

NEW PREMISES LICENCE APPLICATION GUIDANCE

This Guidance is intended to help applicants complete the application form. Further information about the Licensing Act 2003 and other sources of help can be found on the DCMS website www.culture.gov.uk.

If you have any queries about completing the application form please contact the **Mid Devon District Council**. Alternatively, you may also wish to consider other sources of advice such as a relevant trade body, or by engaging professional assistance, such as legal advice.

The following is an extremely brief run through of important points for the application:

- All relevant sections of the application form must be completed in full
- Payment must be made before the application can be accepted
- If you are applying by post (hard copy) you must send copies of the application to all responsible authorities
- You must include a plan of the premises that complies with the regulations
- You must display a notice advertising the application outside the premises
- You must advertise your application in a publication circulated in the vicinity

We have no choice but to reject any application that does not comply with the legislative requirements. Information concerning each point above is given in the guidance that follows.

Completing the application form

In the opening statement, you should insert the name of the applicant or applicants who are applying for a licence e.g. 'John Smith' or 'Nice Pub Company'.

PART 1: Premises Details

This section asks for the address and some other details of the premises. If the premises has no postal address, for example, if the application relates to an event on open land, you should describe the location of the premises or give the Ordnance Survey map reference.

The section also asks for the non-domestic rateable value (NDRV) of the premises. This is not the same as the actual business rates which you pay, but is a value determined by the Valuation Office, which helps determine business rates. The NDRV will determine the fee level to be paid with the licence application and the annual fee thereafter. The NDRV of any premises can be checked on the Valuation Office Agency (VOA) website www.voa.gov.uk. Premises that do not have a NDRV are treated as falling into Band A for licensing fee purposes.

PART 2 – Applicant Details

This section asks you to state the capacity in which you are applying, for example as an individual, a limited company, a recognised club, a charity etc. You can only apply in one of these capacities so should only tick one box.

If you are applying as a person described in (a) or (b) you must also tick one of the three boxes at the end of this question. For the majority of applicants, the first box will apply (i.e. the applicant will be carrying on or proposing to carry on a business). An application pursuant to a 'statutory function' might be an application made by an agency of the Government (e.g. the Passport Agency) and an application pursuant to a 'function discharged by virtue of her majesty's prerogative' might be an application made by the Government (e.g. by a Secretary of State).

You should then give further details in either section **(A) INDIVIDUAL APPLICANTS** or section **(B) OTHER APPLICANTS**, but not both.

Part 3 – Operating Schedule

You should state the date you would like the licence to start. As the licence cannot come into operation until the second appointed day, that is the earliest date you can request. A premises licence will last indefinitely, unless otherwise stated in the box provided.

General description of the premises

You are asked to describe the premises. For example the type of premises it is, its general situation and layout and any other information that would be relevant to the licensing objectives. You should also describe any areas that you intend to provide for people to consume alcohol that you sell or supply such as outside areas e.g. beer gardens.

Should I include my beer garden on my premises licence?

That is for you to decide. In doing so, you will want to consider whether you might want to use the garden at some point in the future to sell alcohol – perhaps an outdoor bar at a barbeque or possibly through waited drinks service. Also, if you do not include the garden as part of the licensed premises, drinks that are bought to be consumed there will count as off supplies and any conditions that relate to off sales would apply. **If the beer garden is being provided for consumption of off-supplies, you must include a description of where the place is and its proximity to the premises.**

5,000 or more people attending

The question concerning the number of people attending the premises at any one time is necessary to determine whether an additional fee for large events should apply. It is not necessary to complete this box if you think that less than 5,000 people will attend the premises at any one time. The figure relates to the maximum number of people on the licensed premises, including employees, at any one time – not the total number over a period of time.

Licensable activities

You should indicate which licensable activities you wish to carry on by ticking the appropriate boxes. In considering what to put in this section, you should think about all the activities you may want to conduct at the premises in the future and consider whether any are licensable activities under the Act. After this, you should complete the corresponding boxes from A to M that relate to those activities. Only complete the boxes that relate to the activities you have ticked.

You should give timings using the 24-hour clock and only give details for days of the week when you intend the premises to be used for the licensable activities in question. The space marked 'state any seasonal variations', gives you the opportunity to include any, for example, longer hours or additional days during the summer. The space marked 'non-standard timings', gives you the opportunity to record occasions when the timings will change. For example, you may wish the activity to go on longer on Christmas Eve or weekends proceeding bank holidays.

Under 'non-standard timings' can I say that I will open late to cover Rugby World Cups, Australian Rules Football, or sporting events overseas that are broadcast late at night or early morning in the UK?

