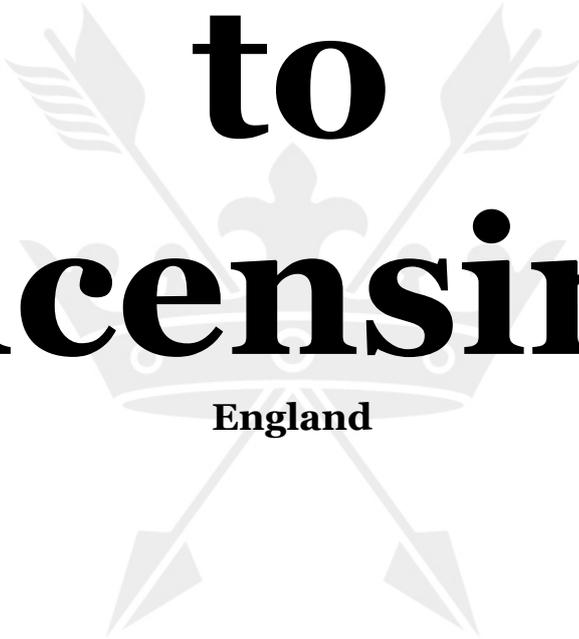


Guide to Licensing

England



Updated November 2019

Welcome to the Greene King Pub Partners guide to licensing

This guide has been designed to guide you through all that you need to know about licensing law and how it affects your premises on a day to day basis.

You will also find lots of useful documents in here designed to help you run your business better.

Contact details

Your Pub

Partners BDM Name..... Phone.....

Email
.....

Your licensing authority

Name.....

Your licensing authority licensing officer

Name..... Phone.....

Email
.....

Your police licensing officer

Name..... Phone.....

Email
.....

Your fire officer

Name..... Phone.....

Email
.....

Your environmental health officer

Name..... Phone.....

Email
.....

Pub Partners website

www.pubpartners.net

Publine

0845 608 0715

Fax

0117 917 7566

Email

licensingpp@greeneking.co.uk



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Meaning of words and phrases

Section 1: Introduction to licensing

The licensing of pubs, clubs and restaurants in England and Wales is based on the **Licensing Act 2003**. **Pub Partners** have lots of experience in dealing with issues that arise from running licensed premises and we can help you to operate your business lawfully.

This is important as the penalties for breaches of the **licensing act** can now include unlimited fines and or 6 months imprisonment. Furthermore your agreement with us makes it an obligation for you to trade the premises in accordance with the premises licence. As such, you are required to understand what is expected of you by your **licensing authority**, police and other **responsible authorities** and **Pub Partners**.

Remember: this folder has been designed to give you the information you need to comply with licensing law.

In the event that you have any questions or concerns about any element of this folder, please utilise the dedicated **Pub Partners** licensing helpline or speak with your **Pub Partners BDM** both of which will be able to assist you. Use us. We are here to help you

The licensing objectives

The **licensing act** establishes 4 **licensing objectives** that are the foundations of licensing and make up the basis of everything that follows in this folder. These are:

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

It is important to note that all 4 objectives are as important as each other. In running your business it is your responsibility to ensure that these 4 objectives are promoted.

It is the **licensing authority's** duty, along with the other **responsible authority** to make sure that you comply with the objectives at all times.

Licensable activities

The **premises licence** sets out the "what, when and how" of what you are allowed to do.

These principles apply to the activities that are licensed under the **licensing act**. These activities are:

- sale and supply of alcohol
- provision of regulated entertainment
- provision of late night refreshment.

Sale and supply of alcohol

The sale and supply of alcohol applies to **on-sales** and to any **off-sales** permitted by your licence.

Regulated entertainment

Regulated entertainment, broadly speaking, is any entertainment provided at your premises that is not specifically exempted.

The list of what is and is not regulated entertainment has changed recently and is likely to change in the future.

For instance, the **live music act** has created 'exemptions' for live music in certain circumstances although it is still technically a type of regulated entertainment (see section 3 for full details). However, for the time being, regulated entertainment includes:

- recorded music (when not exempted- see section 3)
- live music at any time it is not exempted by the **live music act**
- exhibition of films (When not considered 'incidental')
- performance of plays (outside of specified hours/ audience numbers)*
- performance of dance (outside of specified hours/ audience numbers)*
- indoor sporting events (outside of specified hours/ audience numbers)*
- boxing, wrestling or mixed martial arts.

*See 'meaning of words and phrases' section at the back for full details.

Section 3 explains when each activity is considered licensable and when not.

Karaoke is considered to be 'live music', and any films shown displaying the words may be considered incidental. Therefore karaoke may be considered exempt from being licensed at certain times and where specified audience capacities are kept to.

The following is not regulated entertainment:

- incidental music (background music)
- performance of comedy
- live television broadcasts (football matches, racing etc)
- Morris dancing/ Greco Roman wrestling.
- radio broadcasts

Provision of late night refreshment

This is the provision of hot food or hot drinks to the public between 11pm and 5am.

Hot food and drink is defined as any food served over ambient (room) temperature. If you were to make a customer a cup of coffee or a hot toastie after 11pm you would need this permission.

If you ensure that you promote the 4 **licensing objectives** and stick to the **licensable activities and licence conditions** permitted on the licence, you will be complying with your licensing obligations.

Section 2: Premises licences

What is a premises licence?

Each premises licensed to sell or supply alcohol, provide regulated entertainment or provide late night refreshment is issued with a premises licence. This licence is issued by the **licensing authority** and tells you exactly what you are entitled to do in the premises.

The licence contains various parts and details that will be dealt with in more depth later in this section. However, the **premises licence** is more than a simple reminder of what you are and are not allowed to do...

A **premises licence** comes in two parts. part A is the full **premises licence** and part B is the **premises licence summary**. Both parts are critical and you need to ensure that you have the most up to date copy in the pub at all times.

The **premises licence** and **premises licence summary** are subject to legal requirements relating to where you must keep them and who can ask to see them.

- the **premises licence** must be kept in a safe place at the premises and must be available for inspection by the licensing authorities and police
- the **premises licence summary** must be displayed in the public area of the premises in a prominent position so that it can be read by members of the public. If the licence summary is more than 1 page long, all pages must be displayed.

The premises licence

The **premises licence** sets out:

- the name of the issuing **licensing authority**
- the licence number
- the address of the premises
- the activities authorised by the **premises licence**
- the times during which any activities can take place
- the opening hours
- the name, address and company number of the **premises licence** holder
- the name of the **DPS**
- whether access by children is restricted or prohibited
- full details of the **DPS**, including address and **personal licence** number

- mandatory conditions
- conditions consistent with the **operating schedule**
- conditions attached after a hearing by the **licensing authority**
- the **licensing plan** (or a reference to the relevant plan number).

Your **premises licence** MUST be kept at the premises and you or your staff must be able to locate it and show it to a licensing officer or police officer on request. A copy of the plan must be kept with the licence if provided.

The **premises licence** must be understood in full, in particular, the activities, hours and conditions shown. For more information on conditions, please see chapter 3.

The licensing plan

The **licensing plan** forms part of the **premises licence** and must show the following information.

- the extent of the boundary of the building, any external and internal walls and, if different, the perimeter of the premises
- the points of access to and egress from the premises
- the location of escape routes from the premises if they are different to the points of access
- the area within the premises used for licensable activities fixed structures (including furniture) or similar objects temporarily in a fixed location which may impact on the ability of individuals to use exits or escape routes
- the location and height of each stage or raised area relative to the floor
- the location of any steps, stairs, elevators or lifts
- the location of the toilets
- the location and type of any fire safety and any other safety equipment
- the location of any kitchen.

This plan will show the areas where licensable activities can take place. Usually, this is done by using a red line to mark those parts of the premises where **licensable activities** occur as opposed to other areas, such as kitchens, private office space etc. Some public areas will not normally be shown within the red line, such as the public toilets.

Before you consider doing any works or changing anything to do with the layout, you must consult your **Pub Partners BDM**. Almost all changes to layout will require a variation to your premises licence.

Gardens are not always shown within the red line. Sometimes gardens are left off **licensing plans** altogether. This is relevant as the following will apply:

- gardens shown within the red line permit **licensable activities** to take place in the garden, such as sale of alcohol etc. You need to check the conditions to see if there are any further restrictions on activities
- gardens shown on the plan but not inside the red line can be used for consumption of alcohol/ food etc but cannot be used for **licensable activities**. Conditions may also restrict when this can take place.

Gardens not on the plan can only be used for consumption of alcohol/ food etc but may also be subject to further restrictions. Some councils believe that allowing consumption in gardens not shown on the plan requires the premises licence to permit off-sales, but this is a grey area.

The premises licence summary

The summary of the **premises licence** sets out:

- the name of the issuing **licensing authority**
- the licence number
- address of the premises
- the **licensable activities** authorised under the licence
- the times during which any **licensable activities** can take place
- opening hours
- name, address and company number of the **premises licence holder**
- name of the **DPS**
- whether access by children is restricted or prohibited.

The **premises licence summary** MUST be displayed in a prominent place so that it can be easily read by your customers.

ALL pages of the summary must be displayed.

Section 3: Operating schedule and conditions

Operating schedule

An **operating schedule** sets out the operating practices to be put in place at the premises in order to ensure the **licensing objectives** are promoted. The **operating schedule** is a part of every premises licence issued in England and Wales.

One of the duties of the **licensing authority** is to consider the **operating schedule** attached to an application and turn these operating practices into **conditions**. Anything that is put into an **operating schedule** can be placed onto the **premises licence** as a **condition**.

Conditions

A **premises licence** has **conditions** listed on it which are derived from a number of sources.

This section sets out the different types of **condition** you may find on the **premises licence** and will give you an understanding of where a **condition** has originated from and its purpose.

In order for you to understand the **premises licence**, it is essential for you to understand the **conditions** contained within it.

Conditions are an obligation that you must follow. You can not pick and choose the **conditions** that you like, you must comply with them all to the degree that is specified.

These **conditions** come in 2 types: 'mandatory' and 'attached'. The **conditions** are there to set out how you manage the premises and sets out any limits or restrictions on activities. Both mandatory and attached **conditions** are explained in full detail below, however the difference between them is:

- **mandatory conditions** are set by government and relate to every **premises licence** with a permission to sell alcohol in England and Wales
- **attached conditions** are those that are either put on the **premises licence** because we have offered them as part of our **operating schedule**, have been agreed following submission of an application.

Breach of licensing conditions can result in an unlimited fine and or 6 months in prison.

General points about conditions

When a council translates a **condition** on to a premises licence it should be:

- Clear and easy to understand
- Precise and enforceable
- Tailored to the individual type, location and characteristic of the premises.

When you go through the **conditions** on the **premises licence**, take time to think about them in light of the above criteria. If you think they do not conform to these objectives, then it may be that the **condition** needs changing/removing.

Should you wish to change the **conditions** on your **premises licence**, you will need to speak to your **Pub Partners BDM**.

Mandatory conditions

These **conditions** are established in law and apply to every alcohol licensed premises equally no matter what the nature and style of your offer is.

Mandatory conditions may not all be written on the face of the **premises licence** (for instance **premises licences** that have not been amended since 2014 will be missing the mandatory conditions added at that time) but you must still comply with them.

In short the **mandatory conditions** require you to:

- ensure no sales of alcohol without a DPS
- ensure all door staff are SIA registered
- ensure no sales of alcohol below duty plus VAT
- ensure an age verification policy applies at the premises and the DPS is responsible for its proper use by staff
- not carry out any irresponsible drinks promotion
- ensure no alcohol is dispensed directly into customers' mouths
- provide free tap water
- provide smaller measures.

Irresponsible drinks promotions

Whilst it is perfectly legal to provide drinks promotions, they must not be irresponsible.

They must not:

- encourage drinking games, such as downing drinks or drinking within in a fixed time
- encourage drinking unlimited quantities of alcohol for a fixed fee
- use alcohol as a prize or reward to encourage purchasing more alcohol than a customer ordinarily would
- glamorise drunkenness or anti-social behaviour through promotional materials
- dispense alcohol directly into a persons mouth

This is not an exhaustive list, but provides a guide as to the type of promotions that may be considered irresponsible. Examples of promotions that would not ordinarily be considered irresponsible are:

- buy dinner and a drink for a discounted price (i.e. burger and a pint for £10)
- 'happy hours' held on a regular basis (i.e. every Monday to Wednesday 5.00 pm to 8.00 pm)
- 50p off certain drinks on certain nights
- buy 3 glasses of wine and get the rest of the bottle for free
- discounted 'double' for spirits (i.e. '£2 for a single, £3.50 for a double'). Bottomless brunch/ Bottomless Sunday lunch (subject to proper management to ensure customers do not get overly intoxicated)

Smaller measures

The smaller measures you must provide are as follows:

- beer or cider - half pint
- gin, rum, vodka or whisky - 25ml or 35ml
- still wine in a glass - 125ml.

The availability of smaller measures must be displayed on price lists, menus and other printed materials.

In addition, if a customer fails to specify a size when they order a drink, the person serving them must let them know the smaller measure is available.

A copy of the full list of **mandatory conditions** is included in the appendices. Please note that additional **mandatory conditions** could be added in the future.

The mandatory conditions can be changed at any time by the Government and the latest version may not always be shown on your premises licence.

Attached conditions

Attached conditions are specific to each **premises licence** individually and will change from licence to licence. You will need to carefully read the **conditions** on the **premises licence** to ensure that you understand them.

These **conditions** can come under various headings which change with each different **licensing authority**. The most typical headings are;

- **conditions** carried over ('grandfathered'). These are 'old' **conditions** that applied to those **licensed premises** that existed before the Licensing Act 2003 came into force these were carried over onto the new licences. They often relate to historical licences that the pub used to have under old licensing regimes. These include a public entertainment licences, supper hours certificates or children certificates. All these historical licences were abolished under when the **licensing act** came into force but some **conditions** were thought to be important enough to be 'grandfathered' onto the new licences
- **conditions** consistent with the **operating schedule**. These are the **conditions** that have been offered as part of a licence application or in response to comments from **responsible authorities** or **interested parties**
- **conditions** added at a **hearing**. A **licensing committee** is entitled, when **hearing** a licence application, to add conditions that they feel are appropriate for promoting the **licensing objectives**. This can also happen on **review** of a **premises licence**.

At the end of the day, they have the same force in law as each other and they must be complied with. It is essential that you and your management team understand and comply with the **conditions**.

Types of condition

Whilst licences separate **conditions** under the four **licensing objectives**, it is probably more helpful to think of them in terms of what they impose on you. They broadly fall into 3 categories:

- **conditions** restricting activities
- **conditions** enforcing an obligation
- **conditions** requiring an action.

