



LICENSING ACT 2003 - GUIDANCE APPLICATIONS FOR NEW PERSONAL LICENCES

These guidance notes, issued on behalf of Eastleigh Borough Council as licensing authority, are intended to provide further information to applicants to enable them to submit an application that complies with the provisions of the Licensing Act 2003 (“the Act”) and the associated regulations.

However, these notes do not constitute a full statement of the law and **all applicants are strongly advised to consult their own independent legal advisor before making any application.**

Please note that the application forms and fees are those prescribed by law and that the licensing authority has no discretion to change them.

PERSONAL LICENCES (PART 6 OF THE ACT)

What is a personal licence?

A personal licence authorises an individual to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence is “portable” and holders may move to other areas without the need to apply for another licence. If a premises licence authorises the sale of alcohol, an individual personal licence holder must be formally appointed as the “designated premises supervisor” to enable alcohol to be supplied.

Which licensing authority do I apply to for a personal licence?

The applicant must, in normal circumstances, make application for a personal licence to the licensing authority relevant to the area in which they normally reside and must not submit more than one application for a personal licence, as the Act states that a personal licence is void if, at any time, the person to whom it is granted already holds a personal licence.

Where can I get the application form and information concerning relevant offences?

Copies of the application form and other notices can be obtained from:

- Eastleigh Borough Council’s website: www.eastleigh.gov.uk/licensing
- Home Office website: <https://www.gov.uk/alcohol-licensing>

How can I contact the Licensing Authority?

The contact details are as follows:

Southampton and Eastleigh Licensing Partnership Civic Centre, Southampton SO14 7LY	Direct: Fax No: Email: DX No:	023 8083 3002 (option 4) 023 8083 4061 licensing@eastleigh.gov.uk 115710 Southampton 17
--	--	--

What are the requirements for making an application for a personal licence?

The Act states that the licensing authority must grant a licence if it is satisfied that:

- (a) the applicant is aged 18 or over,
- (b) the applicant possesses a licensing qualification accredited by the Secretary of State or one which is certified as if it is such a qualification or is considered equivalent) or is a person of a description prescribed by the Secretary of State in the regulations (see [Table 2](#) below for details of prescribed description),

- (c) no personal licence held by the applicant has been forfeited in the period of 5 years ending with the day the application was made, and
- (d) the applicant has not been convicted of any relevant offence or any foreign offence.

Note for applicants: The licensing authority *must* reject the application if it appears that the applicant fails to comply with the requirements set out in (a), (b) and (c) above.

What information must I provide to the licensing authority?

The applicant must submit the following information to the licensing authority:

- The prescribed application form;
- Two photographs of the applicant in the specified form, one of which is endorsed on the reverse with a statement verifying the likeness of the photograph to the applicant and indicating the status and qualifications of the person endorsing it (see [Table 3](#) below);
- The legislation indicates either (*but see below*):
 - a criminal conviction certificate issued under section 112 of the Police Act 1997 (a basic disclosure);
 - a criminal record certificate issued under section 113 of the Police Act 1997 (a standard disclosure); or
 - the results of a subject access search (under the Data Protection Act 1998) of the Police National Computer by the National Identification Service. * NB see below

Please note:

- * The certificate or search results must be issued **no earlier than one calendar month** before making application to the licensing authority.
- * A basic disclosure can be obtained from the [Disclosure & Barring Service](#).
- * The licensing authority cannot obtain a standard disclosure from the CRB for this purpose. If you already have one, no more than one month old, for another purpose, it may be usable.
- * The Police advise that an application for a personal licence is not an appropriate purpose for a subject access search and that they will not provide data by this means in connection with such applications
- A declaration by the applicant, in the form set out in Schedule 3 to the Licensing Act 2003 (Personal Licences) Regulations 2005, that the applicant has not been convicted of a relevant offence or a foreign offence or that the applicant has been convicted of a relevant offence or a foreign offence accompanied by details of the nature and date of the conviction and any sentence imposed;
- The original certificate for an accredited licensing qualification or proof that the applicant is a person of a prescribed description (see [Table 2](#) below);
- The prescribed fee of £37.00 (cheques etc. should be made payable to Eastleigh Borough Council).
- Please note that all documentation submitted must be original; copies are not acceptable.

Table 2 – Persons of a prescribed description:	
The following persons are prescribed for the purposes of section 120(2)(b) of the Act –	
(a)	a member of the company of the Master, Wardens, Freemen and Commonalty of the Mistery of the Vintners of the City of London;
(b)	a person operating under a licence granted by the University of Cambridge; or
(c)	a person operating premises under a licence granted by the Board of the Green Cloth.

