

Licensing Act 2003

General Guidance for Applicants

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NORTH KESTEVEN DISTRICT COUNCIL

Licensing Act 2003

Guidance for Applicants

SECTION 1 - INTRODUCTION

This document is intended to offer guidance to applicants for licences, certificates or temporary event notices within the North Kesteven District. It provides the basic information to help make an application.

This guidance should be read in conjunction with the Statement of Licensing Policy issued by North Kesteven District Council which informs applicants on how it will administer the licensing system.

This guidance reflects changes in legislation and statutory guidance up to April 2017.

Right to Work

The Licensing Act 2003 sets out the licensing regime for the sale and supply of alcohol, the provision of entertainment and the provision of late night refreshment in England and Wales. The Immigration Act 2016 amends the 2003 Act to introduce immigration safeguards in respect of licensing applications made in England or Wales on or after 6 April 2017.

The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment. Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity.

Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end.

The relevant licence application forms have been updated to allow the applicant to provide their date of birth, nationality and evidence of eligibility to work. A list of acceptable documents to demonstrate eligibility to work has been included within the forms. The applicant must submit copies of their acceptable documents within the application.

We will check that the documents provided demonstrate that the applicant is eligible to work in the licensable activity. This may include making checks with the Home Office Immigration team.

Personal Licences

A personal licence is a licence held by a particular individual to permit that person to authorise the sale by retail of alcohol from a premises that is suitably licensed for the purposes of selling alcohol. Not everyone who makes a sale has to hold a personal licence, so long as a personal licence holder has authorised the sale.

Please note - A personal licence is not required for any other licensable activity including the supply of alcohol authorised under a Club Premises Certificate.

Applications for a personal licence should be made to the Licensing Authority where the applicant normally resides. The applicant must be over 18 years of age.

Only one personal licence can be held. It is valid indefinitely provided it has not been surrendered, revoked or forfeited or lapsed.

For further details, please see Section 2.

Premises Licence/Club Premises Certificate

A premises licence or club premises certificate authorises the use of any premises, (which not only includes a building or part of a building, but, also includes the open air, part of the highway, a vehicle, vessel, a moveable structure, a temporary structure or any place or a part of any premises), for licensable activities.

A **Premises Licence** permits the following licensable activities to take place on premises:

- The sale by retail of alcohol;
- The provision of regulated entertainment; and
- The provision of late night refreshment. (Supplying hot food or hot drink between 11pm and 5am)

Regulated entertainment is:

- Performance of a play
- Exhibition of a film
- Indoor sporting events
- Boxing or wrestling entertainment
- Performances of live music
- Playing of recorded music
- Performances of Dance

In terms of specific regulated entertainments please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets

consent for the performance on the relevant premises from:
(i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

There are some other exemptions when a licence for regulated entertainment is not needed, they are:

- Activities which involve participation as acts of worship in a religious context.
- Activities in places of public religious worship.
- Education – teaching students to perform music or to dance.
- The demonstration of a product – for example, a guitar – in a music shop.
- The rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit.
- Morris dancing (or similar).
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity.
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity.
- A spontaneous performance of music, singing or dancing.
- Garden fetes – or similar if not being promoted or held for purposes of private gain.
- Films for advertisement, information, education or in museums or art galleries.
- Television or radio broadcasts – as long as the programme is live and simultaneous.
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked.
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis).
- Stand-up comedy.
- Provision of entertainment facilities (e.g. dance floors).

What does “incidental” mean?

This is sometimes a difficult area and if you are unsure you should contact us for advice. Examples of “incidental” entertainment are:

- A supermarket playing background music (people go there to shop – the music is not an influencing factor);
- Music during keep fit classes (people are there to exercise);
- Salsa dance classes (people are there to learn to dance);
- A pub jukebox playing in the background (people are there to drink, the music is not an influencing factor).