Below are examples of the different types of **condition** that you may find on a **premises licence**.

Conditions restricting activities

These **conditions** seek to restrict the activities you can provide or the times you can provide them outside of the normal hours of operation. Examples include:

- the back garden will be closed to the public at 10pm
- no **regulated entertainment** will be permitted outside
- the premises must close 30 minutes before and stay closed until 30 minutes after any football matches at the Emirates Stadium.

Conditions enforcing an obligation

Conditions that enforce obligations make it your duty to implement measures at the premises whilst trading or during certain times.

- a '**challenge 25**' policy will be operated at the premises
- **doorstaff** will be employed from 8pm on Friday and Saturday nights
- an incident log will be kept and all incidents will be noted in it.

Conditions requiring an action

Conditions requiring an action oblige you or your staff to carry out certain activities or measures in specified circumstances.

- toilet checks will be carried out on at least hourly intervals and a record kept of each check
- at the start of any **regulated entertainment** the **DPS** will ensure that noise from the entertainment cannot be heard when standing outside the nearest residential premises
- a search policy will be implemented and at least 1 in every 20 customers will be searched on entry between 10pm and close.

Some **conditions** can fall within more than 1 category above (for example **conditions** requiring policies to be drawn up and implemented) but it is your obligation to make sure that you understand what is required and ensure that you comply.

When going through the **conditions** on your licence, ask yourself:

- am I being asked to do something and if I am who will actually do it?
- do I need to let staff know about this **condition** or provide training?
- will I have to provide materials to staff to ensure that the **condition** is complied with (log books etc)?
- do I need to put up signs or other materials in order to comply (**challenge 25** notices or taxi numbers etc)?

Whether the **conditions** are added at a hearing or formed part of the **operating schedule**, you will need to make sure that you understand what is being asked of you. If in doubt, speak to your **Pub Partners BDM** to seek clarification.

CCTV and GDPR

GDPR

Since May 2018 and the introduction of the General Data Protection Regulation ('GDPR'), anyone who either holds or deals with the data of another person has been required to ensure that it is dealt with in line with these new GDPR regulations. Data can include:

- employee records (which you are allowed to hold by law)
- customer data, such as email addresses, phone numbers or addresses
- CCTV images of individuals

Data can only be held in the following circumstances:

- where the individual has consented
- you have a legal obligation to hold the data
- where the processing of the data is necessary for your legitimate interest

Data controller

If you process data (outside of very limited exemptions), you must register with the ICO as a 'data controller'. This includes where you have CCTV that records and stores images of customers on your premises. The registration is quick and simple, and details can be found at: www.gov.uk/notification-to-process-personal-data

CCTV

CCTV is regularly found in licensed premises and often is required by conditions in the premises licence. If you have CCTV, you will be required to register with the ICO as set out above. CCTV can be provided under both the legitimate interest ground (if you do not have a condition on your licence requiring you to have it) on the basis that it is there to protect staff and customers, or the legal obligation ground (if it is required by condition). In either circumstance, there are requirements that you must comply with:

you must have signs at the entrance to the premises notifying customers that CCTV is in operation and that customers have the right to speak to the manager in relation to the CCTV policy in place.

you must draw up and implement a CCTV policy that sets out what data you have and how you process it. A draft policy is included in section 13.

Your policy should set out that when police are investigating or preventing a crime or apprehending or prosecuting an offender, then you are obliged to assist them by allowing them to view CCTV or download and remove it. However, the police must be able to justify their requests for CCTV images to be disclosed or removed. You must also ensure that as the data controller, you know and have a record of who has taken the data and for what purpose. This should be recorded.

Other data

You may well hold other data, such as email addresses and phone numbers from customers booking tables or as part of a mailing list. Any data you hold must be used only for the purpose which it was collected, unless you get consent to use it for other purposes. For instance, if you have an email and address for a customer who has booked a table, unless you have that customer's express permission, you cannot then add that data to your mailing list.

Right to be deleted/ right to inspect data held

There are rights under GDPR for an individual to ask for any data you hold on them to be deleted. Unless there is good reason not to (for instance, you are holding CCTV images on the basis that the individual was involved in criminal activity at the premises), then this right must be respected, so long as they are able to identify what data they want you to delete and the request is reasonable. For instance, asking you to delete their name and address from a mailing list would be reasonable, whereas asking you to delete any CCTV you hold with them in it would not be. Where you cannot comply, you must be able to explain to the individual why you cannot do so.

Likewise, an individual has the right to view any data you hold relating them. Where this would expose other people's data to the person making the request, such as showing CCTV of the premises when other people are in shot, you must be mindful of the other parties' rights to not have their data disclosed. In that case, unless you can pixelate or otherwise pause and zoom in on a still image of the person requesting to see their own data, you are permitted to refuse such a request as being disproportionate and breaching the privacy of others.

If in doubt, the Information Commissioner's office is a good source of advice as to what can and cannot be disclosed. They can be found at: <https://ico.org.uk/>

Please note that CCTV conditions are very common. If you have CCTV, you will need to register with the information commissioner. Please see the appendices for further information.

The Live Music Act 2012 exemption and changes to recorded music

The **live music act** permits live music in premises licensed to sell alcohol, so long as:

- the bar is open to the public and licensed to sell alcohol
- the music is provided between 8am and 11pm daily
- the audience is no more than 500 people
- The exemption has not been lost at a licence review

Live music is defined as

- musicians and singers playing at the premises
- singers singing to a recorded backing track
- karaoke.

The live music exemption has been extended to include **recorded music** played between 8am and 11pm and when provided to an audience of 500 people or fewer.

Recorded music is defined as any music that is pre-recorded, whatever the medium (computer, CD, etc) it is then played on.

As long as you are providing live music or **recorded music** in accordance with this provision, any **conditions** on the **premises licence** relating specifically to live music or **recorded music** will not apply. This is subject to the comments below.

Limitations

The right to provide live music or **recorded music** can be removed following a **review hearing** (see chapter 11). At the **hearing**, the **licensing authority** can either remove the right to provide live music or **recorded music** altogether, or add conditions to the **premises licence** that must be complied when live music or **recorded music** takes place.

Any licence with the **live music act** or the **recorded music** exemption removed will say so. Look for reference to the removal of the S.177A exemption. If you find a reference, you will not be permitted to provide live music or **recorded music** unless your licence specifically says you can.

Live music in gardens

Providing live music or **recorded music** in pub gardens is complicated. There are many differing views on what is, or isn't permitted.

The provision of live music or **recorded music** in gardens using the **live music act** or **recorded music** exemption is subject to the same restrictions set out above.

However if you want to provide live music or **recorded music** outdoors the following is a quick guide:

- for gardens where sale and supply of alcohol is permitted (i.e. the area falls within the red line on the **licensing plan**) you can provide live music or **recorded music**. In this case the **conditions** relating to live music or **recorded music** on the **premises licence** will not apply
- for gardens not inside the red line, you can provide live music using the workplace exemption of the **live music act**. However, any conditions or restrictions on the premises licence relating to live music apply. You cannot use the workplace exemption to provide **recorded music** at all
- if in doubt you should apply for a **TEN** (see section 7) or seek to permanently vary the **premises licence**.

Warning

Remember, if you provide live music or **recorded music**, whether under the **live music act** or otherwise, it must not disturb residents who live nearby. If you do, the **licensing authority** and **responsible authorities** can take action against you.

For instance they can:

- serve a **noise abatement notice** and prosecute if you continue to cause a disturbance
- **review** the **premises licence** and remove the right to have live music or **recorded music** altogether
- in extreme circumstances serve a **closure notice** and seek to close the premises.

Don't forget the **live music act** and **recorded music exemption** only applies between 8am and 11pm. After 11pm the hours and conditions relating to live music or **recorded music** set out on the **premises licence** must be complied with. The audience must be under 500 persons for the above exemptions to apply.



Section 4: Amending a Licence

The **premises licence** determines what you can and can't do. As such, there may be times when you want to change something at the premises. This could be:

- change of pub name
- change of **DPS**
- change of **licensing plan** layout
- change of hours
- change of **licensable activities**
- change of **conditions**.

With the exception of the **mandatory conditions**, it is possible to seek any of the above but you will need permission from the **licensing authority** to do so. There are different requirements depending on what you are seeking to do.

There are also a variety of different application types. These are:

- administrative changes
- change of **DPS**
- **minor variation application**
- full **variation application**
- new **premises licence** application.

Pub Partners hold the **premises licence** and any applications must be made by through the **Pub Partners** licensing team. You are not permitted to submit applications outside of this process.

Please speak to your **Pub Partners BDM** should you need to make any changes to the **premises licence**.

Administrative changes

There are certain small changes that only require notifying to the **licensing authority**. These include:

- change of name of premises
- change of the address of the **DPS**
- completion of certain **conditions** (usually referred to as '**works conditions**').

These changes require the original premises licence to be returned to the council, along with a small administrative fee being paid.

Change to DPS

See section 6 for further information about the role of the **DPS**.

There is a specific process for changing a **DPS** and this can be undertaken so that the change has immediate effect. If you wish to change the **DPS** you will need to speak to your **Pub Partners BDM** about this and send the appropriate paperwork to the **Pub Partners** licensing team.

To change a **DPS**, the proposed **DPS** will need to complete a **DPS** consent form (accompanied in this licensing folder). The consent form must be completed by the incoming **DPS**, not the **DPS** who is leaving.

Should require a further copy of the form, this can be provided to you through your **Pub Partners BDM** or the **Pub Partners** licensing team.

The proposed **DPS** will need to be able to provide the following information:

- full name
- home address
- **personal licence** number, issuing authority and expiry date.

Whilst it is not a mandatory requirement it is also helpful for you to provide the date and place of birth for the proposed **DPS** so that the police can undertake their checks.

The proposed **DPS** will need to sign and return the completed form back to the **Pub Partners** licensing team in order for the application to be submitted.

'Emergency' change of DPS

A **DPS** can be changed in an emergency situation at short notice and applications to change the **DPS** can be submitted on the same day.

This would normally arise in situations where the **DPS** employment has ended unexpectedly.

The normal **DPS** consent form is used and a copy is included within this licensing folder.

To make any change of **DPS** you must contact your **Pub Partners BDM**.

It is illegal for premises to operate without a **DPS**. Therefore if your **DPS** leaves suddenly or cannot undertake his responsibilities for some other reason, you must make an application to change the **DPS** before you can open to sell alcohol.

Minor variations

Minor variations were created to allow **premises licence** holders to make simple changes to licences without the time and expense of the full **variation application** process.

The idea is that where you are seeking to make a change to the **premises licence** that would not ordinarily be considered to have an affect on the **licensing objectives** this should be as easy as possible to do. As such, **minor variations** are used for the following:

- changes to **licensing plan** layout that do not increase the customer area
- changes to opening hours where there are no changes to **licensable activities**
- removal of **licensable activities**
- changes to **conditions** agreed with the police or other **responsible authorities**.

There is a fee to be paid on making a **minor variation application**. You will find a table of fees in the appendices.

Making an application

Before making an application it is often necessary to check with the council whether they will accept a **minor variation application** or require a full **variation application**. The **Pub Partners** licensing team will be able to advise you on this.

Should a **minor variation application** be appropriate you will need to do the following:

- obtain approval from your **Pub Partners BDM** for the **minor variation** to be made and agree exactly what is being applied for
- sign and return the quote letter or reply to the email you will receive from the **Pub Partners** licensing team
- display a copy of the white notice which will be sent to you by the **Pub Partners** licensing team for the period required
- return the completed **certificate of display** to the **Pub Partners** licensing team.

Time limits

There is a mandatory 10 working day consultation period for objections to be made to the application. The **licensing authority** will consult with the **responsible authorities**. If there are no objections, and if the notice is properly displayed, the application will be granted 15 working days after the application has been submitted.

The process allows for the **licensing authority**, **responsible authorities** and **interested parties** to object to a **minor variation application** if they have reason to believe it will undermine the **licensing objectives**. If representations are received, the application may be refused and a full **variation application** will be required.

Please see the **minor variation** flow chart in this section for full details on the process.

Full variations

A full **variation application** is required for anything else not included in the rest of this section.

This may include:

- addition of **licensable activities**
- removal of **conditions**
- addition of hours for **licensable activities**
- substantial changes to the **licensing plan** layout.

There is a fee to be paid on making a **variation application** based on the non-domestic rateable value of the premises. A table of fees can be found in the appendices.

Making an application

Full **variation applications** can be expensive. There is an application fee, newspaper advertising fee and the cost of making the application.

Some variations may receive representations. This means the application can only be decided at a **licensing committee hearing**. This will significantly add to the cost of the application.

In all cases, you need to consider whether it is financially worthwhile making the application.

To make a **variation application**, you will need to do the following:

- obtain approval from your **Pub Partners BDM** for the **variation application** to be made and agree exactly what is being applied for
- sign and return the quote letter or reply to the email you will receive from the **Pub Partners** licensing team
- display a copy of the **blue notice of application** which will be sent to you by the **Pub Partners** licensing team for the period required
- return the completed **certificate of display** to the **Pub Partners** licensing team.

Time limits

If there are no objections and if the notice is properly displayed, the application will be granted 28 days after the application is submitted.

However the process allows for **licensing authority, responsible authorities** and **interested parties** to object to a **variation application** if they have reason to believe it will undermine the **licensing objectives**.

If valid objections are received and an agreement cannot be reached, a **licensing committee hearing** will be required where the **licensing authority** will decide whether or not to grant your application. This normally takes place within a month of the end of the **consultation period**.

Full variations can take up to 2 months from the date that the application is submitted to be granted and you should factor this into your timings, particularly when you are looking to change the **licensing plan** layout.

You cannot operate the proposed changes until the application is granted. If you were to do so it would be a breach of the **premises licence**.

If representations are received

If **representations** are made against the application, there will be the opportunity to try to negotiate with the objector to try and reach a compromise. If it is possible to come to an agreement with them (for instance by agreeing to add some additional **conditions** to the **operating schedule**) then a **hearing** will not be necessary.

However, if even one **representation** remains unresolved, there will be a **hearing**.

Your **Pub Partners** licensing team will be able to advise you of any **representations** received and in relation to ongoing negotiations.

At a hearing

At any hearing, **Pub Partners** will be represented by a member of **Pub Partners** licensing team, as well as having your **Pub Partners BDM** to support you. Licensing **hearings** focus on areas of dispute between parties and it is the job of the **licensing committee** to decide whether or not to grant the application before them. There are a range of options before the **licensing committee** in terms of variation applications. These are:

- to grant the variation as applied for
- to refuse the variation
- to amend the variation in order to promote the **licensing objectives** by either altering the hours, adding conditions, or both.