Table 3 – Prescribed format for photographs:	
(a)	taken against a light background so that the applicant’s features are distinguishable and contrast against the background
(b)	45 millimetres by 35 millimetres
(c)	full face uncovered, without sunglasses and, unless the applicant wears a head covering due to his religious beliefs, without a head covering
(d)	on photographic paper, and
(e)	<p>endorsed by-</p> <ul style="list-style-type: none"> • the Chief Executive to the Licensing Justices for the relevant licensing authority; • a solicitor or notary; • a person of standing in the community (includes a bank or building society official, a police officer, a civil servant or a minister of religion); or • an individual with a professional qualification. <p>Please note that endorsement by a Designated Premises Supervisor or holder of a Personal Licence will not be acceptable.</p>
(f)	the endorsement should take the form of “I certify that this is a true likeness of <i>[full name of applicant]</i> ” and should be signed and dated by the person giving the endorsement, who should also print their name and give details of their qualification to endorse the photographs.

Can I send my application by Email or Fax?

The regulations made under the Act prescribe that every application shall be given in writing. However, they do permit the receipt of applications by electronic means, providing the recipient has agreed in advance to the receipt of such applications by these methods, subject to the following criteria that the application:

- (a) is capable of being accessed by the recipient;
- (b) is legible in all material respects;
- (c) is capable of being read and reproduced in legible form and used for subsequent reference;
- (d) **is also given to the recipient in writing**, following the sending of the application by electronic means.

Please note that when an application is sent by electronic means, it is not deemed to have been given until the licensing authority has received the fee and all accompanying documents.

What happens if I have filled in the form incorrectly or have not submitted all the documentation?

The Licensing Team will check the application when it is received to ensure that all the paperwork and associated documentation is correct and complete. If there are any errors or omissions, the application and documents will be sent back to the applicant for corrections and/or additional documentation. The time period for consideration will not begin until a valid application has been received.

How long will it take for my application to be processed?

Providing you have sent us all the necessary information required for us to consider your application, have submitted the relevant fee and you have not been convicted of a relevant offence or a foreign offence, the licensing authority will be able to grant your application without any undue delay. However, if you have been convicted of a relevant offence or a foreign offence the time taken to process your application will be extended for the reasons outlined below.

What happens if I have been convicted of a relevant offence or a foreign offence?

If it appears to the licensing authority that an applicant has been convicted of a relevant offence or a foreign offence it must give the Police a notice to that effect.

Can the Police object to my application?

If the Police are satisfied that granting the application would undermine the crime prevention objective, they must issue an “objection notice” to the licensing authority. The objection notice must be given no later than 14 days beginning with the day on which the Police receive a copy of the notice from the licensing authority.

If the Police do not issue an objection notice within the prescribed time period or the notice is subsequently withdrawn, the licensing authority must grant the application.

What happens if the Police issue an “objection notice”?

If the Police have issued an objection notice, which has not subsequently been withdrawn, the licensing authority must hold a hearing to consider the objection notice unless the applicant, the Police and the licensing authority agree that it is unnecessary, and may reject the application provided this is considered necessary for the promotion of the crime prevention objective.

What happens if my application is rejected?

Where a licensing authority rejects an application for the above reason, an applicant may appeal against that decision to the Magistrates’ Court within 21 days beginning with the day on which the applicant was notified of the decision by the licensing authority.

I have a “spent” conviction for a relevant offence – can it be taken into account?

The Act prescribes that a conviction for a relevant offence or a foreign offence must be disregarded if it is spent for the purposes of the Rehabilitation of Offenders Act 1974.

See [Table 4](#) below for further details concerning when a conviction is considered “spent”.

When does the personal licence take effect?

Any personal licences take immediate effect on issue.

Table 4 – Spent Convictions – Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act 1974 enables criminal convictions to become “spent” or ignored after a “rehabilitation period”. The length of the rehabilitation period depends on the sentence given, not the offence committed. Rehabilitation periods for community orders and custodial sentences will comprise the period of the sentence plus an additional specified period, rather than all rehabilitation periods starting from the date of conviction as it is under the current regime. So, for an example, an adult offender sentenced to two and a half years custody, who would previously have had to declare their criminal conviction for ten years from the date of conviction, will now have to disclose their conviction for the period of the sentence plus a further four years (giving a total rehabilitation period of 6 ½ years).

