (DPS)

All premises licences which authorise the sale and supply of alcohol must identify a person who has responsibility for the day to day running of the premises. This person is known as the Designated Premises Supervisor. The person proposed as the DPS must hold a valid personal licence granted by a local authority (not always the local authority where the premises is situated, but the local authority where the proposed DPS lives). The holder or applicant of a premises licence must ensure that the DPS has the right to work in the UK by checking the required identity documents.

4.4 The Operating Schedule

The operating schedule is produced through the completion of the application form, in which the applicant sets out details on how the premises is proposed to operate when carrying on licensable activities. It must include the following information:

- The licensable activities to be carried out
- The proposed hours that the relevant licensable activities are to take place;
- Any other items that the premises are to be open to the public
- The name and address of the Designated Premises Supervisor if the licensable activities include the supply of alcohol
- Where alcohol is to be supplied, whether the supplies are proposed to be for consumption on and/or off the premises
- Conditions that the applicant would like to volunteer as which will assist in meeting the successful promotion the licensing objectives. **Note:** Please refer to the **NFDC suggested pool of conditions document** sent with this document which will assist with the completion of this section
- Where the licence is for a limited period, that period.

The operating schedule will be used by the responsible authorities to determine if sufficient measures are to be put into place to meet the 4 licensing objectives. These are

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

The details of the operating schedule will influence whether to make any representations about an application, which would lead to a hearing taking place. Representations can be made by either a Responsible Authority or an “other person” (ie members of the public, organisation). If no representations are made the conditions and restrictions placed on the premises licence will be based on information contained in the operating schedule.

4.5 Plan enclosed with the application

The plan enclosed with the application must be a clear representation of the premises and should include

- Entrances and exits,
- Bar area
- For off licensed premises, where alcohol is displayed,
- Fire safety equipment (alarms, blankets, extinguishers etc),
- Clear line around the area intended to be licensed,
- Boundary of the building,
- Fire escapes,
- Fixed structures,
- Any raised areas stages etc,
- Location of toilet facilities,
- Additional rooms and/or kitchen area in the building

Plans are not required to be submitted in any particular scale, but they must be in a format which is clear and legible. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information

4.6 Advertising Applications

All applicants **must** publicise new or variation applications to bring the matter to the attention of interested parties, ie people that may be affected by the licensable activities.

To publicise the application, the applicant must :-

- 1) for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority, by displaying a notice,
 - (a) which is— of a size equal or larger than A4, of a pale blue colour, and printed legibly in black ink or typed in black in a font of a size equal to or larger than 16
 - (b) in all cases, the notice should be placed prominently at or on the premises which the application relates to enable it to be read from the exterior of the premises. In the case of a premises covering an area of more than fifty meters square, a further notice in the same

form and subject to the same requirements every fifty meters along the external perimeter of the premises abutting any highway; and

2) by publishing a notice—

(a) in a local newspaper circulated in the vicinity of the premises;

(b) on at least one occasion during the period of ten working days starting on the day after the day on which the application was given to the relevant licensing authority.

These notices should contain the following information:-

- The relevant licensable activities to be carried on at the premises.
- The name of the applicant
- The address or location of the premises
- The Council postal address and if applicable the web address where copies of the application may be viewed.
- The dates between which an interested party and responsible authority may make representations to the Licensing Authority.
- A statement that representations must be made in writing.
- A statement that it is an offence to knowingly or recklessly make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.

To assist applicants, templates of these notices are available from the licensing department

4.7 Decisions

Where there are no objections or relevant representations made by responsible authorities or interested parties during the 28 day representation period, the licensing authority must grant the licence application. The licence will be granted as applied for, subject only to the mandatory conditions and conditions submitted in the operating schedule.

However during the application process a responsible authority may request that they consider that additional conditions should be placed on the licence in order to uphold the licensing objectives. Applicants are given the opportunity to agree and accept but if not the representation will proceed as below.

4.8 Representations

If there are no relevant representations by either a responsible authority or an 'other person', the application must be granted without the need for a hearing.

If a relevant representation is made, there must be a hearing involving all parties unless all parties agree that it is unnecessary. The Licensing Committee or Sub-Committee will then consider the representations. The Committee may:

- Grant the licence/certificate in the accordance with the application;
- Refuse to grant the licence/certificate
- Add additional conditions or restriction

4.9 Following grant of the licence

When the premises licence has been granted you will receive a visit from the Council's Licensing Enforcement Officer. The officer will ensure that the Premises Licence Summary is displayed prominently on the premises and that the other part of the licence is readily accessible for staff and officers. The officer will also go through the licence with the DPS, explain the conditions and ensure that the person responsible for the premises on a daily basis (the DPS) is aware of his/her legal responsibilities with regard to the licence. It is important that the DPS takes the time to look and understand the licence as there is not a "standard" premises licence. Although a DPS may have experience in other premises, it is vital that they are conversant with the hours of operation, the permitted licensable activities and the conditions attached to the licence.