A licensing committee is not entitled at a variation hearing to do any of the following:

- remove a **licensable activity** (unless it is applied for)
- remove a **DPS**
- introduce matters that are outside of the **representations** received in relation to the application.

A flow- chart can be found on in this section that sets out the process for making a full **variation application**.

Appeal

Should a **licensing committee** make a decision that is felt to be unfair, it is possible to **appeal** that decision. However, there are a number of factors relating to appeals that you will need to be aware of:

- **appeals** can be very expensive and take a long time to complete
- you could be liable for the costs of the **licensing authority** if you lose the appeal
- you will not automatically be entitled to recover your costs from the **licensing authority**, even if you win
- the appeal process takes place in the magistrates court and is subject to all the normal procedures of court, such as giving evidence under oath and cross-examination

Appeals need to be lodged within 21 days of receipt of the decision notice. You will need to speak to your **Pub Partners BDM** and the **Pub Partners** licensing team should you want to **appeal**.

Don't forget that you need to have the proper planning permission in place before you can trade any additional hours or a new **licensing plan** layout.

Planning permissions also have **conditions** on them. It is worth checking whether you will need to change your planning permission at the same time as looking at your **premises licence**.

Section 5: Children in pubs

The word 'child' is not defined in the **licensing act**. However, as some of the offences refer to 'children' as under 18's it is best to work on that principle unless the law expressly states otherwise.

It is worth remembering that what might be acceptable for a 17 year old may not be considered appropriate for a 7 year old.

General

There are relatively few restrictions on children being in your premises that are applied generally.

Children under 16 are restricted from certain types of premises in certain circumstances. These are:

- premises that are used exclusively or primarily for the supply of alcohol, if they are not accompanied by an adult
- premises open for the supply under the authorisation of a **TEN**, if they are not accompanied by an adult, and
- between the hours of midnight and 5am when the premises are open for the supply of alcohol for consumption unless accompanied by an adult.

There is now a **mandatory condition** that you must have, and implement, a proof of age policy at your premises. This condition also requires the DPS to ensure that all staff know and implement the policy.

Make sure that your policy is documented, staff are properly trained and their training can be evidenced.

You must check that your **premises licence conditions** do not require more of you than having a proof of age scheme. Many **premises licenses** specifically require a 'challenge' policy- usually **challenge 21** or **challenge 25**. A lot of policies require the following:

- signs at the doors and on the till fronts stating which policy is being operated
- a refusals log to be kept which records all refusals of sales of alcohol or access to gambling machines and the reasons (no ID, fake ID etc)
- training of all staff in the challenge policy and a record kept to show that each member of staff has completed the training
- re-training of staff on a periodic basis (every 6 months, for example).

Remember, you do not have to permit children into your pub if you don't want to. You have a general right to exclude persons from your premises, so long as you do not do so on the grounds of race, sexual orientation or other discriminatory factors.

Even though there are few restrictions on children in pubs in general, the **premises licence** may have other restrictions relating to children contained in the **operating schedule**.

You must comply with any such **conditions**. If they are restricting your business, you will need to have them removed (see 'Amending a licence' - Section 4).

Children and alcohol

As a general rule, children are not entitled to drink alcohol on **licensed premises**.

The exception to this is when they are taking a table meal. In this case, children aged 16 and over can drink beer, wine or cider with a table meal on **licensed premises** where accompanied by an adult aged 18 years or over. This only applies when the alcohol is purchased by the adult.

When having a table meal the old law allowed children to purchase their alcohol. Now, they are only allowed to drink it. It must be purchased by the accompanying adult.

Children working in pubs

There is no general restriction on children working in pubs. As such, under 18's can work in the kitchens, as waiting staff and even behind the bar.

Under 18s working behind the bar can only serve alcohol if the sale is specifically authorised by an adult member of staff. It is not good enough to say 'you're authorised to serve people today.' Each sale must be confirmed by an adult individually.

Do remember that you have obligations to children and that one of the **licensing objectives** is the protection of children from harm.

As such, if you have children working in your premises, you must make sure that they are protected from bad behaviour and other things that may be classed as corrupting. For instance:

- excessive bad language
- gambling
- sexual acts
- smoking

It is for you to judge whether in the circumstances you should be allowing children to work in your premises.

Offences

The following are all offences committed by licence holders, licensees or their staff relating to children under the **licensing act**.

Serving alcohol to anyone under 18

It is an offence for any person to supply alcohol to an individual aged under 18 anywhere, not just on **licensed premises**.

It is a defence if the person believed that the individual was aged 18 or over **AND** either he had taken all reasonable steps to establish the individual's age or nobody could reasonably have suspected from the individual's appearance that he was aged under 18.

A person also commits an offence if he knowingly allows the sale of alcohol on **licensed premises** to an individual aged under 18. So, if it can be proved in court that your employee sold alcohol to someone under age, even though you had no knowledge of the actual sale, you might be held liable.

Persistently serving alcohol to anyone under 18

If, in any period of 3 months, you or your staff are found to have served alcohol to under 18s on 2 separate occasions, another offence is committed of "persistently selling alcohol to children."

Where there is evidence that an offence of persistently selling alcohol to children has been committed and the officer considers that the evidence is such that there would be a realistic prospect of conviction if you were prosecuted, a police officer (or an inspector of weights and measures) may choose to serve you with a voluntary closure notice.

The duration of a **closure notice** is up to a maximum of 336 hours (14 days). If you accept the closure notice, this discharges all criminal liability in respect of the alleged offence and you cannot be prosecuted.

Alternatively, you have 14 days to decide whether or not to accept the proposed prohibition or to elect to be prosecuted for the offence.

If found guilty on prosecution, the maximum fine for the offence of persistently selling alcohol to children is unlimited.

A full list of offences relating to children can be found in the appendices.

Reviews following sales of alcohol to children

Licensing authorities and the **licensing committee** members take a very dim view when it comes to sales of alcohol to children. At the very least, you will find yourself having to implement measures to ensure that there are no more sales. This may include **challenge 25** policies and additional training for your staff.

However, if your licence is **reviewed**, the **licensing committee** will often consider revoking your licence if they feel that you have not given proper training to your staff or if you have looked the other way.

As part of your management process, all staff will need to be trained on the law relating to children and any conditions on the **premises licence** relating to prevention of underage sales. You will also need to make sure you comply with conditions, including displaying the relevant signs and till prompts.

Section 6: Personal licence holders and the role of the DPS

Personal licences

A **personal licence** is nationally recognised and permits the holder to become the **DPS** at any premises licensed to sell alcohol in England and Wales. A **personal licence** is obtained by passing a nationally certified course and applying to your local licensing authority.

Changes to the law in 2015 mean that personal licences no longer require renewing every 10 years. This means that even if your licence was issued with an expiry date on it (those licences issued prior to 1 April 2015) your licence will not expire at this time.

Once you have completed the course, it is worth obtaining a **personal licence** immediately, even if you are not intending to be **DPS**.

The personal licence is issued as an ID card that is easy to carry and useful in proving you hold the relevant qualifications.

You will also be provided with a written counterpart which records any endorsements.

Once the course has been successfully completed an applicant must apply for a **DBS** check. Once the **DBS** certificate has come back, you can make an application to the licensing authority for a **personal licence**.

The police can make an objection against an application for a **personal licence** on the basis of offences disclosed in the **DBS** check. The offence must be a **relevant offence** in order for the police to be able to object.

A full list of **relevant offences** can be found at the back of this folder in the appendices

Not all offences listed in a **DBS** check will prevent the applicant from holding a **personal licence**. Even if there are relevant offences, the police do not have to object. If they do, the matter will be decided at a licensing hearing.

The reason that you need a **personal licence** is so that you can authorise the sale of alcohol or become a **DPS**.

A **personal licence** holder is entitled to authorise the sale and supply of alcohol, whether they are **DPS** or not.

DPS ('Designated Premises Supervisor')

The role of the **DPS** sits at the heart of the **licensing act**. It is the means by which all sales of alcohol are properly attained. As such, the role of **DPS** is not one that should be taken lightly.

A **DPS** is required to ensure that there is always one specified individual amongst any other **personal licence** holders who can be identified as being responsible for the day to day running of the premises.

It is useful to know the following points in relation to what being a **DPS** means in practical terms:

- a **DPS** is only required in relation to the sale and supply of alcohol, not the other **licensable activities** (provision of regulated entertainment or late night refreshment)
- the **premises licence** holder is not the only person who can be the **DPS**. A leaseholder or the manager is entitled to act as **DPS**, so long as they hold a valid **personal licence**
- **personal licences** issued in Scotland are not valid in England and Wales, and vice versa
- where a **DPS** ceases to hold a **personal licence**, that premises cannot sell alcohol until a new **DPS** has been appointed
- where a **DPS** leaves the premises permanently or notifies the council that he is no longer the acting **DPS**, that premises must stop selling alcohol until a new **DPS** is appointed
- the **DPS** does not have to be present on the premises at all times but they must be in day to day control
- a **DPS** can be **DPS** at more than 1 premises, but there can only be 1 **DPS** per premises.

Role and responsibilities

A **DPS** can authorise the sale or supply of alcohol. This authorisation can be passed down to other staff, including those who do not hold **personal licences**. The proper form for this authorisation can be found in this folder. The **DPS** is also responsible for ensuring that the under-age policy that is required by mandatory condition is properly applied and staff are trained as required.

Changing DPS

Because the **DPS** is such a crucial role and because a pub cannot sell alcohol without one, a procedure is in place to change a **DPS** with minimum delay. We have included a flow chart explaining how you change **DPS**.

Top 10 tips for the DPS

- correctly display the **premises licence summary** and **S57 notice** stating who holds the **premises licence**
- keep a certified copy of the full **premises licence** in a safe place on the premises
- know the hours, activities and conditions on the **premises licence**
- keep and update the written authority given to staff to serve alcohol
- make sure your staff are trained and aware not to serve customers who are drunk
- ensure your proof of age scheme is up to date and enforced. Ensure that it is properly advertised and that staff understand their responsibilities. Remind them regularly of what is expected
- tell the **licensing authority** that issued your **personal licence** if you change address
- good liaison with neighbours and other premises operators (through pub watch) will keep you ahead of any issues affecting your premises
- complete the due diligence and risk register logs and check them regularly to ensure that your staff are doing the same

when you go on holiday, do not forget to complete your delegation of powers notice

Immigration Act

Immigration Act- effects on licensed premises

The Immigration Act, which came into force in July 2016 is of fundamental importance. Historically, the leisure sector is where a significant number of illegal immigrants have been found to work and as such, a number of changes have been implemented that directly affect premises licence holders and licensees. Some of the more important ones from an operating point of view are:

- A premises or a personal licence holder must be entitled to work in the United Kingdom
- An immigration offence will be considered a 'relevant offence' in relation to personal licences
- An immigration officer will have a right to enter a licensed premises
- An immigration officer will have the power to issue illegal working closure notices and apply for compliance orders

Personal Licences

An applicant will not be able to apply for a personal licence if he or she is not entitled to live and work in the United Kingdom. In addition, a personal licence will lapse

automatically if an individual ceases to be entitled to live and work in the UK. If the personal licence of a DPS lapses, alcohol sales at that premises would automatically be illegal.

The list of 'relevant and foreign offences' in relation to personal licences to be expanded to include 'an offence under any of the Immigration Acts'.

Right of Entry to Licensed Premises

Immigration officers have been given the same power of entry to licensed premises as police and licensing officers.

Illegal Working Closure Notices and Compliance Orders

An immigration officer will be able to issue an "illegal working closure notice" for up to 48 hours if he or she is satisfied that a person who does not have the right to work in the UK is employed at the premises. The effect of a closure notice is to prohibit access to the premises unless authorised in writing by the immigration officer. If the employer can show that the employee complies with the employment requirements for workers, the immigration officer may cancel the notice. If the employer is unable to do so, an application for a compliance order must be made to the Court by the officer within 48 hours of service of the closure notice.

The Court may issue the compliance order if satisfied, on the balance of probabilities, that an illegal worker was working on the premises and that it is necessary to make the order to prevent the employer at the premises from employing illegal workers. Such an Order can:

- Prohibit access to the premises
- Require right to work checks to be carried out
- Require right to work documents to be produced

The Court will notify the licensing authority of the order and the licensing authority must then review the premises licence.

An immigration factsheet issued by the Home Office can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/537205/Immigration Act - Part 1 - Illegal Working.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/537205/Immigration_Act_-_Part_1_-_Illegal_Working.pdf)

Section 7: Temporary event notices (TENs)

What is a TEN?

A **TEN** permits the use of premises for **licensable activities** not authorised under the **premises licence**. A **TEN** can be used for the following:

- additional **licensable activities** not permitted by the **premises licence** (e.g. where a licence only permits sale of alcohol, an application can be made for regulated entertainment (recorded music) to have a disco)
- additional hours (e.g. extending the hours permitted for **licensable activities** past those shown on the licence)
- use of a part of the premises for **licensable activities** not shown on the **licensing plan** (e.g. having a function in a garden that isn't usually licensed)
- demonstrating that a proposed variation would not undermine the **licensing objectives** (e.g. using a number of **TENs** over the course of 4 weekends to show that if the **premises licence** were to be varied permanently to do the same thing, it would not undermine the **licensing objectives**).

Limits on TENs

The maximum number of people allowed at a **TEN** is 499. The limit includes all staff, guests, performers or other people.

There are also strict limits on the number of **TENs** you can give in any calendar year. Limits are set for both premises and applicants as follows:

Premises

The premises (the area for the **TEN** application) is defined by the person giving the notice. Therefore, you can give a **TEN** for your whole premises or for separate parts of it, such as the function room only. Make sure that you properly define the area for the **TEN** on the application.

If you give a **TEN** covering the whole of your premises, and then a **TEN** for just the function room, you will have used up 2 **TENs** for the function room and 1 **TEN** for the rest of the premises.

The limits for **TENs** at any given premises in a calendar year are:

- a maximum of 15 **TENs** in any calendar year
- **TENs** can run for a maximum of 7 days at any one time
- there has to be a minimum break of 24 hours between **TENs**
- the maximum number of TOTAL days that can be covered by **TENs** in a calendar year are 21
- a **TEN** that passes midnight is counted as applying over 2 days.

Example: Applications are made over the course of a year for **TENs** covering the whole ground floor of a premises. The applications are for the following:

- a **TEN** starting at normal close of business on a Sunday (11pm) to run until 2am on Monday morning
- a **TEN** for recorded music starting at 11am on a Thursday to run to 2am on Tuesday morning
- a **TEN** for all licensable activities starting at 10am on a Monday and going to 4am the following Sunday.