You can include whatever licensable activities you like, but should think about how these might be viewed by responsible authorities or interested parties. It might be worth talking to your licensing authority and the relevant responsible authorities first to see what conditions, if any, you might offer to reassure any concerns.

Except in box C (indoor sport) you are asked to indicate whether the activity is taking place indoors, outdoors or both. Indoors may include a tent. In the space marked 'Please give further details here', please state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified. Such statements would become conditions on the licence so think carefully about what you put.

BOXES A – K (Provision of regulated entertainment)

BOX A: Plays

A performance of any dramatic piece, (including rehearsal), whether involving improvisation or not, which is given wholly or in part by one or more persons present and performing in which the whole or a major proportion of what is done by the person(s) performing, whether by way of speech, singing or action, involves the playing of a role.

BOX B: Films

Any exhibition of moving pictures except where its sole or main purpose is to demonstrate a product, advertise goods or services or provide information, education or instruction, or if it consists or forms part of an exhibit put on show for any purposes of a museum or art gallery. The use of television or radio receivers is not licensable, except for the showing of pre-recorded programmes.

BOX C: Indoor sporting event

A sporting event is defined in the Act as any contest, exhibition or display of any sport in which physical skill is the predominant factor, and any form of physical recreation which is also engaged in for purposes of competition or display which takes place wholly inside a building, and at which the spectators are accommodated inside that building. This includes any roofed structure and could be a vehicle, vessel or moveable structure.

A venue with a roof that opens and closes is regarded under the Act as being an outdoor event and sporting activities in such venues are not licensable under the Act. But note that other activities at such venues (such as the sale of alcohol or live music) are licensable.

BOX D: Boxing or wrestling entertainment

Unlike other sports, boxing and wrestling is licensable whether held indoors or outdoors.

BOX E: Live music

If your premises is licensed for on-sales of alcohol and any performance takes place in front of an audience of no more than 200 people, then you do not need a licence to play amplified live music between 8.00am and 11.00pm.

A licence for amplified live music between 11.00pm and 8.00am is required, regardless of the size of the audience. Also, a licence is required at all times where the audience is more than 200 persons.

Likewise, a licence is not required to play unamplified live music between 8.00am and 11.00pm, but a licence is required between 11.00pm and 8.00am at all venues, regardless of the size of the audience.

Workplaces too are exempt from the need for a licence for amplified live music between 8.00am and 11.00pm before audiences of no more than 200 persons, if the premises is not otherwise licensed or licensed only for the provision of late night refreshment.

A licence is not required for the performance of live music if the performance is incidental to some other activity that is not in itself regulated entertainment.

BOX F: Recorded music

Your licence does not have to cover the playing of recorded music if it is incidental to some other activity which is not itself regulated entertainment, as this would be exempt. For example, background music in a supermarket is likely to be considered to be incidental. If you have a jukebox or a disc jockey at your premises you need to consider whether, in your particular case, this is incidental music or whether it is a licensable activity. If in doubt, discuss this with your licensing authority.

BOX G: Performances of dance

Morris dancing or any dancing of a similar nature is not licensable, nor is the performance of unamplified live music as an integral part of such dancing.

BOX H: Entertainment of a similar description to that falling within (e) live music, (f) recorded music or (g) performance of dance

BOX I (the provision of late night refreshment)

This covers the supply of hot food or drink between 11:00pm and 5:00am, although there are several exemptions. Hot drinks consisting of, or containing alcohol, should be authorised under the supply of alcohol, rather than late night refreshment.

A hot drink from a vending machine where the customer inserts the payment into the machine and the drink is supplied directly by the machine is not licensable, but would be if a member of staff takes the money or serves the drink.

Free hot food or hot drink is not licensable, nor is that supplied by a registered charity or by a person authorised by a registered charity.

Hot food or hot drink supplied on a vehicle, which is not permanently or temporarily parked at the time is also exempt.

BOX J (sale by retail of alcohol)

If you wish people to be able to consume alcohol on the premises, please tick 'on'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off'. If you wish people to be able to do both, please tick 'both'.

Designated Premises Supervisor

If you intend to sell alcohol, you should give details of the person who you wish to be the designated premises supervisor (DPS) under the new licence. The DPS will need to hold a valid personal licence. There is only one DPS for each premises (but any number of personal licence holders) and it is usually, but not necessarily, the person who has day to day responsibility for the premises. You will also need to submit a 'DPS consent form' signed by the person you wish to be your DPS (you need to do this even if this is the same person who is applying for the premises licence) to confirm that he/she is happy to take on this role. The consent form is prescribed and is available from our website. The form must be included with your application.