For custodial sentences:

Sentence length	<i>Former rehabilitation period (applies from date of conviction)</i>	New rehabilitation period is period of sentence plus the ‘buffer’ period below which applies from end of sentence)
0 - 6 months	7 years	2 years
6 - 30 months	10 years	4 years
30 months - 4 years	Never spent	7 years
Over 4 years	Never spent	Never spent

For non-custodial sentences:

Sentence	<i>Former rehabilitation period (applies from date of conviction)</i>	Buffer period (will apply from end of sentence)
Community order (and Youth Rehabilitation Order)	5 years	1 year

Sentence	<i>Former period</i>	New period
Fine	5 years	1 year (from date of conviction)
Absolute discharge	6 months	None
Conditional Discharge, Referral Order, Reparation Order, Action Plan Order, Supervision Order, Bind Over Order, Hospital Order	Various – mostly between one year and length of the order	Period of order

Further Convictions:

If a rehabilitation period is still running and the offender commits a “summary” offence (a minor offence that can only be tried in a Magistrates’ Court), the minor offence will not affect the rehabilitation period for the other offence(s); each offence will expire separately. However, if the further offence is a serious one that could be tried in the Crown Court, then neither conviction (even if the first one is for a minor offence) will become spent until both rehabilitation periods are over. If the further conviction leads to a prison sentence of more than 4 years, neither conviction will ever become spent. However, if the first conviction leads to a prison sentence of more than 4 years, later convictions with fixed rehabilitation periods will become spent separately.

PERSONAL LICENCES – USEFUL INFORMATION

How long does the personal licence remain in force?

From 1 April 2015, personal licences do not need to be renewed, and are deemed to continue in force until surrendered or revoked.

Can I surrender a personal licence?

Where the holder of a personal licence wishes to surrender their licence, they must give the licensing authority a notice to that effect. The notice must be accompanied by the personal licence, or if that is not practicable, by a statement of the reasons for the failure to surrender the licence. Where such a notice is given, the personal licence will lapse on receipt of the notice by the licensing authority.

What happens if my licence is stolen or lost?

If a personal licence is lost, stolen, damaged or destroyed, the holder of the licence may apply to the licensing authority for a copy of the licence subject to payment of a prescribed fee (currently £10.50).

What must I do if I change my name or address?

The holder of a personal licence must, as soon as reasonably practicable, notify the licensing authority of any change in their name or address. This notice must also be accompanied by the personal licence or, if that is not practicable, by a statement of the reasons for the failure to provide the licence together with the prescribed fee (currently £10.50).

A person commits an offence if they fail, without reasonable excuse, to comply with this requirement.

If asked, do I have to produce my licence to the Police or Council Licensing Officer?

The Act states that where the holder of a personal licence is present on the premises for the purpose of supplying or authorising the supply of alcohol, and where such supplies are either authorised by a premises licence or a Temporary Event Notice (TEN), any Police Officer or authorised officer of the licensing authority may require the holder of the personal licence to produce that licence for examination.

A person commits an offence if they fail, without reasonable excuse, to comply with this requirement.

What must I do if I am convicted of a relevant offence whilst I am applying for a licence?

If an applicant for the grant or renewal of a personal licence is convicted of a relevant offence or a foreign offence during the application period, they must as soon as reasonably practicable, report the conviction to the licensing authority that is in receipt of the application.

Any person who fails to give such notification commits an offence under the Act.

What must I do if I am convicted of a relevant offence after my personal licence has been granted?

If a holder of a personal licence is convicted of a relevant offence or foreign offence, they must give the relevant licensing authority a notice stating the nature of the offence, the date of conviction and the sentence imposed on him/her. Such a notice must be given as soon as reasonably practicable after the conviction.

This notice must also be accompanied by the personal licence, or if that is not practicable, a statement of the reasons for the failure to surrender the licence.

A person commits an offence if they fail, without reasonable excuse, to comply with this requirement.

Do I have to tell the court that I hold a personal licence if I am charged with a relevant offence?

Where the holder of a personal licence is charged with a relevant offence, they must, no later than the date when they make their first appearance in a Magistrates' Court in connection with that offence, produce the personal licence to the court or, if that is not practicable:

- notify the court that they hold a personal licence under this Act, and
- state which licensing authority issued the licence, and
- give reasons why they cannot produce the licence.

A person commits an offence if they fail, without reasonable excuse, to comply with this requirement.

Can the court take any action in connection with my personal licence if I am convicted of a relevant offence?

If the holder of a personal licence is convicted of a relevant offence by a court in England and Wales, the court may either order the licence to be forfeited or order its suspension for up to 6 months. In considering whether to make such an order, the court may take account of any previous conviction(s) of the holder for a relevant offence.

An order takes effect immediately after it is made subject to any appeal proceedings.