Every premises that sells alcohol must nominate a **Designated Premises Supervisor (DPS)** who is in overall charge of the premises. The DPS must be a personal licence holder.

There are exceptions to these requirements in respect of some Community Premises (see Section 3 for more details).

A **Club Premises Certificate** permits the following licensable activities to take place on “qualifying club” premises:

- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- Sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the club’s premises.
- The provision of regulated entertainment; and
- The provision of late night refreshment.

For the definition of Regulated Entertainment, please see above.

A full list of conditions a club has to meet to become a “qualifying club” can be found in Section 3.

A Club Premises Certificate does not need a personal licence holder or anyone identified as a DPS as there is no sale by retail of alcohol (except to guests) because the members own the alcohol stock and the money passing across the bar is merely a mechanism to preserve equity between members where one may consume more than another. The club rulebook should make clear the club’s policy for guests.

Clubs should carefully consider whether they should apply for a club premises certificate or a premises licence. If a registered club has rules that allow them to hire out function rooms to persons other than members then they may need to apply for a premises licence. Clubs are therefore recommended to look to their rules and take legal advice as what permission to apply for.

Please note that the secretary of a club can commit various offences if changes are not notified to the Licensing Authority in respect of club rules or registered address of club premises.

You may not apply for either a premises licence or a club premises certificate if you or any of your committee members are under 18 years of age.

For further details, please see section 3.

The application for the grant of either a premises licence or club premises certificate will need to include an **operating schedule**.

You need to bear the four licensing objectives in mind when completing your operating schedule. They are:

- Prevention of Crime and Disorder,
- The Prevention of Public Nuisance;
- Public Safety
- The Protection of Children from Harm.

Operating schedules, which form part of an application, are considered by **Responsible Authorities** (e.g. the police, fire, environmental health officers, etc – see Appendix A). Applicants are required to copy applications for premises licences and club premises certificates to them.

For further details, please see Section 4.

The application will have to be advertised for the benefit of local residents and businesses and any other party who may have an interest.

Responsible authorities and any persons are free to raise relevant representations, which relate to the promotion of the licensing objectives, about the proposals contained in an application.

For further details of fees, contact details for responsible authorities and how to advertise applications, please see Section 6 and Appendices A and B.

Temporary Event Notices

Before an ad-hoc event that includes any licensable activities takes place in England or Wales, the local licensing authority must be given a Temporary Event Notice (TEN) for the “licensable activities” that are planned. You should apply to us only for events that take place within the North Kesteven District.

The TEN process is intended to be simple to use and in essence means that, *subject to certain limitations*, there is no permission required to hold temporary events. An applicant must merely give notice of the event to the Licensing Authority and also inform the Council’s Environmental Protection Unit and the Police (the Relevant Persons). Provided the applicant stays within the definition of a TEN then the Licensing Authority can only intervene in certain circumstances, the Relevant Persons may object to the TEN if they feel that the proposed event may undermine any of the Licensing Objectives.

For further details on TENS, please see Section 5.

Need help?

If, after reading the guidance notes, you have any concerns about making applications and you require further help, the Licensing Team will be happy to assist.

For contact details, please see Section 6.

SECTION 2 - PERSONAL LICENCES

A personal licence authorises the individual to supply alcohol or authorise the sale of alcohol in accordance with a premises licence. Personal licences are valid indefinitely, and are 'portable' between premises. Applications should be made to the Local Authority where you ordinarily reside. Every sale of alcohol must be made or authorised by a personal licence holder (unless the sale is being made under the authority of a Temporary Event Notice).

Applications for personal licences

You can apply for a personal licence at any time providing you are 18 or over. You must have the legal right to work in the UK in order to hold a Personal Licence, proof of which will be required. Licences will lapse automatically if your right to work in the UK expires or is revoked.

Applicants for personal licences must prove that they have the legal right to work in the UK, by providing copies of official documents showing that they are either a British or UK citizen, a national of an EEA country or Switzerland, have been granted indefinite leave to remain and work in the UK, or have another immigration permission allowing them to lawfully work in a field relevant to the sale of alcohol.

