

Licensing Act 2003

Guidance Notes for making an

Borough Council of
King's Lynn &
West Norfolk



Application for the Grant or Full Variation of a Premises Licence

When to use the form

This guidance relates to application forms for the grant or variation of a premises licence under the Licensing Act 2003 ("the Act"). Similar guidance is available for clubs applying for a club premises certificate.

Broadly speaking, a premises licence can authorise the following activities:

- the sale of alcohol
- the provision of regulated entertainment
- the provision of late night refreshment (i.e. hot food or hot drink between 11pm and 5am).

Further information about what activities are licensable is given later in this guidance. Applications must be made to the licensing authority within whose area your premises are situated. This will normally be your local authority, for premises situated in West Norfolk this is the Borough Council of King's Lynn & West Norfolk.

How to apply

Paper application forms can be downloaded from our website using the following link: https://west-norfolk.gov.uk/homepage/267/premises_licence

When a paper application is submitted, the applicant is also required to send a full copy of the application including the plan to each of the 9 responsible authorities listed on the application (there is further information on plans later on in this guidance).

Or you can apply online via the Borough Council's website using the following link: <https://forms.west-norfolk.gov.uk/PREMISESLICENCEAPPLICATION/launch?NRD=true>

When an online application is made, the application is automatically sent to all of the responsible authorities.

Not all changes to premises licence require a 'full' variation as certain minor changes can be dealt with under the 'minor' variation process. Further information on this is available separately or, if in doubt as to whether the proposed changes are 'full' or 'minor', then please contact the Licensing team at the Borough Council.

Fees

A list of the current fees is available separately.

Completing the 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 name, 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 must describe the precise 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 business rates which you pay, but is a value determined by the Valuation Office, which helps establish business rates. Rather than your business rates bill, 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. NDRV is revalued every 5 years. Premises that do not have a Non-domestic Rateable Value are treated as falling into Band A for licensing fee purposes.

Part 2 – Applicants 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) on the application, you must also tick one of the three boxes at the end of the 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). The second box, 'an application pursuant to a statutory function', might be an application made by an agency of the Government (e.g. the Passport Agency) . The third box, '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. The 'start' date cannot be earlier than the end of the consultation period of 28 days, which commences the day after the

application is submitted. If this is left blank, then the licence may be granted after the statutory consultation period end or if a hearing is necessary, after the date of the hearing.

If you wish the licence to be valid for a limited period during the year i.e. 1st July to 6th July, this is where that detail is recorded. Unless stated, the licence will cover all the relevant days as requested within the application.

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 or third party attendees such as contacted caterers or performers, at any one time – not the total number over a period of time. It is important to note that the attendance figure relates to the 'licensed premises', i.e. the licensed area identified in the plan and not areas that are outside the 'licensed premises'. If you decide that the number will not exceed 5,000, you will be responsible for ensuring that the numbers at any one time do not exceed this figure. If you do exceed it, you could be engaging in an unlicensed activity, which is a criminal offence.

I run a country show which has a beer tent. Do I have to put the total number of people at the show in this section?

It depends whether you are licensing the whole premises. As most of the events at such a show are not licensable activities, it should be possible to simply license the beer tent. In this case the capacity of the beer tent is what counts, and this may be unlikely to trigger the additional fee for large events.

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.

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.

Licensable activities:

Licensable activities fall into 3 main categories:

- Regulated Entertainment
- Sale/Supply of Alcohol
- Late Night Refreshment.

You should indicate which licensable activities you wish to carry out 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 that relate to those activities. Only complete the boxes that relate to the activities you have ticked.

Applying for activities:

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.

Except for 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.

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 continue longer on Christmas Eve, New Year's 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 other persons. It might be worth talking to the relevant responsible authorities first to see what conditions, if any, you might offer to reassure any concerns.

Provision of regulated entertainment –

Regulated Entertainment falls into the following eight categories:

- A performance of a Play
- An exhibition of a Film
- An Indoor Sporting Event
- A Boxing or Wrestling entertainment
- A performance of Live Music
- Any playing of Recorded Music
- A Performance of Dance
- Entertainment of a similar description to Live Music, Recorded Music or Performance of Dance.