The premises has used 15 days over the course of 3 **TENs** (2 days on the first **TEN**, 6 on the second and 7 on the third). Whilst this leaves them with 12 more **TENs**, they can only last a maximum of 6 days in total. Effectively therefore, the premises can only use 6 of its remaining 12 **TENs**.

Applicants

Applicants for **TENs** fall into 2 categories: **Personal licence** holders and non-**personal licence** holders. There are limits placed on the number of **TENs** an individual can apply for. These are:

- 50 for **personal licence** holders
- 5 for non **personal licence** holders.

Deadlines for applying for **TENs**: Difference between 'standard' and 'late' **TENs**

There are two types of **TEN** that can be applied for, each of which requires the application to be submitted a certain amount of time before the event. These are referred to as standard and late **TEN** applications.

Standard **TENs**

A standard **TEN** must be applied for at least 10 clear working days before the event is due to start.

Don't forget that bank holidays do not count as working days

Late **TENs**

Late **TENs** have been introduced to allow some flexibility where a **TEN** is required at short notice for an event.

Late **TENs** are intended to assist premises users who are required for reasons outside of their control to obtain a **TEN** but have missed the usual deadline. Therefore a late **TEN** can be applied for between 5 and 9 working days before the start of the event.

If possible, you should always apply for a standard **TEN** because with a late **TEN**, if an objection to it is received from the police or environmental health officer, it will be rejected without the right to a hearing.

In addition, a **personal licence** holder can only apply for 10 late **TENs** in any calendar year and a non **personal licence** holder can only apply for 2.

How to apply

An application for a **TEN** (whether it's standard or late) must be made to the **licensing authority** who issued the **premises licence**.

It must also be sent to:

- police licensing section for your local area
- local authority environmental health team.

The full details can be found by contacting the **licensing authority**. Most authorities now permit **TENs** to be applied for online, in which case, they serve the police and EH team and you don't have to.

Objections to **TENs**

As you have seen above, an objection to a late **TEN** from either the police or environmental health officer means that the **TEN** will be refused.

In relation to a standard **TEN**, on receipt of an objection, the **licensing authority** must hold a hearing to determine whether to grant the **TEN** or not.

One power that the police and environmental health officers have is to ask for **conditions** to be added to any **TEN**. This can be agreed before a **hearing**, or the **licensing committee** can add any conditions they see fit at the **hearing**. They also have the power to refuse a **TEN** if they believe that granting it would undermine the **licensing objectives**.

It is worthwhile making your **TEN** application as soon as you can to give plenty of time for the matter to go to a hearing (if needed).

A blank **TEN** form is included at the back of this section.

Section 8: Outside areas

The use and management of outside space can be as important as inside. Customers using outside space can unintentionally cause nuisance to neighbours.

As such, it is important to understand and make proper plans for how you will best use and manage any outside spaces. These can take the form of:

- gardens
- frontages
- car parks
- terraces
- decks
- patios
- pavements.

In addition, different spaces are often used for different purposes (often at the same premises). Again, by understanding what areas are being used will assist in ensuring they are properly managed. Uses can include:

- customer seating
- dedicated smoking areas/ shelters
- car parking
- queuing
- standing areas for customers drinking/ smoking etc
- waste disposal and other back of house functions.

Each requires its own consideration in terms of making sure that you have the correct permissions or that the areas are properly marked on your **licensing plan**.

Remember that your outside space may need to be shown on your **licensing plan** and in some circumstances may need to be licensed.

When does an outside space need licensing?

Consumption of alcohol is not a **licensable activity** If customers only consume alcohol outside, the area does not need licensing..

If you want to carry out **licensable activities** in a garden, you will need to ensure that your **premises licence** permits those activities. Usually, areas that are licensed are shown on **licensing plans** by a red line going around these areas. For instance,

all public areas (with the exception of the toilets) will be included in the red line for **licensable activities**.

Therefore if you want to do any of the following outside:

- have an outside bar
- sell alcohol (i.e. have waiter/waitress service with remote card payment terminals 'PDQ's')
- have recorded music above background levels.

You will need to ensure that the outside area where any of the above will take place is within the red line on the **licence plan**. If you want to add an area, see section 4 on **variation applications**.

Considerations for use of outside spaces in general

Below is a list of some of the things you might want to think about regarding your customers using outside space.

- **conditions on the premises licence:** Are there restrictions on where or when outside spaces can be used?
- proximity of neighbours. Are there neighbours very close by who will be affected by the use?
- are the spaces properly supervised by staff?
- are any benches or other furnishings secure and safe?
- are customers using any particular space likely to block access for pedestrians/ neighbours?
- is the use of the space likely to cause any kind of disturbance that is not customer related (bad smells from bins or air extraction from kitchens, or noise from refrigeration devices etc)?
- is the use of the space by customers likely to cause a disturbance to others?
- are their notices displayed asking customers to respect the neighbours?

Being able to answer some or all of these questions will assist you in making sure that you are prepared and therefore better positioned to manage the areas.

Not all noise from customers outside is a nuisance. However, you do have a responsibility to manage your customers so as to ensure that they behave in a reasonable manner.

Whilst an outside live music event as part of a charity garden party once a year that stops at 8pm and has been well advertised to neighbours beforehand may be acceptable, weekly discos in a marquee with no sound insulation may not

Live Music Act 2012 and recorded music exemption

The **live music act** and **recorded music** exemption has given freedom to have live music and/or **recorded music** in certain circumstances (see section 3). Live music and **recorded music** can be held in **licensed premises** gardens if licensed and also in certain other circumstances under the workplace exemption. Note that the workplace exemption only applies to live music and not **recorded music**.

However, this does not mean that you would not face action from environmental protection action (**noise abatement notices**) or a **review** of the **premises licence** if the activities create a nuisance to your neighbours.

The same applies for **recorded music**, although remember that there is no right to provide recorded music outside under the workplace exemption. Therefore providing **recorded music** in such circumstances would be a criminal offence.

Both the **live music act** and **recorded music** exemptions only apply in the following circumstances:

- the music is provided between 8am and 11pm, and
- the audience is 500 persons or fewer, and
- the exemption has not been removed following a **review** of the **premises licence**.

Section 9: Pavement licences

A **pavement licence** is distinct from the **premises licence**. A **pavement licence** may be necessary if you want to put tables and chairs outside on a public highway such as a pavement.

Pavement licences are **NOT** required for the following:

- putting tables and chairs in your garden or within the boundary of your land
- using privately owned land as an outside space.

However, if you want to place tables and chairs in outside space owned by your local authority, you will need to obtain permission from them. This usually requires an official **pavement licence**, although some local authorities permit tables and chairs to be put out, so long as they do not block the highway, without needing an official application.

Some local authorities do not have official licensing systems for tables and chairs, however, you will normally need to notify them that you intend to do this and seek their permission before going ahead.

Also, some authorities require planning permission to be obtained for use of the area.

Pavement licences go further than simply being for tables and chairs. You may require one for any or all of the following:

- tables chairs and benches
- barriers
- space heaters
- planters
- umbrellas and 'jumbrellas'.

Pavement licence applications

A **pavement licence** application is made to the local authority's highways department. However, lots of local authorities have effectively given the running of the application process to either their planning or licensing officers. Each authority has slightly different application process and requirements. However a typical application will require you to provide some or all of the following:

- a scale plan of the proposed area showing the layout of the tables and chairs, heaters, planters etc
- design drawings of proposed furniture, barriers- including any advertising, planters etc. Measurements are often requested
- copy of public liability insurance

- copy of the **premises licence**
- copy of the planning permission that shows that the area has permission to be used for tables and chairs
- fee
- proposed hours of operation.

Many local authorities set the hours for use of pavement areas. This can include times where tables and chairs will not be allowed. Often this can be a lot earlier than the hours on the premises licence, but that does not mean you can keep the tables and chairs out longer than your **pavement licence** allows.

Many local authorities also require details and pictures of the furniture you are proposing to use, along with the size of each piece of furniture (dimensions). In many cases they will also dictate what they expect the furniture to look like or what materials can be used. It is important therefore not to buy the furniture until such time as the local authority have approved it.

Grant of a licence

Like a **premises licence**, the local authority asks for comments from various parties who may be affected by the grant. Depending on the authority, if objections are received, the matter can be referred to a hearing or rejected. If it is referred to a hearing, you will usually be told that objections have been received but there is no obligation to either send them to you or for you to appear at the hearing. Some local authorities allow the applicant to respond in writing to any objections and some allow you to attend and speak, but many don't.

Conditions

Like a **premises licence**, most **pavement licences** come with a list of **conditions**. Failure to comply with the conditions will result in revocation of the **pavement licence**.

Fees

The fees are set by the local authority. In most cases, the fee is based on the number of tables, chairs and other things you wish to put on the pavement. However, some local authorities have flat fees and some base fees on the hours you intend to operate the **pavement licence**. Some authorities combine all of the above in calculating their fees.

Renewals

Pavement licences are only temporary permissions. Each local authority determines how long the licences last. This is usually anywhere from 6 months to 3 years. At the end of the permission you must apply for a new permit. Often there is a simplified renewal process, but it does not mean that the application will be automatically granted. Any complaints or problems caused during the previous 12 months will be taken into account in determining the renewal.

Breach of a **pavement licence** is a criminal offence, for which you can be prosecuted.

If you want to consider obtaining permission for a **pavement licence**, speak to your **Pub Partners BDM**.

Section 10: Gambling Machines

Gambling machines are regulated under the Gambling Act 2005. The Gambling Act has its own licensing objectives and rules for controlling gambling. If you have gambling machines in your premises, you will need to understand the distinctions and rules relating to these machines.

Licensing objectives:

There are 3 gambling objectives:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
- ensuring that gambling is conducted in a fair and open way
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

Gaming Machine Licence

What are the machine entitlements?

Qualifying alcohol licensed premises are entitled (under Automatic Entitlement) to provide two gaming machines of category C or D upon notification to the licensing authority (LA). Automatic Entitlements are only applicable to alcohol licensed premises, where there are bar facilities available on the premises for the sale and consumption of alcohol. In order to site more than two category C or D gaming machines, an alcohol licensed premises gaming machine permit must be acquired from the relevant LA by application. It is then at the LA's discretion to consider the application and issue a permit. Where a gaming machine permit authorises the making available of a specified number of gaming machines in particular premises, this will effectively replace, and not be in addition to, any Automatic Entitlement to two machines.

A copy of the permit must be available for inspection at location if requested.

Where an LA has a concern about the suitability of the premises or licence holder to offer machine facilities to the public, the LA has, in certain circumstances, the power to dis-apply and remove the Automatic Entitlement

The licensing authority which issued the permit may cancel it, or may vary the number or category (or both) of gaming machines authorised by it, if they think that:-

- It would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect.
- Gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit.

- The premises are mainly used or to be used for making gaming machines available.
- An offence under this Act has been committed on the premises.

Before cancelling or varying a permit a licensing authority shall:

- Give the permit holder at least 21 days prior notice of the authority's intention to consider cancelling or varying the permit,
- Consider any representations made by the holder, and
- Hold a hearing if the holder requests one.

Gaming Machine requirements

Machines made available for use must be able to be supervised to stop anyone under the age of 18 using the machine.

Machine should display or have the following information available on them:

Machine category (either C or D)	Supplier details
Return to player percentage	ID plate (for machines after 2007)
No under 18s sign (category C only)	Stake to play and maximum payout
Signposting for gambling support services (eg Gamble Aware)	

It is the responsibility of the business owner to ensure the machine meets the regulatory requirements prior to making them available for use to the public. If a machine fails to meet the requirements above, it is the business owner and not the machine supplier that is liable for this failure.

Crane Grab machines

Crane grab machines which have an element of chance are category D gaming machines. For further information on these machines see:

- [Skill with prize machines](#)
- [Non-complex cat D gaming machines](#)

Sourcing machines

All machines must be sourced and maintained by a Gambling Commission licensed supplier. There are certain maintenance and repair activities which may need to be carried out on a day-to-day basis, for which additional licences or permits are not required.

Machines supplied by an unlicensed machine supplier are considered illegally supplied machines and pose a serious threat to the licensing objectives. If a machine is illegally supplied this poses a risk to the first licensing objective of keeping crime out of gambling. A machine that does not meet the regulations and technical standard requirements may also risk the fair and open licensing objective and therefore pose a risk of harm to members of the public interacting with these machines.

If you have any concerns about a supplier or wish to verify that they are licensed by the Gambling Commission you can do so by visiting the register on the Gambling Commission website or contact our confidential intelligence line (0121) 230 6655.

Machine location requirement

Below is the requirement on location of AWP's taken from the Gambling Commissions web site, <https://www.gamblingcommission.gov.uk/PDF/Code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf>

- All gaming machines situated on the premises must be located in a place within the premises so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means.
- Permit holders must have in place arrangements for such supervision.
- All gaming machines situated on the premises shall be located in a place that requires a customer who wishes to use any ATM made available on the premises to cease gambling at the gaming machines in order to do so. 'ATM' means a machine located on the premises, which enables a person using it to obtain cash by use of a credit or debit card.

Age Verification (Over 18 only)

It is essential that staff are aware and trained to challenge customers using gaming machines in exactly the same way that they would when serving customers alcohol. Local authorities carry out spot checks and will take action against premises found to be letting under 18's gamble.

Recently the Gambling Commission and local authority Trading Standards have been carrying out test purchases across the country and the results to date have been very poor (90% failure rate). It is expected that they will be undertaking further testing and it would not be a surprise if action would follow thereafter to make an example of someone which could result in a licence review.

It is considered a failure to prevent under 18's using Category C gaming machines happens as soon as the money is placed in the slot, so you and your staff need to be vigilant and Challenge and when required refuse play to anyone who looks or is known to be under age.

To date, there has been no settled means of testing. Some authorities had young people coming to the bar and asking for change, some were buying drinks first, and some were just walking in and going straight up to the machine to play.

As a reminder please look out for the following:

- Customers not buying drinks before going to play machine who could be too young to play
- Requests for change, if person appears to be under 18 ask reason and if told it is to play gambling machine obtain proof they are over 18 or refuse.

Proper supervision is key here so all players of machines need to be able to be monitored.

The same test should be applied to machines as with alcohol challenges (challenge 21 or 25) when you spot someone at a machine or getting change for the machines.

The below links are for the gambling commission quick guide and the codes of practice on ensuring machines are properly supervised.