Official guidance notes on what documents are acceptable and which pages must be photocopied are included with the application form. Please do not send original documents through the post, but rather send good quality photocopies of all relevant pages.

We may request further documentation or carry out further checks with the Home Office if an applicant's immigration status is unclear. Personal licences cannot legally be granted to any person who does not have the right to work in the UK.

You must be able to show that you have sufficient knowledge of licensing law and the social consequences of selling alcohol by successfully completing an approved training course and submitting the qualification with your application.

See Appendix C.

You must submit a Criminal Record Check; issued no earlier than one calendar month before the date of the application, to prove that you have not been convicted of any relevant offences. In order to do this you should submit one of the following:

1. A criminal conviction certificate issued under s112 of the Police Act 1997 (a basic Disclosure) or
2. A criminal record certificate issued under s113A of the Police Act 1997 (a standard or enhanced CRB check) or;
3. The result of a subject access search under the Data Protection Act 1998 of the Police National Computer by the National Identification Service.

Further information about criminal record checks can be found here:

<http://www.businesslink.gov.uk/bdotg/action/layer?topicId=1084415157>

We strongly advise that applicants choose to obtain a basic Disclosure, these can be obtained online at <https://www.mygov.scot/basic-disclosure/> follow the link for a basic disclosure.

You must also make a separate declaration that you have not been convicted of a relevant offence or a foreign offence or been required to pay an immigration penalty.

If you have no convictions, not had a licence forfeited in the past five years, are suitably trained, are 18 or over and have the right to work in the UK there is no reason why you should not qualify for a personal licence.

Please note that personal licences are not required in qualifying clubs, for temporary events (up to a maximum of five per year) and for premises which provide licensable activities that do not include the sale by retail of alcohol.

Personal licence holders are able to apply for up to fifty temporary event notices per year.

Photographs

Should be:

- taken against a light background;
- size 45 millimetres by 35 millimetres;
- be full face without sunglasses;
- unless the applicant wears a head covering due to his/her beliefs, without a hat;
- on photographic paper; and
- endorsed by a solicitor, notary, a person of standing in the community, or any individual with a professional qualification, for either a transfer of a licence, or new application.

Designated Premises Supervisor

A personal licence holder may give written consent to become a designated premises supervisor (DPS) for licensed premises where the activity of sale by retail of alcohol is authorised. The DPS has a legal responsibility for not only authorising the sale by retail of alcohol under the terms of the personal licence but also has control of the day-to-day management of that premises under the terms of the premises licence. Please note that if the designated premises supervisor is not physically on the premises, there should be a clear management structure with which staff are familiar. There can only be one DPS on the premises licence, but no limit on the number of personal licence holders in order to maintain effective management of the premises.

It is recommended that premises operators keep a list of current licence holders working at those premises available for inspection.

SECTION 3 - APPLICATION FOR THE GRANT OR VARIATION OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

Each application for the grant or variation of a premises licence or club premises certificate will be considered individually in accordance with the Licensing Authority's policy.

You must send to the Licensing Team:

- A completed application form (for a premises licence or club premises certificate); including an operating schedule (see Section 4);
- The correct fee (see Section 5);
- Applications must contain a plan of the premises which does not have to be to scale but the information contained therein must be clear and legible in all material respects (see below):
- If the new premises licence (but not club premises certificate) application is to include the retail of alcohol, the written consent form of the individual personal licence holder who wishes to be the Designated Premises Supervisor (DPS) is required (see Section 2);
- If a new club premises certificate application, a declaration that the club is a "qualifying club".

You must submit a copy of your application to all "Responsible Authorities" at the time of making the application and advertise the application. Details of the responsible authorities in the North Kesteven District can be found in Appendix A. For your own benefit you may wish to get a receipt for the delivery of the application forms or send the applications by registered post or recorded delivery and keep the proof of postings as evidence that the applications have been sent.

