



# LICENSING ACT 2003 - GUIDANCE

## PREMISES LICENCES

### NEW APPLICATIONS AND VARIATION

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.

#### What do these notes deal with?

- Applications for new premises licences
- Variations of existing premises licences

Please see the separate notes for guidance on minor variations of premises licences and variations of premises licences for alcohol in church and village halls etc. to replace the requirement for a designated premises supervisor.

#### What is a premises licence?

A premises licence is required for the provision of licensable activities at particular premises. “Premises” includes a vehicle, vessel or moveable structure or any place (including in the open air) or part of a premises. The licence can be either on a permanent basis or for a time-limited period.

#### Where can I get the application form?

Copies of the application form and other notices can be obtained from our website at <https://www.eastleigh.gov.uk/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, then option 1) 023 8083 4061 <a href="mailto:licensing@eastleigh.gov.uk">licensing@eastleigh.gov.uk</a> 115710 Southampton 17
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#### 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, and 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.

**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 information do I have to provide in the Operating Schedule?

The application form sets out the information required from an applicant, which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote the licensing objectives are satisfactory.

***An applicant should give careful consideration to the information submitted in respect of the steps that are proposed to be taken to promote the licensing objectives. Applicants should make themselves aware of the expectations of the licensing authority and the responsible authorities (such as the Police, Fire & Rescue Service, Environmental Health etc.) in respect of the licensing objectives and seek further advice from those authorities on any draft proposals before formally submitting an application. This will involve the preparation of comprehensive risk assessments for the use of the premises. By adopting such an approach, an applicant will minimise any disputes and may prevent the need for formal representations to their application that will lead to a possibly time-consuming hearing.***

**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 returned to the applicant for corrections and/or additional documentation. The time period for consideration will not begin until a valid application has been received.

Please note that if you fail to include something on the form, such as a licensable activity, which you require, your only option is either to withdraw the application and resubmit, or apply to vary at a later stage, both incurring additional costs. Substantive amendments cannot be made to applications in progress.

### **Statement of Licensing Policy**

All applicants should also have regard to the Statement of Licensing Policy published by the licensing authority at [www.eastleigh.gov.uk/licensing](http://www.eastleigh.gov.uk/licensing) and the pool of model conditions contained in the Statutory Guidance published at [www.homeoffice.gov.uk/drugs/alcohol/](http://www.homeoffice.gov.uk/drugs/alcohol/).

### **What do I need to submit?**

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

1. The prescribed application form;
2. The prescribed fee - see [Table 2](#) below (cheques etc. should be made payable to Eastleigh Borough Council);
3. Where the licence is intended to authorise the supply of alcohol, the application must state the name and address of the person whom the applicant wishes to be the designated premises supervisor (DPS) and, if different to the applicant, the DPS must complete the form of consent;
4. If different to the applicant, the existing licence holder must complete the form of consent for the new premises licence to be issued in the applicant's name;
5. An up-to-date scale plan of the premises - see [Table 3](#) below for information to be shown on the plan;

**Note:** A person commits an offence if he/she knowingly or recklessly makes a false statement in or in connection with an application.

### **Will the new or varied premises licence be issued with any conditions?**

The legislation requires that mandatory conditions are imposed on premises licences in respect of:

- (a) the supply of alcohol;
- (b) exhibition of films;
- (c) licensed door supervisors;
- (d) irresponsible promotions;
- (e) free potable water;
- (f) age verification policy

Please see our web pages at [www.eastleigh.gov.uk/licensing](http://www.eastleigh.gov.uk/licensing) for further details.

Any other conditions imposed will reflect the application's operating schedule or will be conditions agreed by the applicant or considered appropriate by the Licensing Panel if there has been a hearing.

## **What differences are there between the processes?**

The process and fees for variation of an existing licence or the grant of a new licence are similar, except that the forms differ slightly.

## **Do I have to give a copy of the application to any responsible authority?**

An applicant **MUST** give notice of the application to each relevant responsible authority by giving to each authority copies of the application and accompanying documents on the same day as the day on which the application is given to the licensing authority.

A list of all the contact details for the relevant responsible authorities is set out in our Responsible Authorities' Guidance document at [www.eastleigh.gov.uk/licensing](http://www.eastleigh.gov.uk/licensing)

## **Do I have to publicly advertise my application?**

When an application is made for a new premises licence or to vary a premises licence, the applicant must advertise the application in both the following ways:

- (a) for a period of no less than 28 consecutive days starting on the day after the application was given to the licensing authority, by displaying a notice which is –
  - (i) of a size equal or larger than A4,
  - (ii) of a pale blue colour,
  - (iii) printed legibly in black ink or typed in black in a font size equal to or larger than 16 point.

The notice must be displayed prominently at or on the premises to which the application relates where it can be conveniently read from the exterior of the premises and in the case of a premises covering an area of more than fifty square metres, 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; and

- (b) by publishing the notice in a local newspaper on at least one occasion during the period of 10 working days starting on the day after the application was given to the licensing authority.

Please note that applications for minor variations must be advertised as at (a) above, but on white paper, with the notice being displayed for 10 consecutive days.

The licensing authority will also give notice of applications for new licences or variation of licences (but not minor variations or variations of DPS) on its website at [www.eastleigh.gov.uk/licensing](http://www.eastleigh.gov.uk/licensing).