As a result of deregulatory changes which amended the Licensing Act 2003, there are several exemptions for the requirement to licence regulated entertainment. We advise that you familiarise yourself with the exemptions before completing the application form to ensure that you are only applying for what you need. The exemptions are described fully within the Section 182 Guidance which can be found at the following link: <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

The provision of late night refreshment –

This covers the supply of hot food or drink between 11pm and 5am, 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.

There are also exemptions that apply to hotel guests, certain employees or particular trades or professions.

Sale by retail of alcohol –

In box **(J) Supply 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. In many cases, this will be the premises licence holder, but you can choose to name someone else. 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 form is prescribed and is available on request from the Borough Council's website and can also be submitted online. The form should be included with your application submission.

If the application relates to a community premises, (i.e. village halls, church halls etc) the requirement for a designated premises supervisor may be substituted with a condition that all sales of alcohol must be authorised by the management committee. This requires an additional application which should be submitted at the same time (this may also be submitted at a later date but will incur an additional charge).

Personal Licences –

Guidance on applying for a personal licence is available separately from the Borough Council of King's Lynn & West Norfolk. Full information is on the website and this application can be submitted online with the additional required documents to follow in the post.

Activities & children

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 (amusement with prize[s]) machines. You do not need to 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.

Hours premises are open to the public

While this may include times where no licensable activities take place, it is important for responsible authorities and other persons to know how long your premises is open in addition to the times where licensable activities will take place. Equally if you are applying for the 'sale of alcohol' you should allow time for your customers to consume that alcohol. As a guide, we recommend 30 minutes from when the sale of alcohol ceases to when the premises closes

to the public. Also, 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' 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.

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 considers that you need to do more for one of the licensing objectives, 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.

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.

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

The Prevention of Crime and Disorder –

The police are the key responsible authority for matters relating to crime and disorder and the Borough Council will look to the police for advice in considering measures proposed by applicants in promoting this objective. In considering the steps to be taken to prevent crime and disorder, licensees are advised to adopt a risk assessment approach. Measures to be

considered must bear a relationship to the style and character of the premises and the activities provided. Emphasis should be on pre-emptive or deterrent measures. The Borough Council will expect the operating schedule to consider short-term strategies to deal with existing problems and longer-term measures to deal with potential crime and disorder issues that can be reasonably predicted, given local knowledge and trends.

Some of the key issues that the Borough Council expects an operating schedule to consider in relation to the crime and disorder objective include:

Management arrangements:

- Employing able and experienced management staff, able to provide effective day-to-day management including, for example, the implementation of any conditions of entry, proof of age scheme (Challenge 25), drugs policy, provision of first aid and the resolution of conflict situations.
- Providing adequate and appropriately certified training for example, in crime prevention, age awareness and drink awareness for service and door staff.
- Preparing a suitable and sufficient risk assessment of all relevant activities and implementing any measures emanating from such assessments.
- Demonstrating due diligence by keeping an up to date incident log and a refusals register

Measures to influence customer behaviour:

- Signs indicating crime prevention measures in place such as CCTV signs, the storage of images for up to 28 days, posters indicating the venue's drug policy, membership of the local pub watch, commitment to responsible drinks promotion practices, and a robust prosecution policy.

Measures to reduce the opportunities for crime and disorder:

- Provision to have the appropriate number of door staff to ensure effective door control, queuing control, and conflict management.
- Making appropriate use of internal and external lighting, and CCTV technology under the guidance of police licensing officers.
- Development of clear procedures to deal with violence and antisocial behaviour on the premises including instances relating to drunken customers and those under the influence of illegal drugs.
- Raising awareness of safer drinking, date-rape drug issues, safe travel at night including the display of telephone numbers for licensed taxi companies, etc.
- Provision of a safe drinking environment by promptly removing glass bottles and cups, providing drinks in containers made of toughened glass or plastic.