<https://www.gamblingcommission.gov.uk/PDF/quick-guides/Gaming-machines-in-pubs-quick-guide.pdf>

<https://www.gamblingcommission.gov.uk/PDF/Code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf>

Gambling in pubs (non-machines)

The rule of thumb is that gambling in pubs is only permitted where it has been expressly exempted from gambling legislation. It is helpful therefore to start from a position of thinking: If I cannot find an express permission to do it, then it is likely to be illegal. The Gambling Commission take illegal gambling very seriously and will prosecute people found to be breaking the law. The potential penalties are significant, depending on the offence. If in doubt, ask!

The Gambling Commission provides a great source of advice. They have produced a guide for gambling in pubs, which can be found at:

<http://www.gamblingcommission.gov.uk/PDF/Advice-on-gaming-in-pubs-and-alcohol-licensed-premises.pdf>

Section 11: Inspections

Officers from the various different **responsible authorities** are allowed to inspect the premises. Whilst each may have their own particular areas of expertise, any inspection will normally begin with a look at the **premises licence**.

Remember your obligations with regard to the **premises licence**

- the **premises licence summary** or certified copy must be displayed in a prominent position so that it can be read by the public
- the **premises licence** or certified copy must be kept at the premises so that it can be produced to an officer on request
- you must have a **section 57 notice** displayed confirming who has custody of the full licence.

The officers that you can expect to see visit you are:

- licensing officers
- police
- environmental health
- trading standards
- fire.

Licensing authorities set their own targets for visiting premises. This is usually done on a risk-assessed basis depending on the nature and style of the operation, intelligence of potential issues or previous breaches of the **premises licence**. It can also include breaches of other legislation such as food hygiene standards.

This may mean that you could face visits on a regular basis. Even if there is no regular visit, the **licensing authority** will certainly come knocking if they have concerns about a specific issue.

Rights of entry and inspection

All of the officers have the right to enter premises and request to see the **premises licence**. They have the right to inspect the premises to ensure compliance with the **premises licence** and also to check on other matters, including health and safety, food safety or kitchen hygiene. Other tests, such as drug swabs (or even sniffer dogs) can be used to check for drug use, however, any testing of this sort should be done with your consent beforehand and you should be told of the results as soon as the testing is completed.

Staff may be asked questions during the inspection. It is important that they have received adequate training and are able to evidence how they, and therefore the premises, are compliant with the **premises licence** requirements.

You are obliged to help in any way that you can. However, let the officers know if you feel that you are being kept from your job in an unreasonable way (for instance it's a very busy Friday night or you are responsible for something requiring your immediate attention). If they ask you to remain with them, you must ask that a note is made of this so that you are not held responsible if they later claim something was not done properly on the night.

Multi agency visits

On occasion, the **licensing authority** and police will team up and visit premises together. This is known as a multi-agency visit and can take some time, as each officer will have his own questions and areas to inspect.

There is a difference between an inspection and an unofficial visit.

- an inspection or official visit will be announced as such by the officers and will be conducted following a set routine. They should inform you of the process at the start and give you details of what they are looking for
- an unofficial visit by an officer may be to discuss a particular incident or to bring a particular point to your attention. These will be less formal and you should be told this at the start.

Obligations when visited

Your obligations are to co-operate with the officers and provide the documentation asked for. More generally, you or your manager will be expected to know the following:

- where the **premises licence** is kept
- the conditions on the **premises licence**, particularly those that require action such as toilet checks, noise checks, refusals registers, **challenge 21 policy** etc
- where the training records are kept
- what your policy is on prevention of sales to underage persons is
- what your opening and closing times are
- what **licensable activities** are permitted and at what times
- who the **DPS** is and if they are not at the premises, where they are
- where the proper weights and measures or other signage is
- where the fire risk assessment is kept
- Where the records of staff member's right to work is kept.

You may also be asked for any of the following if they are required by the **premises licence**

- how to operate the **CCTV** and burn images onto a removable format
- where the refusals or incident registers are kept
- what times doormen are expected to work and where the door staff register is kept
- when the garden must be closed
- where the toilet check log is kept
- where and when noise checks are undertaken
- what your policy is concerning access for children and where in the premises they are allowed to be.

Questions under caution

A police officer or **licensing authority** officer may, at any time, decide to ask you questions and carry out an **interview under caution**. This means that they are considering taking criminal proceedings against you.

They must tell you that this is what they want to do and it has to be done by giving you the formal police criminal caution:

"You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence."

You do not have to answer any questions at this point and you have the right to legal advice.

You should consider carefully whether you want to speak to the officer there and then or seek legal advice and answer the questions later.

You are not under any obligation to answer the questions, you are not under arrest and you are not obliged to respond.

After an official inspection

If you are inspected by an officer or by a multi- agency visit, they should provide you with a receipt of the visit and details of anything they claim needs to be addressed. This is usually followed up with a more formal letter of advice and any actions they expect you to take or actions they are considering.

You must not ignore any advice you are given. Make sure that you deal with any issues identified. If there are any issues, you must let your **Pub Partners BDM** know.

Follow-up actions

These will be dealt with in detail in the following chapter, but it is worth noting that the following actions can be taken if problems or breaches of the **premises licence** are found:

- informal discussion
- letter
- formal legal notice
- fixed penalty notice
- an **interview under caution**. This is a formal interview carried out in line with the Police and Criminal Evidence Act 1984. You are entitled to have your solicitor present
- a formal caution, which, if you choose to accept it sits on your criminal record, but means no further action will be taken
- prosecution
- **review** of the **premises licence**
- **summary review** of the **premises licence**
- **closure notice** which requires action to avoid being closed after 7 days.

Section 11: Offences and enforcement

Categories of offences

The **licensing act** creates a number of offences which, on conviction, carry various punishments, depending on the seriousness of the crime.

You need to be aware that breaches of the **premises licence**, whilst possibly leading to a **review**, can also lead to criminal prosecution. Broadly, the categories of offences that you need to be aware of are:

- failing in a duty to notify the **licensing authority** of a change in circumstance (i.e. change of **DPS** address or change of premises name)
- operating outside the permissions of the **premises licence** (i.e. after hours trading or breach of **conditions**, including **mandatory conditions**)
- offences relating to sale of alcohol to persons under 18 and children
- offences relating to drunkenness or disorderly behaviour
- smuggling goods.

Within these categories, there are a number of different offences that can be committed. For instance, there are duties to notify the **licensing authority** of changes to the address of a **personal licence** holder, a **DPS** or a **premises licence** holder.

A full list of offences and potential defences are provided in the appendices.

Range of punishment

The punishments for being convicted of an offence range from a fine of £200, up to unlimited fines and, or, 6 months in prison. The level of fine is based on the standard scale of fines.

In early 2015, the level of fines Magistrates can levy was increased from a maximum of £5,000 to an unlimited fine for offences classed as 'level 5' offences. Fines have also been uncapped for any offences that carried a penalty higher than £5,000, including a number of licensing offences-see Appendix 2.

Enforcement

There are various ways that licensing officers or police can take action if they find you are in breach of the **premises licence**. These are:

- **fixed penalty notices**
- **interview under caution**
- prosecution
- review of the **premises licence**.

Fixed penalty notices

Fixed penalty notices are issued for a range of offences in various walks of life, from littering to certain traffic offences.

In terms of licensing, **fixed penalty notices** can be issued for the following offences:

- selling alcohol to someone under 18 and
- selling alcohol to a drunken person.

A **fixed penalty notice** is an admission of guilt of an offence.

A **fixed penalty notice** is issued at the time of the offence being witnessed. The fine issued with the **fixed penalty notice** is currently £90.00.

The issuing of a **fixed penalty notice** can be challenged if you believe that the offence was not committed. However, if you challenge a **fixed penalty notice**, you will face prosecution for the offence. You must be sure that you are innocent of the alleged offence.

It may be very difficult to claim that you did everything you could to ensure that a customer was over 18 when you are presented with evidence of a failed under age test purchase. However, it would be a lot more reasonable to argue that a customer was not intoxicated if the police have not carried out a breathalyser test.

Accepting a **fixed penalty notice** for selling alcohol to someone under 18 on 2 occasions in 3 months means that the offence of 'persistent sales of alcohol to children' has been committed and no defence will be available (see the chapter on children for further information).

Interview under caution and prosecution

Prior to bringing a prosecution, the **licensing authority** may ask you to attend an **interview under caution** or respond to written questions 'under caution'.

If you are asked to attend an **interview under caution** or to answer questions, the first thing you will hear is:

"You do not have to say anything but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence."

You are strongly advised at this stage to seek legal representation.

If the interview is held at the police station or the local authority offices, the interview will be taped. If not, a note will be taken and you will be asked to read it and confirm that it is an accurate recording of what has been said.

It is better for you to have legal representation with you to advise in relation to any questions being asked and to assist in making sure that you do not harm your case, should the **interview under caution** lead on to a prosecution.

If you are asked to attend an **interview under caution**, you do not have to go. However, you need to speak to your **Pub Partners BDM** immediately and seek your own independent legal advice.

Prosecution

A criminal prosecution is brought by officers on the basis that they believe they have a reasonable chance of securing a conviction against you and it is in the public interest to do so.

If you are asked to attend an **interview under caution** you need to be able to demonstrate that whatever was alleged to be illegal has been put right.

Should the decision be taken to proceed with a prosecution the matter will be heard in the magistrates court.

There is a presumption of innocence until you are proved to be guilty of committing the offence. The prosecution must prove your guilt beyond reasonable doubt. You must be able to provide evidence to show that you did not commit the offence or that you did all that could reasonably be expected of you.

Any answers or statements that you have made during an **interview under caution** may be used as evidence against you. This is why it is important that you consider the answers that you give when you attend an **interview under caution** and why we recommend that you are legally represented.

Defence to a criminal charge

Not all defences are available for all charges. Ignorance of the law is never a defence to a prosecution

For some offences, there are defences available. A common defence is the defence of 'due diligence'. This defence can be used in circumstances where you have taken all reasonable steps to try to avoid committing the offence.

Another defence may be that you did not know that an offence was being committed. This is often the case where a member of staff does something illegal (an underage sale, for instance).

This type of defence requires you to have been unaware that the crime has taken place and you must be able to show that you have taken proactive steps, in advance, to ensure it does not take place.

Proper documented staff training, recorded on paper, with regular updates and written evidence of the training being provided can prove to be vital.

Just because you do not 'see' a crime, does not mean you have not committed a crime.

For instance, if you tell your bar staff that it's ok to serve under 18s or not to ask for ID, even if you are not working, you will be held responsible for that crime

Enforcement using the premises licence

The most common means of enforcing breaches of a **premises licence** is through the **premises licence** itself. This is done in 2 main ways:

- a request by the **licensing authority** or **responsible authorities** for additional **conditions** to be added to the **premises licence**. This is usually by way of a **minor variation**
- an application to **review** the **premises licence**.

Review

An application to **review** the **premises licence** allows the **licensing authority** to look at any problems and decide if changes are required to be made to the **premises licence** in order to rectify them.

The **licensing authority** must be satisfied that the **licensing objectives** are being promoted by the premises at all times.

Should the **licensing objectives** be undermined, the **licensing authority** will make changes. These changes can often have a significant detrimental impact on your business.

Who can review a licence?

Anyone can apply to review a licence, but reviews are most commonly brought by the:

- police
- environmental health
- trading standards
- local residents.

Applications to **review** the **premises licence** are usually submitted following complaints. They are often seen as the last resort.

Once a **review** has commenced, any other party can make a **representation**. This means that even if you come to some agreement with the original party bringing the **review**, you may still find yourself having to deal with other issues at a hearing.

Unfortunately, once a **review** has commenced, it must be dealt with by the **licensing committee** unless the party bringing the **review** withdraws the application.

Why review?

There are many reasons why an application to **review** the **premises licence** may be submitted.

The most common are:

- complaints of noise nuisance from the pub
- failed test purchases
- violence, crime or disorder at the premises
- complaints about use of the pub garden

- complaints about customers coming to, or leaving the pub
- lack of management response to issues raised by the **responsible authorities**
- breaches of the **premises licence**.

Review process

Once an application to **review** the **premises licence** has been submitted the applicant for the **review** must serve a copy of the application on the **premises licence** holder.

Sometimes the applicant will mistakenly serve a copy on the premises only. If you are made aware of a **review** application you must let your **Pub Partners BDM** know immediately.

The licensing authority will then come out to your premises and put up a **blue public notice** outside. This notice will explain that the **premises licence** is being reviewed and it will invite **representations** to be made within a 28 day **consultation period**.

Once the **consultation period** has ended a date for a **licensing committee hearing** will be set. The **hearing** must take place within 20 working days of last date for **representations**.

Both positive and negative **representations** can be made against the application. Positive support for the premises is a very good way of allowing a **licensing committee** to see both sides of the argument.

You must notify your **Pub Partners BDM** of any potential **review** proceedings immediately.

How best to prevent a review

If you are made aware of complaints and you do nothing, you are more likely to face a **review** if you do not try to resolve matters. Any complaint brought to your attention must be taken seriously.

The **licensing authority** and other **responsible authorities** will usually be required to engage with you in advance of submitting a **review** as part of their internal procedures. You will find that they usually prefer a collaborative approach in order to solve a problem, rather than going down a heavy handed formal enforcement approach.

Early engagement maintains good working relations between parties. It is important that you have a good relationship with the **licensing authority** and the **responsible authorities** as this will create goodwill and encourage informal solutions to be found. However, residents are under no such obligations.

Unfortunately, there is nothing to stop a party applying to **review** the **premises licence** without discussing the matter with you first.

Here are a few tips that will help you to avoid a **review**:

- get to know your local police. You should try to get to know both your beat officer and also the local police licensing officer
- introduce yourself to the **licensing authority** licensing officer. They can be an invaluable source of information and can often tell you if they are receiving complaints from other parties, or of any local initiatives

- join and attend your local **pub watch** scheme. There is no better way of keep a finger on the pulse of what is going on in your area than being amongst other licensees
- take any complaints received from neighbours seriously. Make sure you keep a record of the complaint and any actions taken to assist. Build a relationship with them and let them know of any upcoming events.

Discuss any complaints or potential issues with your **Pub Partners BDM**. There is every chance that they will have dealt with something similar in the past and will be able to advise on how best to avoid matters escalating.

Showing that you take these matters seriously and that you are doing something about an issue will go a long way to preventing a **review**.

In some cases, this may not be enough and a **review** will be started irrespective. In this case, being able to refer to any steps you have taken to try to assist will go a long way to persuading a **licensing committee** that they do not need to take more drastic measures.

Summary reviews

If you are notified of a **summary review**, you must notify your **Pub Partners BDM** immediately.