Periodic visits will also take place by the Police and any other enforcement agencies to ensure adherence to the Premises Licence.

4.10 Variations to a premises licence

Once granted the premises licence holder may apply at any time to the licensing authority to vary their licence. Variations could include the opening times of the premises, or even changes to the physical shape of the premises covered by the licence. More probably, it will relate to the licensable activities of the licence or conditions attached to the licence. If the proposed variation does not affect any of the licensing objectives and there is no increase in the licensed area, a minor variation may be applicable rather than a full variation. However it is recommended that the licensing department be contacted in the first instance to discuss any proposed changes before any work is carried out and the nature of the variation can be discussed.

4.11 Premises licence Reviews

Once granted, if a premises causes issues either for any of the Responsible Authorities or neighbours, a review application can be made to the Licensing Authority. However before an issue reaches this stage there should have been intervention and communication with the premises and the DPS and/or the Premises Licence Holder. Where there is a request for a review of the licence from a responsible authority or interested party, the licensing authority may hold a hearing. In the case of a review, the Licensing Committee may:

- Modify conditions (which can be for a temporary basis for up to 3 months);
- Exclude any activity (which can be for a temporary basis for up to 3 months);
- Remove the DPS (not applicable to Club Premises Certificate holders);
- Suspend the licence (for a maximum of 3 months);
- Revoke the licence.

4.12 Appeals

A right of appeal to the Magistrates Court is provided for the applicant against a decision by the licensing authority. The court can:

- Dismiss the appeal;
- Substitute any alternative decision which the Council could have made;
- Send back the case to the local authority with directions to deal with it.

If the Licensing Authority revokes a licence, it will have no effect until the time limit for appeal ends or the appeal is determined by the court. Appeals can also be made by a person or body who makes a representation. Appeals must be lodged within 21 days of notification of the decision.

4.13 Other circumstances

Once issued, a premises licence remains in force until it is surrendered by the holder or revoked following a review of the licence. However a premises licence can lapse if the holder of the licence:

- Dies
- Becomes mentally incapable
- Becomes insolvent or until the business dissolves
- Ceases to be entitled to work in the UK

If any of these situations occur. Contact the licensing department as soon as possible.

5. Frequently asked questions

Q I live in the New Forest district but work in Southampton, who do I apply to for my personal licence?

A Apply to the licensing authority where you actually live not where you work, so New Forest District Council would accept your application

Q What happens when I change my home address to outside the New Forest District Council area, although New Forest District Council issued my personal licence?

A You must inform New Forest District Council as this Authority issued your licence in the first place. The authority needs to be informed each time a personal licence holder changes address.

Q I am the owner of a late night take-away shop and close at 11.30pm on Fridays and Saturdays. Do I still need a licence?

A Yes. The Act regulates licensing laws across England and Wales, which means that late night take-aways and cafes need a licence to serve hot food or drink to the public on or from the premises between 11.00 pm and 5.00 am on any night of the week. If the premises closes before 11.00pm EVERY night of the week it does not require a licence under the Licensing Act 2003.

Q What if my premises has a planning restriction on the opening times? Can I apply for a premises licence to open later than the restriction?

A Yes you can apply for a later time but any decision of the Licensing Committee **does not override the planning restriction**. If the premises operates later than the planning restriction allows you will be subject to enforcement action by the planning authority.

A separate application to the planning department will be required if a premises licence holder wishes to have the planning restriction removed or amended.

Q Can I deliver hot food from the premises after 11pm without a licence?

A No. The premises must cease to trade, serve customers and/or deliver food at 11pm if the premises is not licensed for late night refreshment.

Q Does the Designated Premises Supervisor (DPS) have to be on the premises at all times when alcohol is being sold?

A No, in some cases this will not physically be possible. However, it will be expected that the DPS will spend a significant amount of time on the premises. It is essential that the DPS is contactable at all times, particularly when problems arise on the premises.

The Act and Guidance requires DPSs' and personal licence holders to have responsibility for the sale and supply of alcohol because of its impact on the wider community, crime and disorder and anti-social behavior. As this carries greater responsibility than that is associated with the provision of regulated entertainment and late night refreshment it is expected that more rigorous stringent controls are in place. A personal licence holder can supervise the sale of and authorise such sales and supplies.

Any premises at which alcohol is sold or supplied may employ more than one personal licence holder. For example, there may be members of staff who hold personal licences as well as the owner or senior manager.

Q Can anyone object to a person who is specified as a Designated Premises Supervisor (DPS)?