Community Premises and DPS requirement

If the premises is classed as a community premises you may be able to 'disapply' the need for a DPS. This shifts responsibility for selling alcohol from an individual (the DPS) to the committee of the community premises. Community premises are premises like village halls and there is a prescribed form to apply to do this, along with further information about the process, available on our website.

BOX K

This asks you to give information about anything to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or gambling. You do not need to give details here of AWP machines. You do not complete this section if it does not apply to your premises, but rather than leave blank, it would be better to write 'none' or 'N/A' to be clear that you have considered this, rather than simply forgotten to complete the box.

BOX L (Hours premises are open to the public)

While this may include times where no licensable activities take place, it is important for responsible authorities, interested parties and the licensing authority to know how long your premises is open in addition to the times where licensable activities will take place. For example, it might be necessary and proportionate to ensure that licensable activities finish in good time before the premises closes to the public to allow orderly departure.

You should indicate whether any of the 'seasonal variations' to and 'non-standard timings' for licensable activities, would affect the hours the premises are open to the public, in the spaces provided. You may also wish to consider whether there will be any seasonal variations or non-standard timings when the premises will be open to the public at different times for non-licensable activities - for example, opening early to provide breakfasts during the Summer holidays.

Section M (Steps to promote the licensing objectives)

You are asked to describe the steps you intend to take to promote the four licensing objectives:

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

Don't forget that you should already be abiding by relevant legislation in other areas. Your starting point should be compliance with these requirements. If you

feel there is nothing more you need to do, then you might wish to write 'N/A' or something like 'nothing beyond existing Health and Safety/Fire Safety etc. requirements'. This shows you have considered the objectives and come to a decision that you have nothing additional to do and not that you have forgotten to write anything in this section. Of course, if a responsible authority for one of the licensing objectives considers that you need to do more, they will be able to make representations. If you have concerns, you may find it useful to talk to the relevant responsible authority before completing the form. Information on responsible authorities is available from page 11.

If you do intend to take additional measures, you should consider carefully what to include. Anything you put down here is likely to become a condition of your licence. Failure to meet those conditions would constitute an offence under the Act. **You should therefore think carefully about adding conditions to ensure that they are achievable, realistic, necessary, appropriate, proportionate and within your control.** Base your response on a proper, common sense consideration of the risks and what you can realistically do to mitigate them.

Examples of possible conditions in relation to the four licensing objectives are included in the guidance which the Secretary of State has issued to licensing authorities and is available from the DCMS website. These are simply given as a pool of potential conditions that might be helpful for people to consider. They are not model conditions and in no way should be seen as standard conditions that should be applied to everyone.

In the 'General Box', list the steps you will take to promote all four licensing objectives together, for example, employing additional staff at certain times.

Checklist and declaration

By ticking this list, you are making a declaration that you have carried out the listed actions. If you tick the boxes and do not carry out these actions, you may be making a false statement in relation to the application, which is an offence, which on conviction may make you liable to a fine of up to £5,000.

You should check that you have included all the required documentation. This includes a plan of the premises and where necessary, the DPS consent form or application to 'dissaply' the DPS.

Part 4 – Signatures

The application form must be signed. An applicant's agent (for example a solicitor) may sign the form on their behalf provided that they have actual authority to do so. Where there is more than one applicant, both applicants, or their respective agents, must sign the application form.

Plans

The plan of the premises should be included with the application, and copied to the responsible authorities as part of the application if applying by post. The plan of the premises needs to meet the requirements set out in the Act and show the following:

- (a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- (b) the location of points of access to and egress from the premises;
- (c) if different from paragraph (b), the location of escape routes from the premises;
- (d) in a case where the premises is used for more than one existing licensable activity, the area within the premises used for each activity;
- (e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (h) in a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (i) the location and type of any fire safety and any other safety equipment, including if applicable, marine safety equipment; and
- (j) the location of a kitchen, if any, on the premises.

Unless you have previously agreed with the Licensing Team that an alternative scale plan is acceptable, the plan should be drawn in standard scale, where 1

millimetre represents 100 millimetres. The plan may include a key of symbols to illustrate the points above.