If you are applying for a variation to your licence or certificate the process is very similar to making an application for a grant. You should note that your operating schedule will need to be altered to accommodate your proposed variation (see section 4 for details).

If the variation is simply to change the DPS, or the name and address of the licence holder then the application process is much simpler.

Any persons or Responsible authorities are free to raise relevant representations, which relate to the promotion of the licensing objectives, about the proposals contained in an application. For further details of fees, contact details for responsible authorities and how to advertise applications, please see Section 6 and Appendix A.

Community Premises

Every Premises which has an alcohol licence is subject to two Mandatory Conditions under the Licensing Act 2003 requiring them to have a named Designated Premises Supervisor (DPS) and that every supply of alcohol must be made by a Personal Licence Holder.

Every new or variation application by a Community Premises for an alcohol licence will include an option to remove the two Mandatory Conditions and replace them with the alternative licence condition that does not require the nomination of a DPS.

Community Premises that already have an alcohol licence will be able to apply to remove the two Mandatory Conditions and replace them with the alternative condition which has the effect of making the supply of alcohol under the premises licence the responsibility of the management committee, effectively replacing the DPS with the Management Committee. The police have a statutory right of objection to any application to use this condition. They can ask instead for the two Mandatory Conditions (DPS etc) to be used, this would be decided by the Licensing Authority at a formal hearing.

If there are problems at licensed premises which are using the new condition and a formal licence review is requested then the licensing authority has the power to impose, or re-impose the two Mandatory Conditions requiring a DPS and personal licence holder.

Community premises are defined as 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.

Provisional Statements

Where premises are being or are about to be constructed for the purposes of being used for one or more licensable activities, or are being or about to be extended or otherwise altered for that purpose, the necessary investment may not be committed unless investors have some assurance not only that the project has appropriate planning permission but that they have some degree of assurance that a premises licence covering the desired licensable activities would be granted for the premises when the building work is completed. In such circumstances an application for a Provisional Statement may be made.

If the details necessary to complete an application for a premises licence are known, then such an application can be made. However, it may be that details of the actual operation are not known and it is therefore open for application to be made for a Provisional Statement.

The procedure is similar to that of an application for a premises licence. If such an application is granted, then subject to there being no material changes to the project, investors etc can be confident that a premises licence will be granted.

The grant of any licence under this Act does not indicate planning consent will be granted, nor should the grant of planning consent imply the granting of a licence under this legislation.

For further details, please see Section 3

Advertising Applications

In the case of an application for the grant of or variation to a premises licence or club premises certificate, or a provisional statement, the application must be advertised.

A Notice giving details of the application must be displayed in a prominent position at or on the premises concerned. There are regulations concerning the format of the actual form the notice must take. This notice must be displayed for not less than 28 consecutive days starting on the day after the day the application was made.

The applicant must also advertise the application in a local newspaper circulating in the district such as the Lincolnshire Echo or Sleaford Standard. The newspaper notice must be circulated on at least one occasion not more than 10 working days after the giving of the application to the Licensing Authority. A copy of the advertisement should be sent to the Licensing Authority detailing where and when it was published. Both the newspaper notice and the notice for the application will contain the following information:

- The relevant licensable activities proposed to carry on at the premises;
- The proposed changes of the application;
- The name of the applicant;
- The postal address of the premises, or if not applicable a description of the premises concerned;
- Details of where the register of the Licensing Authority is held and where it can be inspected;
- The dates between which an interested party or a responsible authority may make representations to the Licensing Authority;
- A statement that all representations must be made in writing; and
- A statement 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 is liable on summary conviction for the offence.
- The notice displayed on the premises must be A4 or larger, pale blue in colour, legibly printed in font size 16 or larger.
- There are further regulations in respect of displaying the notice.

An example of a notice is attached at Appendix B.