Public Safety –

The public safety objective of the Licensing Act is primarily focussed on physical safety and less on public health matters, which are provided for in other legislation. To this end, the Borough Council expects all licensed premises to be constructed, maintained and managed so that people can work in and visit the licensed premises safely. We will expect applicants

to detail in their operating schedules the suitable and sufficient measures identified and how these measures will be implemented and maintained to ensure public safety. As with all of the licensing objectives, applicants should take account of the individual style and characteristics of the premises and the nature of the regulated activity to be provided.

There must be a clear indication of the arrangements for effective management of the operation including a clear chain of responsibility for public safety. Employees must be adequately instructed, trained and/or supervised to fulfil the public safety responsibilities placed on them. In most cases the Local Authority will be the Responsible Authority for public safety, but for certain premises it will be the Health and Safety Executive.

Risk assessment – this is a requirement under the Health and Safety at Work Act 1974 where there are more than 5 employees (Regulation 3, Management of Health & Safety at Work Regulation 1999). It may include a fire risk assessment as required under Fire Precautions (Workplace) regulations 1997 and applies to all non-domestic premises.

Door staff – When to employ door supervisors is down to a risk assessment basis. Managers should be sensitive to local and national events such as major sporting events, even if your premises are not involved directly. Door supervisors can offer many benefits such as helping to keep under-18s out of businesses where the retail of alcohol for the consumption on-site is the predominant licensable activity.

The prevention of public nuisance –

The Borough Council is committed to protecting the amenity of residents and businesses in the vicinity of licensed premises. Applicants should expect the Borough Council to be sensitive to the needs and expectations of different sections of the community. The Borough Council intends to prevent public nuisance by promoting effective management and operation of licensed activities.

Public nuisance in the context of the Licensing Act retains its broad common law meaning. It ranges from low-level nuisance affecting a few people living locally to more widespread disturbance affecting whole communities. The Borough Council recognises that the activities of licensed premises can have a negative impact on residents and the local environment. In deciding whether a nuisance has been or is being caused, consideration will be given to:

- A person's basic right to peacefully enjoy his or her property.
- Whether the problem is continuous or regular. (Unless they are extreme, isolated acts cannot be considered a nuisance).
- The impact of the nuisance on a person's use, enjoyment or rights connected with their land. In the case of noise complaints, the loss of sleep would be sufficient to meet these criteria.
- The time of day.
- The characteristics of the area.
- The precautions taken to minimise disturbance.
- Whether there has been material interference with comfort assessed against normal standards, as the law does not give protection to abnormally sensitive people. Applications will be assessed on a case-by-case basis and in order to

prevent nuisance, conditions may be imposed on certain activities at certain times or in particular areas in or around the premises.

In dealing with nuisance from licensed premises, the Borough Council will always consider whether existing legislation provides enough protection for aggrieved people. The Borough Council will encourage applicants for premises licences to work co-operatively with relevant Borough Council departments and other agencies, such as the police, at the planning and design stage of new and additional construction projects. Specifying the right facilities and equipment, at the planning stage offers the best opportunity for addressing potential nuisance issues.

Protection of children from harm –

Mixed use venues operating varying hours of business and catering to a wide age range are less likely to provide opportunities for violent crime and disorder. The Borough Council is therefore keen to promote family-friendly licensed premises and to encourage premises where families are welcomed and where suitable entertainment is provided for children. We support the provision of entertainment specifically for children and will encourage both occasional events for children and licensees making their premises available for hire to organisations for this purpose.

The Borough Council also recognises that children are one of the most vulnerable groups in our society and that some activities associated with licensed premises are not appropriate for children. We will be looking for details of management arrangements in place to ensure that children are not exposed to unsuitable forms of entertainment. We will consider the imposition of additional controls by way of licence conditions where activities that take place on the premises may present a risk of physical, moral and psychological harm to children. We will also look for strict controls to be in place to prevent the sale of alcohol to underage children.

The following circumstances are considered to present a risk to children, and therefore can be expected to be subject to additional controls:

- Premises where there have been convictions of the current management for serving alcohol to underage children or with a reputation for illegal under-age drinking.
- Where there are concerns about drug taking or drug dealing on the premises.
- Where there is a strong element of gambling on the premises.
- Premises or events in which entertainment of an adult or sexual nature is provided.
- Premises where the supply of alcohol for consumption on the premises is the exclusive or primary purpose.
- When considering applications from premises intending to offer public entertainment where it will be lawful for children to be admitted without an accompanying responsible adult, the licensee will be required to provide adequate numbers of adult staff to ensure the safety and well-being of the admitted children during an emergency.
- The Borough Council has identified the Norfolk Safeguarding Children's Board as the responsible authority for assessing child protection issues arising from licensing matters.