## **What information does the notice have to contain?**

The regulations prescribe that in respect of an application for a new premises licence or to vary a premises licence, the notice must contain the following information:

- (a) a brief description of the proposed new application or variation;
- (b) the name of the applicant;
- (c) the postal address of the premises, if any, or if there is no postal address for the premises, a description of those premises sufficient to enable the location and extent of the premises to be identified;
- (d) the postal address and, where applicable, the web site address where the register of the licensing authority is kept and where and when the application may be inspected;
- (e) the date by which an interested party or responsible authority may make representations to the licensing authority;
- (f) that representations shall be made in writing; and
- (g) that it is an offence knowingly or recklessly to make a false statement in connection with an application and a person guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

An example notice appears [www.eastleigh.gov.uk/licensing](http://www.eastleigh.gov.uk/licensing).

## **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, sent a copy of your application to all the responsible authorities and have properly advertised your application, it will take at least 28 days from the day on which your application is received.

However, if the licensing authority fails to determine the application within the period of two months beginning with the day on which the application is received, then the application is to be treated as rejected by the licensing authority.

## **Who can make representations about my application?**

Written representations can be made by any of the responsible authorities or any other person in respect of the proposed new licence or variation if they consider that the proposal undermines any of the licensing objectives.

If no representations are received within the time limits prescribed by the Act (28 days from the date the application is received), the licensing authority must grant the application. However, where relevant representations are made, the licensing authority must hold a hearing to consider them, unless the licensing authority, the applicant and each person who has made such representations agree that a hearing is unnecessary.

The licensing authority, having regard to the representations, may take the following steps if it considers them appropriate for the promotion of the licensing objectives:

- (a) modify the conditions of the licence (i.e. alter, omit or add a new condition);
- (b) reject the whole or part of the application.

Where an application (or any part of an application) is granted after a hearing, the licensing authority must give the applicant, any person who made relevant representations in respect of the application and the Police a notice to that effect stating the authority's reasons for its decision and the date and time when the new licence or variation will take effect.

Where an application is rejected (in whole or in part) after a hearing, the licensing authority must give a notice to that effect stating its reasons for rejecting the application to the applicant, any person who made relevant representations and the Police.

## **What happens if my application is rejected?**

Where a licensing authority rejects an application in whole or in part, 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.

## **When does the new licence or the variation take effect?**

On the date you have indicated as needing the licence to take effect or whenever it is determined, whichever is the later.

## **Where can I obtain information about the rateable value of my premises?**

Information as to rateable value can be obtained either from your National Non-Domestic Rates bill or from the Valuation Office Agency via [www.voa.gov.uk](http://www.voa.gov.uk) or by phone: 023 8053 8500.

**Table 2 – Prescribed Fees for New or Variation of Premises Licences:**

The prescribed fees payable in respect of premises licences are based upon the non-domestic rateable value of the premises concerned. For certain types of premises not specified with a non-domestic rateable value, the fee shall be calculated in accordance with band A. The bands and fees are as follows:

<b>Rateable Value Bands</b>	<b>A 0 - £4,300</b>	<b>B £4,301 - £33,000</b>	<b>C £33,001 - £87,000</b>	<b>D £87,001 - £125,000</b>	<b>E £125,001 and above</b>
Main Application Fee	£100	£190	£315	£450	£635
Main Annual Charge	£70	£180	£295	£320	£350

In cases where an application relates to a premises in band D or band E and the use of the premises is exclusively or primarily for the supply of alcohol for consumption on the premises, the fees shall be multiplied as shown:

<b>Rateable Value Bands</b>	<b>D (x2)</b>	<b>E (x3)</b>
Main Application Fee	£900	£1,905
Main Annual Charge	£640	£1,050

In relation to an application for a premises licence mainly in respect of open-air sites, where the maximum number of persons permitted on the premises at the same time is 5,000 or more, an additional fee must accompany the main fee. The range of fees is dependent upon the permitted maximum number of persons as follows:

<b>Number in attendance at any one time:</b>	<b>Additional Fee:</b>
5,000 to 9,999	£1,000
10,000 to 14,999	£2,000
15,000 to 19,999	£4,000
20,000 to 29,999	£8,000
30,000 to 39,999	£16,000
40,000 to 49,999	£24,000
50,000 to 59,999	£32,000
60,000 to 69,999	£40,000
70,000 to 79,999	£48,000
80,000 to 89,999	£56,000
90,000 and over	£64,000

**Miscellaneous Exemptions:**

No fee shall be payable in respect of an application for a premises licence which relates to the provision of regulated entertainment only subject to the following conditions:

- (a) in a case of an application by a proprietor of an educational institution in respect of premises that are or form part of the educational institution –
  - (i) that the educational institution is a school or a college; and
  - (ii) the provision of regulated entertainment on the premises is carried on by the educational institution for and on behalf of the purposes of the educational institution; or
- (b) that the application is in respect of premises that are or form part of a church hall, chapel hall or other similar building or a village hall, parish hall or community hall or other similar building.

**Table 3 – Information to be shown on scale plan:**

Unless the licensing authority has previously agreed in writing with the applicant, following a request by the applicant that an alternative scale plan is acceptable, in which case the plan shall be drawn to that alternative scale, the plan shall be drawn in standard scale 1:100 (1mm represents 100mm).

The plan shall show:

- (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 (b) above, 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) in a case where an existing licensable activity relates to the supply of alcohol, the location or locations on the premises which is or are used for the consumption of alcohol;
- (f) 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;
- (g) in a case where the premises includes a stage or raised area, the location and height of each stage or raised area relative to the floor;
- (h) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (i) in a case where the premises includes any room or rooms containing toilet facilities, the location of the room or rooms;
- (j) the location and type of any fire safety and any other safety equipment (which includes fire extinguishers, fire doors, fire alarms and other similar equipment) and;
- (k) the location of a kitchen, if any, on the premises.

**The items referred to above may be illustrated by the use of a legend and related symbols on the plan. It would be of assistance if all plans could additionally be made available by electronic means. The preferred format is as an Adobe Acrobat PDF document.**