A **summary review** allows the police to fast track the **review** process. There are two stages:

- an 'interim steps' hearing within 48 hours (working days only) of the police summary review application being submitted. A **licensing committee** will decide whether any interim steps are needed to promote the **licensing objectives**
- A full **review** hearing within 28 days.

Who can bring a summary review and why?

Only a senior police officer can decide to bring a **summary review**. Often, this will be delegated to the police licensing team.

A **summary review** application can only be made where the senior police officer believes that the activity at the premises is involved in serious crime, serious disorder, or both.

The interim steps hearing

This is the initial hearing where a licensing committee will be asked to consider whether they need to take steps against the **premises licence** to further promote the **licensing objectives**. Any interim steps imposed will last until the full **review** is heard.

This hearing will take place within 48 hours of the **summary review** being submitted.

An interim steps hearing is held 'in camera', this means that it is held in private. There is no automatic right for the **premises licence** holder, or the premises operators, to attend and speak to **licensing committee** when they decide what interim steps to take.

Usually, the police will make a recommendation and the committee will decide if the recommendation is appropriate in the circumstances. The actions that the committee can take are one or more of the following:

- modify the conditions on the **premises licence**
- exclude a **licensable activity**
- remove the **DPS**
- suspend the **premises licence** pending the full **review** hearing.

The decision of the **licensing committee** takes effect immediately and you will be notified of the decision as soon as possible after the hearing.

The imposition of interim steps must be complied with as soon as you are notified of the decision. If you do not comply, you are committing a criminal offence and can be prosecuted. At the very least, the breaches will be taken into account at the full **review**.

Challenging the interim steps

You have the right to ask the **licensing authority** to amend any interim steps that are imposed on the **premises licence**.

If the **premises licence** is suspended (and therefore you cannot trade) it may be essential for business reasons to try to do so.

The process allows the **premises licence** holder to make **representations** against the interim steps that have been imposed. This is dealt with at a further **hearing**, within 48 hours of the request being made. The police will be informed of the new **hearing** informed and are able to make representations.

If you are considering challenging the interim steps, it is essential that you are able to demonstrate that the premises can promote the **licensing objectives**. You will need to show that the serious crime or serious disorder allegations that lead to the summary **review** will not happen again.

Review hearing

This section looks at review hearings following a standard review application or a summary review application.

A **review** hearing is not a court hearing, although it is still a 'quasi judicial' hearing. The rules are different for each **licensing authority** but the general principle is for the **licensing committee** to consider the application and the facts that have given rise to the review. They must then decide if the premises has undermined one of the 4 **licensing objectives**.

If the committee feels the **licensing objectives** have been undermined they must then decide what action is required to remedy this.

At a **review** hearing the **licensing committee** may do any, or more than one of the following:

- nothing
- issue a warning about future behavior
- modify the **conditions** on the **premises licence**, including changing the hours of the **licensable activities**
- remove a **licensable activity** from the **premises licence**
- remove the **DPS**
- suspend the **premises licence** for a period of up to 3 months
- revoke the **premises licence**.

At a **review** hearing, the **licensing committee** will not only look at your conduct leading up to a review, but also your conduct between receiving the review and the date of the hearing.

At the hearing you must be able to demonstrate that you have operated the premises in such a way as to promote the **licensing objectives**. Any further problems will be taken as a sign that the premises cannot deal with any issues properly.

Evidence of good practice

It is important for you to show that you have the proper systems in place to deal with the issues complained of. It may be necessary to provide evidence to the **licensing committee** showing some or all of the following:

- staff training records
- complaint log books, incident logs or noise check logs
- **CCTV** footage
- management plans and procedures
- policy documents, such as a dispersal policy or a garden management policy
- proof of age scheme documents and refusals log.

Your **Pub Partners BDM** and the **Pub Partners** licensing team will be able to assist in putting together any evidence that you want to rely on at a **hearing**.

Playing music, showing films and live television

Playing music

It is an offence to play music in a premises without permission of the copyright holder of that music. Copyright in music is owned by 2 parties: the song writer and the song publisher. Royalties for most popular music found on mainstream radio, jukeboxes and playlists are collected by 2 organisations: PRS and PPL. PRS act for the artists and PPL for the publishers.

Playing of any music in public or for staff requires the correct permission from the rights holders and a fee must be paid for this right to both PRS and PPL.

PRS can be found at: <https://www.prsformusic.com/>

PPL can be found at: <https://www.ppluk.com/>

It is an offence not to obtain the correct authorisation which can lead to prosecution.

Showing films (movies)

Showing pre-recorded films is a licensable activity. Before you show any films (for instance, hosting a cinema club night) you must check your licence permits it, or obtain a TEN for a one-off event.

In addition, the copyright holders of the film are entitled to payment for a public showing of that film. This can be relatively cheap and easy to obtain for mainstream cinema releases. However, different organisations collect for various film producers. You will need to find the rights holder for the film you wish to show. Common film rights holders are: Filmbank, BFI and MPLC, all of which advertise which producers they collect for and how much they charge for showing one of their films.

Live television

Live television is not a licensable activity and therefore you do not need a special permission on the premises licence to do so. Free to air television is usually permitted without the need to pay a fee, unless you are charging customers to enter the premises.

Broadcasting live sport without the proper permission

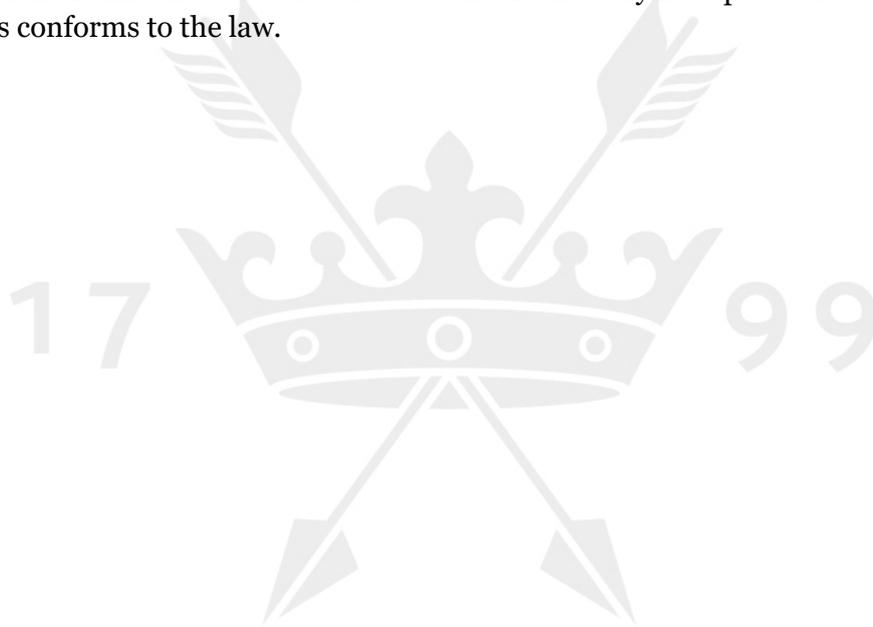
It is illegal to broadcast live sports provided by a UK provider, such as Sky Sports or BT sports without the correct permission to do so. The permission required is a commercial licence to permit the showing of sports in public. A licence to watch sports in private is not acceptable.

A lot of providers of foreign satellite boxes have sought to suggest that they have a system that allows you to legally show live football matches, such as the Premier League, without having to pay for a commercial licence. All of them to date have been found to be either illegal or in breach of the broadcaster's copyright. The offences that can be committed are:

- dishonestly receiving a programme included in a broadcast with intent to avoid payment of the applicable charge (criminal offence); and/or
- infringing the copyright in the broadcast (UK football rights are owned by the FA Premier League - FAPL) by making a copy of the broadcast available to the public (civil offence).

Large fines have been handed down to premises operators if found guilty. Recently, the fines for being found guilty of the criminal offence of dishonestly receiving a programme have been increased and are now unlimited for each offence. Fines of many tens of thousands of pounds have been levied against premises found to be showing matches illegally.

Greene King Pub partners will not support anyone found guilty of an offence relating to provision of unlicensed TV. You need to ensure that any live sports shown in your premises conforms to the law.



Section 13: Poster templates

The following template posters and notices can be used in order to ensure compliance with **premises licence conditions** or for good management of the premises.

This section includes the following notices:

- respect for neighbours
- local taxi details
- zero tolerance policy on drugs
- search policy notice
- no drinks outside
- we are members of **pubwatch**
- take care of personal belongings
- **CCTV** in operation
- **CCTV** coverage in toilets
- children to be off the premises.

Please note that you will need to ensure that you amend the notices as necessary in order to comply with your **premises licence conditions**

Section 14: Template management plans and policies

Management plans

More and more, premises are expected to have specific management plans for various responsibilities. You may find some of these plans are required by **conditions** on the **premises licence**.

Below is a step by step guide of how to create a management plan. This is a tool that you can use to create documents specifically for your premises.

How to draft a management plan:

Identify the issues

- determine what the management plan is seeking to address
- create headings and sub-headings for each section
- cross-reference to the minutes of any meetings that have taken place to ensure that all topics and issues are covered
- check the **conditions** of the **premises licence** to ensure you've looked at everything you are obliged to do by the **premises licence**.

Draft specific plans

For each topic identify:

- what needs to be done and why
- what times it needs to be done
- who's going to do it
- how will you know it's been done.

Make the instructions stand out from any commentary. This will make it easier to identify what needs doing.

Where required, make reference to other documents, for example a refusals log, and state where these can be found.

Set deadlines and build in checks

- always try to set targets for each plan (i.e. write the expected result of undertaking an action)
- make sure the plan is flexible and can be adapted to new issues. For instance, if there is a meeting with residents and an agreed action comes from it, there should be something in the plan setting out who will be responsible for updating the plan

- put in a date to review the plan periodically (i.e. every 6 months).

The following pages contain template policies and management documents to be used as required for the proper management of the premises.

These policies are templates only and cannot be used without adapting them for the premises and to reflect the conditions on the **premises licence**

This section contains the following:

- age verification policy
- risk assessment: use of polycarbonates
- search policy
- ejection policy
- management of smoking area
- **CCTV** policy
- special events policy
- dealing with customer complaints
- management of tables and chairs outside
- licensing risk register
- licensing due diligence log.
- Incident and crime scene management policy
- Garden/ external area management policy

Appendices

1. Mandatory conditions
2. Table of offences under the **licensing act**
3. **CCTV** in pubs frequently asked questions



Licensing Act 2003: Mandatory conditions (as at 01/10/2019)

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.



(3) The policy must require 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 bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

7. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8 (i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(ii) For the purposes of the condition set out in paragraph 8(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$P = D + (D \times V)$

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,



(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

9. All persons guarding against the premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

Licensing Act 2003: List of offences

136 Unauthorised licensable activities

- (1) A person commits an offence if
 - (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation
 - (b) he knowingly allows a licensable activity to be so carried on.
- (2) Where the licensable activity in question is the provision of regulated entertainment, a person does not commit an offence under this section if his only involvement in the provision of the entertainment is that he
 - (a) performs in a play
 - (b) participates as a sportsman in an indoor sporting event
 - (c) boxes or wrestles in a boxing or wrestling entertainment
 - (d) performs live music
 - (e) plays recorded music
 - (f) performs dance, or
 - (g) does something coming within paragraph 2(1)(h) of schedule 1 (entertainment similar to music, dance, etc.).
- (3) Subsection (2) is to be construed in accordance with part 3 of Schedule 1.
- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine or to both.
- (5) In this part “authorisation” means
 - (a) a premises licence
 - (b) a club premises certificate, or
 - (c) a temporary event notice in respect of which the conditions of section 98(2) to (4) are satisfied.

137 Exposing alcohol for unauthorised sale

- (1) A person commits an offence if, on any premises, he exposes for sale by retail any alcohol in circumstances where the sale by retail of that alcohol on those premises would be an unauthorised licensable activity.
- (2) For that purpose a licensable activity is unauthorised unless it is under and in accordance with an authorisation.

- (3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine or to both.
- (4) The court by which a person is convicted of an offence under this section may order the alcohol in question, and any container for it, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

138 Keeping alcohol on premises for unauthorised sale etc.

- (1) A person commits an offence if he has in his possession or under his control alcohol which he intends to sell by retail or supply in circumstances where that activity would be an unauthorised licensable activity.
- (2) For that purpose a licensable activity is unauthorised unless it is under and in accordance with an authorisation.
- (3) In subsection (1) the reference to the supply of alcohol is a reference to the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) The court by which a person is convicted of an offence under this section may order the alcohol in question, and any container for it, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

139 Defence of due diligence

- (1) In proceedings against a person for an offence to which subsection (2) applies, it is a defence that
 - (a) his act was due to a mistake, or to reliance on information given to him, or to an act or omission by another person, or to some other cause beyond his control, and
 - (b) he took all reasonable precautions and exercised all due diligence to avoid committing the offence
- (2) This subsection applies to an offence under -
 - (a) section 136(1)(a) (carrying on unauthorised licensable activity)
 - (b) section 137 (exposing alcohol for unauthorised sale), or
 - (c) section 138 (keeping alcohol on premises for unauthorised sale).