Part 4 – Signatures

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.

Signing

An application form must be signed, and an online submission verified by the person submitting the application. An applicant's agent (for example a solicitor) may sign or submit the form on their behalf provided that they have authority to do so. Where there is more than one applicant, both applicants, or their respective agents, must sign the application form. In respect of a limited company, someone listed as related to only that company can make the application unless written authority is provided separately.

Plans

Two copies of the plan of the premises should be included with the application and copied to the responsible authorities as part of the application. The plan of the premises needs to show the following:

- 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.
- The location of points of access to and egress from the premises.
- If different from the point above, the location of escape routes from the premises.
- In a case where the premises is used for more than one existing licensable activity, the area within the premises used for each activity.
- Fixed structures (including furniture) or similar objects temporarily in a fixed
- Locations (not including furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment.
- 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.
- In a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts.
- In a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms.
- The location and type of any fire safety and any other safety equipment, including if applicable, marine safety equipment; and
- The location of a kitchen, if any, on the premises.

Unless you have previously agreed with the Borough Council 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 above on the plan, but there is no requirement to do so

If you are applying for a variation then plans may not be required – if in doubt check with the Borough Council’s Licensing Team on (01553) 616200.

<i>Do I have to have plans professionally drawn?</i>
There is no requirement to have plans professionally drawn. What is important is that they are accurate and meet the requirements referred to above.
<i>Do I need to show a consumption area, such as a beer garden, on the plan?</i>
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 the application form.

Responsible authorities

You are required to give a copy of the application, including the accompanying documentation, to all the “responsible authorities” on the same day as the application is given to the Borough Council. If you submit your application online your application is automatically sent to all of the responsible authorities.

Responsible authorities are the public bodies that are entitled to make representations in relation to an application. Any representations must be about the likely effect of granting the application on the promotion of the licensing objectives. A list of the responsible authorities for the area covered by the Borough Council of King's Lynn & West Norfolk is on the front page of the paper application form.

Advertising your application

The application has to be advertised in the following two ways:

- By displaying a notice of the application prominently at or on the premises to which the application relates where it can be conveniently read by the public for a period of not less than 28 consecutive days starting on the day after the application was given to the Borough Council. A notice in the correct format will be emailed to you by the Borough Council once your application is accepted as a valid. In the case of premises covering an area of more than fifty metres square, a further notice in

the same form and subject to the same requirements must be displayed every fifty metres along the external perimeter of the premises abutting any highway. The notice must be:

- of a size equal or larger than A4; o of a pale blue colour, and
 - printed legibly in black ink or typed in black in a font of a size equal to or larger than 16.
- By advertising the application in a local newspaper circulating in the area of the premises on at least one occasion during the period of 10 working days starting on the day after the application was given to the Borough Council. You may wish to send the newspaper the notice you have been sent by the Borough Council.

Completed Paper Application Forms should be sent to:

The Licensing Team
Legal Services & Licensing
Borough Council of King's Lynn & West Norfolk
King's Court, Chapel Street
King's Lynn
PE30 1EX

Telephone: (01553) 616200

Email: EHLicensing@west-norfolk.gov.uk

Hearings

If there are no representations within the 28-day consultation period and everything is in order (application, supporting documents, advert etc), then the licence will be granted as applied for with conditions consistent with the operating schedule. However, if a representation has been received, and the representation is relevant, then the application will be placed before the Licensing Committee for determination. The Act requires that a hearing must be held within 20 working days following the expiry of the consultation period unless it is in the 'public interest' to hold a hearing later than 20 working-days.

Appeals

Both the applicant and objectors have a right to appeal, and this should be made to the Magistrates' Court appropriate to the location of the premises concerned. ¹

¹ A relevant representation is one that relates to any of the four licensing objectives.