A Only the Chief Officer of Police will be able to make representations about the specification of any DPS if he feels, in the exceptional circumstances of the case, that the crime prevention objective could be undermined by that specification. This could include fears that the DPS would not be able to fulfil the responsibilities in respect of the crime prevention objective for more than one premises at the same time. Where the Police make representations about the DPS, the licensing authority must hold a hearing to consider them (unless all parties agree that this is unnecessary). As a result of the consideration of the representations, the licensing authority may refuse to specify the DPS if it considers it necessary for the promotion of the crime prevention objective to do so.

Q Can there be more than one designated premises supervisor (DPS) at the same premises?

A No The Act and Guidance specifies that there may only be one DPS for any premises.

Q What happens if the designated premises supervisor (DPS) leaves his employment, notifies the licensing authority, but does not tell the premises licence holder?

A The DPS must inform the relevant licensing authority if he or she wishes to be removed as DPS. Within 48 hours of the Notice being given to the licensing authority, the individual must also give the premises licence holder a copy of the Notice sent to the licensing authority. The DPS must also send a Notice directing the licence holder to send the premises licence to the relevant licensing authority. If that is not practicable, a statement of the reasons for the failure to provide the licence within 14 days of receiving the Notice should be issued to the Licensing Authority.

If the holder fails to comply with the direction he /she will commit an offence.

Q How do you change the DPS named on the licence?

A The Premises Licence Holder needs to apply to the licensing authority to change the DPS and specify the replacement. Payment is also required to cover the application and administration and issue of the new licence. A copy of the application forms must also be given to the Police, but no payment to the Police is required.

Q Do I have to employ licensed door supervisors?

A This will depend on whether you feel they are necessary to help you comply with achieving the licensing objectives. The premises licence may also be subject to a condition that requires you to provide door supervisors. If you do employ door supervisors, they must be licensed by the Security Industry Authority (SIA)

Q Are all licences the same?

A No. All licences are different and are dependent on the hours stated on the licence and the conditions of the operating schedule.

Q How much "drinking up" time applies to my licence?

A There is no set "drinking up time" on a licence, however all premises must adhere to the times on the licence that specify when alcohol can be sold or supplied to and what times the licence states that the premises can be open to the public. All customers must leave the premises by the terminal times stated in the opening times of the premises box

Q If I am licensed until 1.00 a.m. can I close earlier if there is no custom?

A Yes, the licence holder is entitled to close the premises if there is no trade.

Do I need a licence to hold a 21st birthday party on a premises?

A If the venue holds a premises licence which covers both entertainment and the sale of alcohol then it will cover such events.

If a premises licence is not held then the following circumstances would apply:-

- a) If you are providing the room and are not involved with the provision of the regulated entertainment and the sale of alcohol, then no premises licence will be required, providing the function is only open to guests known and invited by the hirer. (Private house party)
- b) If you are providing the hall and also running a bar or engaging the entertainment then you are providing facilities to enable regulated entertainment to take place. In this case a premises licence or a TEN notice **will** need to be obtained.

6. Fees

Premises licence and club premises certificate fees

The premises fee structure is banded and based on the non-domestic rateable value of the premises ie business rates (not the amount payable).

Band	A	B	C	D	E	D* See notes below	E* See notes below
Rateable Value of premises	£1- £4,300	£4,301- £33,000	£33,001- £87,000	£87,001- £125,000	£125,000 & above	£87,001- £125,000	£125,000 & above
Application fee	£100	£190	£315	£450	£635	£900	£1905

Annual Fee (which will be invoiced 12 months later)	£70	£180	£295	£320	£350	£640	£1050
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Notes

- 1) For premises which have a capacity over 5000 please see Schedule 3 below
- 2) Premises that do not have a non-domestic rateable value (vessels, Crown property, mobile catering unit and fields) attract the fee from band A
- 3) In the case of a smaller premises that is part of a larger rated area ie a shop on a caravan site, the fee will be based on the RV of the site as a whole, as the smaller elements are not rated separately
- 4) For premises in bands D and E that are exclusively or primarily for the carrying on on the premises of the supply of alcohol for consumption on the premises the amount of the fee is shown in D* and E*. That is for band D* twice the amount shown for D and in band E* three times the amount shown for band E
- 5) The Act allows for some exemptions from the need to pay the initial licence fee and the annual fee when the premises are only being used for regulated entertainment. ie when NO alcohol is being sold. These are:-
 - (a) in the case of an application by a proprietor of an educational institution in respect of premises that are or form part of an educational institution—
 - (i) that the educational institution is a school or a college; and
 - (ii) the provision of regulated entertainment on the premises is carried on by the educational institution for and on behalf of the purposes of the educational institution; or
 - (b) that the application is in respect of premises that are or form part of a church hall, chapel hall or other similar building or a village hall, parish hall or community hall or other similar building.