Drunkeness and disorderly conduct

140 Allowing disorderly conduct on licensed premises etc.

- (1) A person to whom subsection (2) applies commits an offence if he knowingly allows disorderly conduct on relevant premises.
- (2) This subsection applies
 - (a) to any person who works at the premises in a capacity, whether paid or unpaid, which authorises him to prevent the conduct
 - (b) in the case of licensed premises, to
 - (i) the holder of a premises licence in respect of the premises, and
 - (ii) the designated premises supervisor (if any) under such a licence
 - (c) in the case of premises in respect of which a club premises certificate has effect, to any member or officer of the club which holds the certificate who at the time the conduct takes place is present on the premises in a capacity which enables him to prevent it, and
 - (d) in the case of premises which may be used for a permitted temporary activity by virtue of Part 5, to the premises user in relation to the temporary event notice in question.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

141 Sale of alcohol to a person who is drunk

- (1) A person to whom subsection (2) applies commits an offence if, on relevant premises, he knowingly
 - (a) sells or attempts to sell alcohol to a person who is drunk, or
 - (b) allows alcohol to be sold to such a person
- (2) This subsection applies
 - (a) to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to sell the alcohol concerned
 - (b) in the case of licensed premises, to
 - (i) the holder of a premises licence in respect of the premises, and
 - (ii) the designated premises supervisor (if any) under such a licence
 - (c) in the case of premises in respect of which a club premises certificate has effect, to any member or officer of the club which holds the certificate who at the time the sale (or attempted sale) takes place is present on the premises in a capacity which enables him to prevent it, and

- (d) in the case of premises which may be used for a permitted temporary activity by virtue of Part 5, to the premises user in relation to the temporary event notice in question.
- (3) This section applies in relation to the supply of alcohol by or on behalf of a club to or to the order of a member of the club as it applies in relation to the sale of alcohol.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

142 Obtaining alcohol for a person who is drunk

- (1) A person commits an offence if, on relevant premises, he knowingly obtains or attempts to obtain alcohol for consumption on those premises by a person who is drunk.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

143 Failure to leave licensed premises etc.

- (1) A person who is drunk or disorderly commits an offence if, without reasonable excuse
 - (a) he fails to leave relevant premises when requested to do so by a constable or by a person to whom subsection (2) applies, or
 - (b) he enters or attempts to enter relevant premises after a constable or a person to whom subsection (2) applies has requested him not to enter.
- (2) This subsection applies
 - (a) to any person who works at the premises in a capacity, whether paid or unpaid, which authorises him to make such a request
 - (b) in the case of licensed premises, to
 - (i) the holder of a premises licence in respect of the premises, or
 - (ii) the designated premises supervisor (if any) under such a licence
 - (c) in the case of premises in respect of which a club premises certificate has effect, to any member or officer of the club which holds the certificate who is present on the premises in a capacity which enables him to make such a request, and
 - (d) in the case of premises which may be used for a permitted temporary activity by virtue of Part 5, to the premises user in relation to the temporary event notice in question.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

- (4) On being requested to do so by a person to whom subsection (2) applies, a constable must
 - (a) help to expel from relevant premises a person who is drunk or disorderly;
 - (b) help to prevent such a person from entering relevant premises.

Smuggled goods

144 Keeping of smuggled goods

- (1) A person to whom subsection (2) applies commits an offence if he knowingly keeps or allows to be kept, on any relevant premises, any goods which have been imported without payment of duty or which have otherwise been unlawfully imported.
- (2) This subsection applies
 - (a) to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to prevent the keeping of the goods on the premises,
 - (b) in the case of licensed premises, to
 - (i) the holder of a premises licence in respect of the premises, and
 - (ii) the designated premises supervisor (if any) under such a licence
 - (c) in the case of premises in respect of which a club premises certificate has effect, to any member or officer of the club which holds the certificate who is present on the premises at any time when the goods are kept on the premises in a capacity which enables him to prevent them being so kept, and
 - (d) in the case of premises which may be used for a permitted temporary activity by virtue of Part 5, to the premises user in relation to the temporary event notice in question.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) The court by which a person is convicted of an offence under this section may order the goods in question, and any container for them, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

Children and alcohol

145 Unaccompanied children prohibited from certain premises

- (1) A person to whom subsection (3) applies commits an offence if

- (a) knowing that relevant premises are within subsection (4), he allows an unaccompanied child to be on the premises at a time when they are open for the purposes of being used for the supply of alcohol for consumption there, or
 - (b) he allows an unaccompanied child to be on relevant premises at a time between the hours of midnight and 5 a.m. when the premises are open for the purposes of being used for the supply of alcohol for consumption there.
- (2) For the purposes of this section
- (a) “child” means an individual aged under 16
 - (b) a child is unaccompanied if he is not in the company of an individual aged 18 or over.
- (3) This subsection applies
- (a) to any person who works at the premises in a capacity, whether paid or unpaid, which authorises him to request the unaccompanied child to leave the premises
 - (b) in the case of licensed premises, to
 - (i) the holder of a premises licence in respect of the premises, and
 - (ii) the designated premises supervisor (if any) under such a licence
 - (c) in the case of premises in respect of which a club premises certificate has effect, to any member or officer of the club which holds the certificate who is present on the premises in a capacity which enables him to make such a request, and
 - (d) in the case of premises which may be used for a permitted temporary activity by virtue of Part 5, to the premises user in relation to the temporary event notice in question.
- (4) Relevant premises are within this subsection if
- (a) they are exclusively or primarily used for the supply of alcohol for consumption on the premises, or
 - (b) they are open for the purposes of being used for the supply of alcohol for consumption on the premises by virtue of Part 5 (permitted temporary activities) and, at the time the temporary event notice in question has effect, they are exclusively or primarily used for such supplies.
- (5) No offence is committed under this section if the unaccompanied child is on the premises solely for the purpose of passing to or from some other place to or from which there is no other convenient means of access or egress.
- (6) Where a person is charged with an offence under this section by reason of his own conduct it is a defence that

- (a) he believed that the unaccompanied child was aged 16 or over or that an individual accompanying him was aged 18 or over, and
- (b) either
 - (i) he had taken all reasonable steps to establish the individual's age, or
 - (ii) nobody could reasonably have suspected from the individual's appearance that he was aged under 16 or, as the case may be, under 18.
- (7) For the purposes of subsection (6), a person is treated as having taken all reasonable steps to establish an individual's age if
 - (a) he asked the individual for evidence of his age, and
 - (b) the evidence would have convinced a reasonable person.
- (8) Where a person ("the accused") is charged with an offence under this section by reason of the act or default of some other person, it is a defence that the accused exercised all due diligence to avoid committing it.
- (9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) In this section "supply of alcohol" means
 - (a) the sale by retail of alcohol, or
 - (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

146 Sale of alcohol to children

- (1) A person commits an offence if he sells alcohol to an individual aged under 18.
- (2) A club commits an offence if alcohol is supplied by it or on its behalf
 - (a) to, or to the order of, a member of the club who is aged under 18, or
 - (a) to the order of a member of the club, to an individual who is aged under 18.
- (3) A person commits an offence if he supplies alcohol on behalf of a club
 - (a) to, or to the order of, a member of the club who is aged under 18, or
 - (b) to the order of a member of the club, to an individual who is aged under 18.
- (4) Where a person is charged with an offence under this section by reason of his own conduct it is a defence that

- (a) he believed that the individual was aged 18 or over, and
- (b) either
 - (i) he had taken all reasonable steps to establish the individual's age, or
 - (ii) nobody could reasonably have suspected from the individual's appearance that he was aged under 18.
- (5) For the purposes of subsection (4), a person is treated as having taken all reasonable steps to establish an individual's age if
 - (a) he asked the individual for evidence of his age, and
 - (b) the evidence would have convinced a reasonable person.
- (6) Where a person ("the accused") is charged with an offence under this section by reason of the act or default of some other person, it is a defence that the accused exercised all due diligence to avoid committing it.
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

147 Allowing the sale of alcohol to children

- (1) A person to whom subsection (2) applies commits an offence if he knowingly allows the sale of alcohol on relevant premises to an individual aged under 18.
- (2) This subsection applies to a person who works at the premises in a capacity, whether paid or unpaid, which authorises him to prevent the sale.
- (3) A person to whom subsection (4) applies commits an offence if he knowingly allows alcohol to be supplied on relevant premises by or on behalf of a club
 - (a) to or to the order of a member of the club who is aged under 18, or
 - (b) to the order of a member of the club, to an individual who is aged under 18.
- (4) This subsection applies to
 - (a) a person who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the supply, and
 - (b) any member or officer of the club who at the time of the supply is present on the relevant premises in a capacity which enables him to prevent it.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

147A Persistently selling alcohol to children

- (1) A person is guilty of an offence if
 - (a) on [F22 or more different occasions] within a period of 3 consecutive months alcohol is unlawfully sold on the same premises to an individual aged under 18
 - (b) at the time of each sale the premises were either licensed premises or premises authorised to be used for a permitted temporary activity by virtue of Part 5; and
 - (c) that person was a responsible person in relation to the premises at each such time.
- (2) For the purposes of this section alcohol sold to an individual aged under 18 is unlawfully sold to him if
 - (a) the person making the sale believed the individual to be aged under 18; or
 - (b) that person did not have reasonable grounds for believing the individual to be aged 18 or over.
- (3) For the purposes of subsection (2) a person has reasonable grounds for believing an individual to be aged 18 or over only if
 - (a) he asked the individual for evidence of his age and that individual produced evidence that would have convinced a reasonable person; or
 - (b) nobody could reasonably have suspected from the individual's appearance that he was aged under 18.
- (4) A person is, in relation to premises and a time, a responsible person for the purposes of subsection (1) if, at that time, he is
 - (a) the person or one of the persons holding a premises licence in respect of the premises; or
 - (b) the person or one of the persons who is the premises user in respect of a temporary event notice by reference to which the premises are authorised to be used for a permitted temporary activity by virtue of Part 5.
- (5) The individual to whom the sales mentioned in subsection (1) are made may, but need not be, the same in each case.
- (6) The same sale may not be counted in respect of different offences for the purpose
 - (a) of enabling the same person to be convicted of more than one offence under this section; or
 - (b) of enabling the same person to be convicted of both an offence under this section and an offence under section 146 or 147.

- (7) In determining whether an offence under this section has been committed, the following shall be admissible as evidence that there has been an unlawful sale of alcohol to an individual aged under 18 on any premises on any occasion
 - (a) the conviction of a person for an offence under section 146 in respect of a sale to that individual on those premises on that occasion;
 - (b) the giving to a person of a caution (within the meaning of Part 5 of the Police Act 1997) in respect of such an offence; or
 - (c) the payment by a person of a fixed penalty under Part 1 of the Criminal Justice and Police Act 2001 in respect of such a sale.
- (8) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine.
- (9) The Secretary of State may by order amend subsection (8) to increase the maximum fine for the time being specified in that subsection.

147B Order suspending a licence in respect of offence under section 147

- (1) Where the holder of a premises licence is convicted of an offence under section 147A in respect of sales on the premises to which the licence relates, the court may order that so much of the licence as authorises the sale by retail of alcohol on those premises is suspended for a period not exceeding three months.
- (2) Where more than one person is liable for an offence under section 147A relating to the same sales, no more than one order under subsection (1) may be made in relation to the premises in question in respect of convictions by reference to those sales.
- (3) Subject to subsections (4) and (5), an order under subsection (1) comes into force at the time specified by the court that makes it.
- (4) Where a Magistrates' Court makes an order under subsection (1), it may suspend its coming into force pending an appeal.
- (5) Section 130 (powers of appellate court to suspend section 129 order) applies (with the omission of subsection (9)) where an order under subsection (1) is made on conviction of an offence under section 147A as it applies where an order under section 129 is made on conviction of a relevant offence in Part 6.]

149 Purchase of alcohol by or on behalf of children

- (1) An individual aged under 18 commits an offence if
 - (a) he buys or attempts to buy alcohol, or
 - (b) where he is a member of a club

- (i) alcohol is supplied to him or to his order by or on behalf of the club, as a result of some act or default of his, or
 - (ii) he attempts to have alcohol supplied to him or to his order by or on behalf of the club.
- (2) But subsection (1) does not apply where the individual buys or attempts to buy the alcohol at the request of
 - (a) a constable, or
 - (b) a weights and measures inspector, who is acting in the course of his duty.
- (3) A person commits an offence if
 - (a) he buys or attempts to buy alcohol on behalf of an individual aged under 18,
or
 - (b) where he is a member of a club, on behalf of an individual aged under 18 he
 - (i) makes arrangements whereby alcohol is supplied to him or to his order by or on behalf of the club, or
 - (ii) attempts to make such arrangements.
- (4) A person (“the relevant person”) commits an offence if
 - (a) he buys or attempts to buy alcohol for consumption on relevant premises by an individual aged under 18, or
 - (b) where he is a member of a club
 - (i) by some act or default of his, alcohol is supplied to him, or to his order, by or on behalf of the club for consumption on relevant premises by an individual aged under 18, or
 - (ii) he attempts to have alcohol so supplied for such consumption.
- (5) But subsection (4) does not apply where
 - (a) the relevant person is aged 18 or over,
 - (b) the individual is aged 16 or 17,
 - (c) the alcohol is beer, wine or cider,
 - (d) its purchase or supply is for consumption at a table meal on relevant premises, and
 - (e) the individual is accompanied at the meal by an individual aged 18 or over.

- (6) Where a person is charged with an offence under subsection (3) or (4) it is a defence that he had no reason to suspect that the individual was aged under 18.
- (7) A person guilty of an offence under this section is liable on summary conviction -
 - (a) in the case of an offence under subsection (1), to a fine not exceeding level 3 on the standard scale, and
 - (b) in the case of an offence under subsection (3) or (4), to a fine not exceeding level 5 on the standard scale.

150 Consumption of alcohol by children

- (1) An individual aged under 18 commits an offence if he knowingly consumes alcohol on relevant premises.
- (2) A person to whom subsection (3) applies commits an offence if he knowingly allows the consumption of alcohol on relevant premises by an individual aged under 18.
- (3) This subsection applies
 - (a) to a person who works at the premises in a capacity, whether paid or unpaid, which authorises him to prevent the consumption, and
 - (b) where the alcohol was supplied by a club to or to the order of a member of the club, to any member or officer of the club who is present at the premises at the time of the consumption in a capacity which enables him to prevent it.
- (4) Subsections (1) and (2) do not apply where
 - (a) the individual is aged 16 or 17,
 - (b) the alcohol is beer, wine or cider,
 - (c) its consumption is at a table meal on relevant premises, and
 - (d) the individual is accompanied at the meal by an individual aged 18 or over.
- (5) A person guilty of an offence under this section is liable on summary conviction -
 - (a) in the case of an offence under subsection (1), to a fine not exceeding level 3 on the standard scale, and
 - (b) in the case of an offence under subsection (2), to a fine not exceeding level 5 on the standard scale.