We will post details of the application on our website.

Representations

If a representation is received from any person or responsible authority, the Licensing Authority will decide whether the representation is relevant. If found relevant the licensing team will consider arranging a mediation meeting between the relevant parties for them to try and find a compromise. If this informal process is unsuccessful a hearing before the Licensing Sub-Committee will ensue. All relevant parties will be notified. The Licensing Sub-Committee will make a decision and the details of that decision will be circulated to the parties concerned.

Rights of Appeal

Both the applicant and any person or authority making a representation have a right to appeal to the Magistrates Court. Professional advice should be sought where it is uncertain what the best course of action should be.

Transfers and Designated Premises Supervisor Variations

In the case of an application to transfer a premises licence, the applicant must give a complete copy of the application to the chief officer of police on the same day as giving the relevant application to the licensing authority.

In the case of an application to vary a premises licence by specifying a different individual as the designated premises supervisor, a complete copy of the application must be given to the chief officer of police and the existing designated premises supervisor, if any, on the same day as giving the relevant application to the licensing authority.

Interim Authorities

Interim Authorities are special arrangements for the continuation of permissions under a premises licence when the holder of a licence dies suddenly or becomes bankrupt or mentally incapable. In the normal course of events, the licence would lapse in such circumstances.

Because there may also be some time before the person's estate can be dealt with this could have a damaging effect on those with interests in the premises and employees and could bring unnecessary disruption to customers' plans. The Act therefore provides for the licence to be capable of being reinstated in a discrete period of time in certain circumstances.

The circumstances arise only where a premises licence has lapsed owing to the death incapacity or insolvency of the holder. In such circumstances, an "interim authority" notice may be given to the licensing authority within 28 days beginning the day after the licence lapsed. It should also be copied to the chief officer of police. The premises licence would lapse until such a notice is given and carrying on licensable activities in that time would be unlawful.

As soon as an interim authority notice is given within the seven day period, the business may continue to carry on any licensable activities permitted by the premises licence. The effect of giving the notice is to reinstate the premises licence as if the person giving the notice is the holder of the licence and thereby allow licensable activities to continue to take place pending a formal application for transfer. The maximum period for which an interim authority notice may have effect is three months.

Qualifying Club Conditions

Under the 2003 Act to qualify for Club status, the club must satisfy the following sections:

The general conditions:

- under the rules of the club persons may not:
 - (a) be admitted to membership, or
 - (b) be admitted, as candidates for membership, to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission;
- under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission;
- the club is established and conducted in good faith as a club;
- the club has at least 25 members;
- alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club.

In determining whether a club is established and conducted in good faith the matters to be taken into account are:

- any arrangements restricting the club's freedom of purchase of alcohol;
- any provision in the rules, or arrangements, under which money or property of the club may be applied otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes;
- the arrangements for giving members information about the finances of the club;
- the books of account and other records kept to ensure the accuracy of that information;
- the nature of the premises occupied by the club.

If a licensing authority decides that a club is not established and conducted in good faith, then the authority must give the club notice of the decision and of the reasons for it.

Additional conditions for the supply of alcohol, which a club must satisfy if it is to be a qualifying club in relation to the supply of alcohol to members or guests, are the following:

- The purchase of alcohol for the club, and the supply of alcohol by the club, are managed by a committee whose members:
 - (a) are members of the club;
 - (b) have attained the age of 18 years; and
 - (c) are elected by the members of the club.
- no arrangements are, or are intended to be, made for any person to receive at the expense of the club any commission, percentage or similar payment on, or with reference to, purchase of alcohol by the club.
- no arrangements are, or are intended to be, made for any person directly or indirectly to derive any pecuniary benefit from the supply of alcohol by or on behalf of the club to members or guests, apart from:
 - (a) any benefit accruing to the club as a whole, or
 - (b) any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club.