Schedule 3

Additional fees are payable where 5000 or more people are attending an event.

Number attending	Additional fee
5,000 to 9,999	£1,000
10,000 to 14,999	£2,000
15,000 to 19,999	£4,000
20,000 to 29,999	£8,000
30,000 to 39,999	£16,000
40,000 to 49,999	£24,000
50,000 to 59,999	£32,000
60,000 to 69,999	£40,000
70,000 to 79,999	£48,000
80,000 to 89,999	£56,000
90,000 and over	£64,000

The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 and gives Licensing Authorities the power to **suspend a premises licence when an annual fee is overdue by 21 days**. A letter will be issued with the date of suspension and the Responsible Authorities informed.

However the suspension will cease to have effect on the day that the overdue payment is received.

Application or notice	Fee
Personal Licences	
Application for the grant of a Personal Licence	£37.00
Replacement of personal licence following theft, loss etc	£10.50
Duty to notify change of name or address of personal licence holder	£10.50
TEN (Temporary Event Notice)	
TEN (Temporary Event Notice)	£21.00
Replacement of TEN Cert following theft, loss etc. of temporary event notice	£10.50
Premises Licences	
Application to vary licence to specify individual as premises supervisor	£23.00
Application for transfer of premises licence	£23.00
Application for a provisional statement where premises being built, etc.	£315.00
Interim authority notice following death etc. of licence holder	£23.00
Right of freeholder etc. to be notified of licensing matters	£21.00
Duty to notify change of name or address of Personal Licence Holder or business name	£10.50
Replacement of premises licence /certificate following theft, loss etc	£10.50
Club Premises Certificates	
Notification of change of name or alteration of rules of club	£10.50
Change of relevant registered address of club	£10.50

7. Responsible Authorities- Contact details for copy applications to be sent to

Contact Type	Contact Details
NFDC Licensing Services	Appletree Court Beaulieu Road Lyndhurst Hampshire SO43 7PA Tel: 023 8028 5505 Email: licensing@nfdc.gov.uk Website: www.newforest.gov.uk
NFDC Environmental Health (Noise Pollution)	Appletree Court Beaulieu Road Lyndhurst Hampshire SO43 7PA Email: env.prot@nfdc.gov.uk Website: www.newforest.gov.uk
NFDC Environmental Health (Health & Safety and Food Safety)	Appletree Court Beaulieu Road Lyndhurst Hampshire SO43 7PA Email: Envhealth.commadmin@nfdc.gov.uk Website: www.newforest.gov.uk
PLEASE ENSURE THAT YOU COPY YOUR APPLICATION TO THE CORRECT PLANNING AUTHORITY	
NFDC Planning Control OR	Appletree Court Beaulieu Road Lyndhurst Hampshire SO43 7PA Email: dev.control@nfdc.gov.uk Website: www.newforest.gov.uk
New Forest National Park Planning Authority	Town Hall Avenue Road Lymington Hampshire SO41 9ZG Tel: 01590 646615 Email: dev.control@newforestnpa.gov.uk Website: www.newforestnpa.gov.uk

Police Licensing Team (Western Area)	Police Licensing Team-Western area Southampton Central Police Station Southern Road Southampton SO15 1AN Email: force.licensing@hampshire.pnn.police.uk Website: www.hampshire.police.uk
Hampshire and Isle of Wight Fire and Rescue Service	Business Fire Safety Leigh Road Eastleigh Hampshire SO50 9SJ Email: csprotection.admin@hantsfire.gov.uk Website: www.hantsfire.gov.uk
Hampshire County Council Children's Services Department Safeguarding Unit	Falcon House Monarch Way Winchester SO22 5PL Email: Child.protection@hants.gov.uk
Trading Standards Service (HCC)	Montgomery house Monarch Way Winchester SO22 5PW Email: tsadvice@hants.gov.uk Website: www.hants.gov.uk/business/tradingstandards
Licensing Public Health Manager	Public Health Department 1st Floor, Room 153 Elizabeth II Court South Hampshire County Council Winchester SO23 8TG Email: publichealth.licensing@hants.gov.uk
Home Office	Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY Email: alcohol@homeoffice.gov.uk

<p>Maritime and Coastguard Agency</p>	<p>Southampton Marine Office Spring Place 105 Commercial Road Southampton SO15 1EG Email: infoline@mcga.gov.uk</p> <p>Please note that the MCA will only be involved when the application is in respect of a vessel</p>
<p>Health & Safety Executive (HSE)</p>	<p>Priestley House Priestley Road Basingstoke Hampshire RG24 9NW</p> <p>Please note that the HSE will only become involved where New Forest District Council is NOT the enforcing authority under the Health and Safety Act, e.g., premises of a crown body, a local authority, the Police, a hospital, a school or university</p>