151 Delivering alcohol to children

- (1) A person who works on relevant premises in any capacity, whether paid or unpaid, commits an offence if he knowingly delivers to an individual aged under 18 -
 - (a) alcohol sold on the premises, or
 - (b) alcohol supplied on the premises by or on behalf of a club to or to the order of a member of the club.
- (2) A person to whom subsection (3) applies commits an offence if he knowingly allows anybody else to deliver to an individual aged under 18 alcohol sold on relevant premises.
- (3) This subsection applies to a person who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the delivery of the alcohol.
- (4) A person to whom subsection (5) applies commits an offence if he knowingly allows anybody else to deliver to an individual aged under 18 alcohol supplied on relevant premises by or on behalf of a club to or to the order of a member of the club.
- (5) This subsection applies
 - (a) to a person who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the supply, and
 - (b) to any member or officer of the club who at the time of the supply in question is present on the premises in a capacity which enables him to prevent the supply.
- (6) Subsections (1), (2) and (4) do not apply where
 - (a) the alcohol is delivered at a place where the buyer or, as the case may be, person supplied lives or works, or
 - (b) the individual aged under 18 works on the relevant premises in a capacity, whether paid or unpaid, which involves the delivery of alcohol, or
 - (c) the alcohol is sold or supplied for consumption on the relevant premises.
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

152 Sending a child to obtain alcohol

- (1) A person commits an offence if he knowingly sends an individual aged under 18 to obtain
 - (a) alcohol sold or to be sold on relevant premises for consumption off the premises, or

- (b) alcohol supplied or to be supplied by or on behalf of a club to or to the order of a member of the club for such consumption.
- (2) For the purposes of this section, it is immaterial whether the individual aged under 18 is sent to obtain the alcohol from the relevant premises or from other premises from which it is delivered in pursuance of the sale or supply.
- (3) Subsection (1) does not apply where the individual aged under 18 works on the relevant premises in a capacity, whether paid or unpaid, which involves the delivery of alcohol.
- (4) Subsection (1) also does not apply where the individual aged under 18 is sent by
 - (a) a constable, or
 - (b) a weights and measures inspector, who is acting in the course of his duty.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

153 Prohibition of unsupervised sales by children

- (1) A responsible person commits an offence if on any relevant premises he knowingly allows an individual aged under 18 to make on the premises
 - (a) any sale of alcohol, or
 - (b) any supply of alcohol by or on behalf of a club to or to the order of a member of the club, unless the sale or supply has been specifically approved by that or another responsible person.
- (2) But subsection (1) does not apply where
 - (a) the alcohol is sold or supplied for consumption with a table meal,
 - (b) it is sold or supplied in premises which are being used for the service of table meals (or in a part of any premises which is being so used), and
 - (c) the premises are (or the part is) not used for the sale or supply of alcohol otherwise than to persons having table meals there and for consumption by such a person as an ancillary to his meal.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (4) In this section “responsible person” means
 - (a) in relation to licensed premises
 - (i) the holder of a premises licence in respect of the premises,
 - (ii) the designated premises supervisor (if any) under such a licence, or

- (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor,
- (b) in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question, and
- (c) in relation to premises which may be used for a permitted temporary activity by virtue of Part 5
 - (i) the premises user, or
 - (ii) any individual aged 18 or over who is authorised for the purposes of this section by the premises user.

154 Enforcement role for weights and measures authorities

- (1) It is the duty of every local weights and measures authority in England and Wales to enforce within its area the provisions of sections 146 and 147, so far as they apply to sales of alcohol made on or from premises to which the public have access.
- (2) A weights and measures inspector may make, or authorise any person to make on his behalf, such purchases of goods as appear expedient for the purpose of determining whether those provisions are being complied with.

155 Confiscation of sealed containers of alcohol

- (1) In section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 (c. 33) (right to require surrender of alcohol)
 - (a) in subsection (1), omit “(other than a sealed container)”,
 - (b) ...
 - (c) ...
- (2) In section 12 (2) (b) of the Criminal Justice and Police Act 2001 (c. 16) (right to require surrender of alcohol), omit “(other than a sealed container)”.

Vehicles and trains

156 Prohibition on sale of alcohol on moving vehicles

- (1) A person commits an offence under this section if he sells by retail alcohol on or from a vehicle at a time when the vehicle is not permanently or temporarily parked.
- (2) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine, or to both.
- (3) In proceedings against a person for an offence under this section, it is a defence that

- (a) his act was due to a mistake, or to reliance on information given to him, or to an act or omission by another person, or to some other cause beyond his control, and
- (b) he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

157 Power to prohibit sale of alcohol on trains

- (1) A Magistrates' Court [acting for the local justice area] may make an order prohibiting the sale of alcohol, during such period as may be specified, on any railway vehicle
 - (a) at such station or stations as may be specified, being stations in that area, or
 - (b) travelling between such stations as may be specified, at least one of which is in that area.
- (2) A magistrates' court may make an order under this section only on the application of a senior police officer.
- (3) A magistrates' court may not make such an order unless it is satisfied that the order is necessary to prevent disorder.
- (4) Where an order is made under this section, the responsible senior police officer must, forthwith, serve a copy of the order on the train operator (or each train operator) affected by the order.
- (5) A person commits an offence if he knowingly
 - (a) sells or attempts to sell alcohol in contravention of an order under this section, or
 - (b) allows the sale of alcohol in contravention of such an order.
- (6) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine or to both.
- (7) In this section "railway vehicle" has the meaning given by section 83 of the Railways Act 1993; "responsible senior police officer", in relation to an order under this section, means the senior police officer who applied for the order or, if the chief officer of police of the force in question has designated another senior police officer for the purpose, that other officer; "senior police officer" means a police officer of, or above, the rank of inspector; "specified" means specified in the order under this section; "station" has the meaning given by section 83 of the Railways Act 1993 (c. 43); and "train operator" means a person authorised by a licence under section 8 of that Act to operate railway assets (within the meaning of section 6 of that Act).

158 False statements made for the purposes of this Act

- (1) A person commits an offence if he knowingly or recklessly makes a false statement in or in connection with

- (a) an application for the grant, variation, transfer or review of a premises licence or club premises certificate,
 - (b) an application for a provisional statement,
 - (c) a temporary event notice, an interim authority notice or any other notice under this Act,
 - (d) an application for the grant or renewal of a personal licence, or
 - (e) a notice within section 178(1) (notice by freeholder etc. conferring right to be notified of changes to licensing register).
- (2) For the purposes of subsection (1) a person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.



Meaning of words and phrases

Annual fee – A fee payable every year in order to ensure the premises licence can continue to be used. The fee is based on the pubs non domestic rateable value.

Appeal – Appeal of a licensing committee decision to the Magistrates Court.

Attached conditions – Conditions that are either put on the premises licence because we have offered them as part of our operating schedule, or have been agreed following submission of an application.

AWP - Amusement with prizes gaming machines.

BDM - Business development manager.

Blue notice of application- The notice displayed at the premises when making a new licence or full variation application. Must be displayed for a minimum of 28 days.

Certificate of display - Certificate sent to the licensing authority as part of any licence application to certify that the proper notice was displayed for the statutory period at the premises

CCTV - Closed circuit television.

Challenge 21 - A Government approval scheme encouraging staff of licensed premises to ask for identification from anyone who appears under the age of 21 and who is trying to buy age restricted products such as alcohol or tobacco.

Challenge 25 - A Government approval scheme encouraging staff of licensed premises to ask for identification from anyone who appears under the age of 25 and who is trying to buy age restricted products such as alcohol or tobacco.

Closure notice – A notice issued under S19 Criminal Justice and Police Act 2001 ordering the remedy of breaches of a premises licence within 7 days. Failure to comply can lead to the police applying to the Magistrates Court for closure.

Closure order - An order served on a premises in instances of crime and disorder where the premises must close. This is authorised by the rank of superintendent or above.

Conditions – These are the restrictions and obligations imposed on a premises licence which you must follow to ensure the licensing objectives are promoted. The come in the form of mandatory or attached conditions.

Consultation period – The time period in which representations can be made in response to a licensing application.

Core hours – Fixed hours during which premises licences will generally be granted. This is only applicable to some licensing authorities.

Cumulative impact (CI) – Geographic areas that have been deemed to have a concentration of licensed premises. The number of premises can lead to a potential impact on the promotion of the licensing objectives. Often called cumulative impact areas or zones and stress areas. Special policy provisions restricting the grant or variation of licenses within these areas may apply.

DBS check - A check of the criminal record system by the Disclosure and Barring Service to see whether there are any offences listed against your name. Previously be called a CRB check

Designated premises supervisor (DPS) - Any premises at which alcohol is sold or supplied must by law have someone named on the premises licence who is the 'responsible person' for the sale and supply of alcohol known as the DPS. The DPS must hold a valid personal licence.

Doorstaff – SIA registered door supervisors.

Early morning restriction orders (EMRO) - Power for an order made by the local authority to set specific times for the sale of alcohol in designated areas.

Fixed penalty notice - A fixed penalty notice is an admission of guilt of an offence. For licensing fixed penalty notices can be issued for selling alcohol to someone under 18 and selling alcohol to a drunken person.

GDPR – General Data Protection Regulations

Guidance issued under Section 182 of the Licensing Act 2003 (the Guidance) – Issued by the Secretary of State and amended from time to time. Sets out what is expected of licensing authorities and licence holders under the Licensing Act 2003.

Hearing – The meeting where a licensing application or review is determined by the licensing sub-committee.

Interested party - A resident or business that makes a representation to a licence application or brings a review. An interested party no longer has to live or work in the immediate vicinity of the premises.

Interim authority notice - Special arrangements for the continuation of permissions under a premises licence where the holder of a licence dies suddenly or

becomes insolvent or mentally incapable. Without an interim authority notice, the premises licence would lapse.

Late night levy - A tax for licensed premises selling alcohol past midnight in a local authority area where the levy has been introduced.

Late night refreshment - Permission from a licensing authority to serve food/hot drinks between 11pm and 5am.

Licensable activities - Activities which require a premises licence as prescribed by the Licensing Act 2003. These are:

- sale by retail of alcohol
- supply of alcohol
- provision of regulated entertainment
- provision of late night refreshment.

Licensed premises – The premises for which a premises licence has been granted.

Licensing Act 2003 (licensing act) – The enabling legislation for all premises licensed for the sale of alcohol, regulated entertainment or late night refreshment.

Licensing authority - The local authority who deals with the processing and administration of the licensing process. They are also a responsible authority and can make representations in response to licensing applications and bring reviews.

Licensing committee - A committee of elected councillors who determine licensing applications on behalf of the licensing authority. They may sit as a full committee, usually 15 councillors, or as a sub-committee of 3.

Licensing objectives – The basis upon which the Licensing Act 2003 is founded. It is the responsibility of premises licence holders and operators of premises undertaking licensable activities to promote these four fundamental objectives:

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

Licensing plan - The approved licensing layout plan which is attached to a premises licence and shows the extent of the licensed premises.

Licensing policy – The local licensing authority's policy on how they deal with alcohol licensing. Often includes information about CIAs, EMROs and LNL.

Live Music Act 2012 (Live Music Act) - Extends the range of live music performances that can take place without a licence under the Licensing Act 2003.

Mandatory conditions - Standard conditions set by central government and applicable to all premises licences.

Minor variation application – A type of licensing application used for small changes to the licence which cannot have a negative impact on the licensing objectives. The use of this application type is subject to strict criteria. This application type has a 10 working day consultation period. Anything falling outside of this criterion will require a variation application to be submitted.

New premises licence application– An application for the grant of a new premises licence. This application type has a 28 day consultation period.

Noise abatement notice – A notice issued under the Environmental Protection Act 1990 by an environmental health officer ordering noise nuisance to cease immediately. Breach of a notice can lead to prosecution.

Non standard timings - Hours outside the stated timings which a premises is permitted to trade such as new years eve and bank holidays.

On-sales - Sale of alcohol for consumption on the premises.

Off-sales – Sale of alcohol for consumption off the premises.

Operating schedule - A document which sets out how the premises will be operated and forms the basis of the conditions on a premises licence.

Pavement licence – Permission from the local authority to put tables and chairs on the pavement. Sometimes known as street café or tables and chairs licences.

Premises licence – The licence issued under the Licensing Act 2003 by the licensing authority for which the premises is situated. The licence provides the permission for licensable activities to take place and sets out the conditions that must be followed. It is sometimes referred to as part A.

Premises licence summary – A summary of the main part of the premises licence. It is sometimes referred to as part B.

Proof of Age Standards Scheme (PASS) – The UK's national proof of age accreditation scheme, endorsed by the Home Office, the Association of Chief Police

Officers (ACPO), the Security Industry Authority (SIA) and the Trading Standards Institute (TSI).

Personal licence - A licence issued to an individual person which permits them to authorise the sale of alcohol. In order to be a DPS a person must hold a personal licence.

PPL - Phonographic Performance Licence.

Polycarbonates – Plastic glasses.

Premises licence - A licence issued under the Licensing Act 2003 which permits the carrying out of licensable activities over the area set out in the plan attached to the premises licence.

PRS - Performing Rights Society.

Pub Partners – The name given to Greene King's leased pub estate.

Pubwatch - A locally run group of licensed premises created to look at and liaise over issues associated with licensed premises within an area. They can also administer schemes for the benefit of the members such as banning schemes etc. They are often run in conjunction with the police and local authority.

PVSL – Public Video Screening licence.

Recorded music – Music pre-recorded and reproduced. In terms of recorded music as **regulated entertainment**, not to be confused with background or incidental music which is not considered to be **regulated entertainment** under the **licensing Act**.

Representation – An objection, either positive or negative, against a licensing application.

Regulated entertainment - Entertainment activities for which a premises licence is required:-

- plays (before 8am and after 11pm or for audiences of 500 or more)
- films (unless 'incidental' to another activity)
- boxing, wrestling and mixed martial arts
- indoor sports events (before 8am and after 11pm or for audiences of 1,000 or more)
- live music (unless exempt under the **Live Music Act**)

- recorded music (before 8am or after 11pm or for audiences of 500 or more, or exemption removed)
- performance of dance (before 8am and after 11pm or for audiences of 500 or more).

Relevant offence - A relevant offence is one that has been listed in Schedule 4 of the licensing act. An offence listed in this section permits the police to object to the grant of a personal licence if they feel that it would undermine the crime prevention objective. A conviction of a relevant offence by personal licence holder must be notified to them to the licensing authority that issued the licence.

Responsible authority - A responsible authority is an organisation on which an application for a new premises licence or a variation application is served. They are:-

- police
- fire authority
- environmental health department
- planning department
- authority responsible for health and safety
- trading standards
- child protection services
- health body
- licensing authority.

They can make representations to applications and bring review applications.

Review - The process for considering a premises licence where there are problems with the operation of the premises that negatively impact upon the four licensing objectives.

Section 57 notice – A notice displayed at premises stating who has control of the premises licence and where the premises licence or a certified copy can be found.

SIA - Security Industry Authority.

Summary review – A review brought by the police on grounds of serious crime and disorder. An interim steps hearing must be held within 48 hours and a full review hearing thereafter.

Suspension – The premises licence may be suspended for the non payment of the annual fee or by the licensing authority following a review.

SWP - Skills with prizes machines.

TENs - Temporary event notice. A permission granted by the licensing authority to hold one specified event where licensable activities are taking place.

Variation application – A variation to the premises licence which is too large to satisfy the criteria for a minor variation. This application type has a 28 day consultation period.

White notice of application - The notice displayed at the premises when making a minor variation application. Must be displayed for a minimum of 10 working days.

Works conditions - Conditions that are added to a premises licence when making a change of layout application. These can be removed administratively without a further application, once the works are completed. They are used to permit the premises to trade until the works are completed other than in strict accordance with the new plan.