Plans

Applications must contain a plan of the premises which does not have to be to scale but the information contained therein must be clear and legible in all material respects and should include the following details:

For premises licence/club certificates:

- 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 sub-paragraph above the location of escape routes from the premises;
- in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- 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;
- 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 the 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; and
- the location of a kitchen, if any, on the premises.

The plan may include a legend through which the matters mentioned or referred to are sufficiently illustrated by the use of symbols on the plan.

SECTION 4 - OPERATING SCHEDULE

An Operating Schedule is required for all new applications for premises licences, club premises certificates and applications to vary such permissions. It forms part of the application. It outlines which activities are proposed, when these activities will take place, the overall opening hours of the premises and how the activities will be managed, particularly in respect of the four licensing objectives:

:

- Prevention of Crime and Disorder,
- The Prevention of Public Nuisance;
- Public Safety
- The Protection of Children from Harm.

Particular thought should be given to community centres as these premises often have many different users and uses that change on a fairly frequent basis. It may be prudent to apply for activities that currently do not take place as hirers may request those activities in the future.

One of the most critical parts of the operating schedule is the section in which the applicant describes the steps intended to promote the four licensing objectives. Careful consideration of what is entered is advised. What is written in this section will be translated into conditions on the licence or certificate. The Council's Statement of Licensing Policy can be used as a good starting point to see what needs to be addressed in the operating schedule. The list is not exhaustive and obviously, not all are appropriate to all premises.

The operating schedule will be examined by the Responsible Authorities to ensure that they are satisfied that the risks to the licensing objectives have been addressed. You can expect a representation from responsible authorities or interested parties if the operating schedule is not specific, sufficiently detailed and robust enough to address the objectives.

It is advisable to liaise closely with the Responsible Authorities and Interested Parties so that their views and assistance can be obtained before the application is submitted to the Licensing Authority. A risk assessment should be done on the proposed activities to identify any risks to the licensing objectives. These risks should then be addressed and an operating schedule should emerge from the risk assessment.

Therefore, the steps that should be taken before submitting your application are:

- Initially consult with responsible authorities and interested parties;
- draw up your risk assessment;
- draw up your operating schedule;
- if necessary consult with the relevant parties again to ensure there are no unresolved issues;
- submit your application.

The Licensing Objectives

The part of the application form that invites you to describe the steps you intend to take to promote the licensing objectives is split into five sections:

General

There are a number of steps that can be taken which satisfy more than one of the licensing objectives.

Signage – Good signage can operate at many levels. At the door, clear signs can clarify the premises' policy regarding any age restriction such as "over 18's only", "over 21's only" or "no unaccompanied children". Whether signs repeat the law or express the policy of the premises, it can act as a deterrent and as a tool for staff enforcing the law or the premises policy in a non-confrontational manner. Some examples of signs that could be used may include:

- "CCTV operates in this area and all incidents will be reported to the police"
- "These premises operates a zero tolerance drugs policy"
- "Proof of age for purchase of certain goods may be required"
- "Supervised children are welcome in the restaurant area before 8pm"
- "No drinks allowed in this area/beyond this point"

Staff training – Well trained staff are a real asset to any business. Critical areas of staff training in licensed premises should include a good knowledge of what is and is not permitted on the premises. The chain of command of licensed premises is very important and an operating schedule should have a well defined management structure especially in the absence of the DPS. An example of best practice would be that the duty manager signs in for duty in a logbook so that it is clear for everybody who is in charge of the premises at any particular time. It would also be considered best practise for all duty managers to be personal licence holders so that the required knowledge level can be assured when the DPS is not physically present. Other key areas that should be covered include:

- what to do if they think that there is a customer behaviour problem or one is likely to occur;
- what to do and any special responsibilities in case of fire or any other emergency likely to lead to the evacuation of the premises;
- where the supply of alcohol is concerned or where any age restriction is applicable training should be given and maintained.
- what is acceptable proof of age identification and what is not, as the names of cards may change or and new cards introduced having gained the PASS accreditation;
- staff should know what would be expected of them if an incident occurred and potentially that if a court case ensued that they may have to give evidence;
- what the drugs policy is and what to do if drugs are found on the premises;

- what to do if they feel threatened or feel they are at risk how best to deal with such situations.