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| Do I have to have plans professionally drawn? |
| There is no requirement to have plans professionally drawn. What is important is that they are accurate and meet the requirements referred to above. |
| Do I need to show a consumption area, such as a beer garden, on the plan? |
| There is no requirement to show on the plan any areas that are not part of the premises you are licensing. You should, however, describe any areas that you intend to provide for people to consume alcohol that you sell or supply under the general description of the premises that you are required to give at the beginning of Part 3 of the application form. |

Responsible Authorities

If applying by post (hard copy) you are required to give a copy of the application, including the accompanying documentation, to the “responsible authorities” on the same day as the application is given to the relevant licensing authority. Responsible authorities are the public bodies that are entitled to make representations to the licensing authority in relation to an application. Any representations must be about the likely effect of granting the application on the promotion of the licensing objectives. **The responsible authorities for Mid Devon are as follows:**

Devon & Cornwall Constabulary

Licensing Department

Devon & Cornwall Police HQ

Middlemoor

Exeter

Devon

EX2 7HQ

Tel: 01392 452225

Email: licensingeast@devonandcornwall.pnn.police.uk

Devon Fire & Rescue Service

East Division
Agriculture House
Pynes Hill, Rydon Lane
Exeter
Devon
EX2 5AZ
Tel: 01392 266833
Email: tstreat@dsfire.gov.uk

Devon County Council - Local Safeguarding Children's Board

Follaton House
Plymouth Road
Totnes
TQ9 5RS
Tel: 01392 383000
Email: cpchecks@devon.gcsx.gov.uk

Devon Trading Standards (Weights and Measures)

Trading Standards Service
County Hall
Topsham Road
Exeter
Devon
EX2 4QH
Tel: 01392 381381
Email: tsslicensingact2003@devon.gov.uk

Health and Safety Executive

North Quay House
Sutton Harbour
Plymouth
PL4 0RA
Tel: 01852 226024
E-mail: formsadmin.bristol@hse.gsi.gov.uk

**Mid Devon District Council
Environmental Health Services**

Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP
Tel: 01884 244600
E-mail: ehadmin@middevon.gov.uk

Mid Devon District Council Planning Services

Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP
Tel: 01884 255255
Email: devcon@middevon.gov.uk

Primary Care Trust for Devon

Devon DAAT
NHS Devon, Room 255
County Hall, Topsham Road
Exeter
Devon
EX2 4QL
Tel: 0845 002 3456
Email: alcohollicensing-mailbox@devon.gov.uk

With regard to a vessel, this list also includes the relevant navigation authority, the Environment Agency, British Waterways Board or the Secretary of State

Advertising your application

You will need to advertise the application in two ways:

1) Display of Notice on and around the premises

For a period of not less than 28 days, starting the day after you submit a valid application to the licensing authority (i.e. if you hand in your application on 14 February then the start date of the 28 day period is 15 February) you must display a notice which is:

- at least A4 in size
- on pale blue paper
- printed legibly or typed in black ink in a font equal to or larger than 16

this is an example of font size 16

You must display the notice prominently on the premises where it can be conveniently read from the outside by passers-by. If your premises are more than fifty metres square a further copy or copies of the notice must be displayed every fifty metres along the perimeter of your premises, again, where passers-by are able to read them.

2) Newspaper Notice

You are also required to publish a notice containing the same information in a local newspaper circulating in the vicinity of the premises. You will need to ensure that the notice is published at least once during the period of 10 working days starting on the day after the day on which you gave the application to the licensing authority.

Content of Notice

The notices must state the relevant licensable activities which are proposed. In all cases the notice shall contain:

- the name of the applicant or club

- the postal address of the premises or club premises (if there is no postal address a description of the location sufficient to identify the premises)
- the postal address and, where applicable, the worldwide web address where the register of the licensing authority is kept and where and when the record of the application may be inspected
- the date by which an interested party or responsible authority may make representations to the licensing authority (within the 28 days from the day after the day the licensing authority receives the application)
- that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person could be liable on summary conviction for the offence (scale 5 on the standard scale which is currently £5000)

An example of a notice you may like to follow is on the next page

LICENSING ACT 2003 - PUBLIC NOTICE

To whom it may concern:

I/We (1) do hereby give notice that I/we have applied to the Licensing Authority at Mid Devon District Council for (a new/variation of a) (2) (Premises Licence/Club Registration Certificate) (2) at (3) and known as (4).

The application is to:- (5)

Any person wishing to make representations on this application may do so by writing to The Licensing Section, Mid Devon District Council, Phoenix House, Phoenix Lane, Tiverton, Devon EX16 6PP not later than the final date on this notice (below).

(www.middevon.gov.uk).

A copy of the application can be viewed at the Licensing Authority's address during normal office hours.

It is an offence knowingly or recklessly to make a false statement in connection with this application, the maximum fine on summary conviction being £5,000

Signed:

Date application submitted:

Final date for representations:

(1) Insert name of applicant (normally holder of Premises Licence or Club Premises Certificate)

(2) Delete that not applicable

(3) Insert postal address of premises

(4) Insert name premises is known by

(5) Insert brief description of variation (ie. to extend the terminal hour until midnight on Fridays and Saturdays / to include non-amplified entertainment until midnight etc).

** Regulations 25 & 26 of the Licensing Act 2003 (Premises Licences and club premises certificates) Regulations 2005.*