If staff members are well trained they may feel more confident to be more proactive in keeping trouble out of the premises. The British Institute of Innkeeping and other training providers offer recognised training for various activities within the leisure and entertainment industry. Additionally, to have a document which details what the staff training consists of and documentation to show that each member of staff is familiar with the material is an essential managerial tool. The training to be given to staff and documentation may be referred to in the operating schedule. Where temporary staff are used, they should receive a thorough briefing and where possible try and obtain the same temporary staff so that they become familiar with the premises and its operation.

Drinks promotions should never encourage excessive or binge drinking. Consideration of the implications on the licensing objectives and the community should be considered whenever an alcoholic drinks promotion occurs. A statement to clarify the drinks promotion policy of the premises is advisable where one of the licensable activities is the sale or supply of alcohol. Premises licensed to sell alcohol will have mandatory conditions imposed on their licence to regulate irresponsible drinks promotions.

Special consideration should be made regarding the licensing objectives when special events such as football matches or other local or national events are being staged and how these events will impact the local community and what can be done to eliminate the negative impact.

The Prevention of Crime and Disorder

Examples of steps the Licensing Authority may expect applicants to consider and address include:

- Membership and promotion of the North Kesteven Pubwatch Scheme. Membership and regular attendance of meetings of a crime reduction group such as Pubwatch can help stop known troublemakers entering your premises. As Pubwatch and the Police can share information between each other, incidents such as resale of stolen goods, recent outbreaks of trouble and information of crimes against businesses. Pubwatch bans do have serious repercussions on the social lives of the people affected. They may have to travel much greater distances to frequent licensed premises and as such they cannot socialise with their friends in the same way. As such, up to date Pubwatch signage can act as a deterrent. Pubwatch membership would be considered best practise for many premises located in the city centre where the supply of alcohol is an authorised activity.
- Physical security features should be considered. e.g. use of toughened or plastic drinking glasses. Where appropriate, the operating schedule may specify details of when the use of plastic or toughened glass will be applied as defined by a risk assessment. Plastic may be very preferable for use in

- outside areas where broken glass could be difficult to clear up or where there may be an increased level of rowdiness such as when and where national sporting events are televised.
- The use and numbers of SIA licensed door supervisors. It will be illegal to use door staff that are not licensed by the SIA. For more information on the SIA please visit their website at www.the-sia.org.uk or call their helpline 08703 430 100. The decision when to employ door supervisors and in what number depends on a risk assessment. Managers should be sensitive to local and national events such as major football events, even if your premises are not involved directly. When using Door Staff the Licensing Authority commends the use of an “incident book” which should be maintained recording details of duty door staff and any incidents dealt with. This should be kept available for inspection at any reasonable time by Police and Council officers.
 - The amount of seating to be provided to reduce high volume vertical drinking.
 - Training given to staff in crime prevention and drug awareness measures. Please see the general heading above for further details.
 - Measures agreed with the Police to reduce crime and disorder. The development of good relations with local police officers is beneficial in preventing incidents occurring on your premises. If customers become accustomed to police officers making frequent checks, anti-social behaviour can be discouraged. Additionally, records kept of any crime or disorder incidents and where sales of alcohol have been refused will help the police and local authority monitoring.
 - Measures to prevent the use or supply of illegal drugs. Ensuring adequate staffing at busy times so that staff members are regularly checking all areas of the licensed premises including toilets and other areas that are not easily visible from the bar. Such measures would include a premises drug policy and statement of such a policy.
 - Search procedures. Effective searching not only prevents certain crimes by removing prohibited articles but also serves as a deterrent.
 - Provision of CCTV in and around the premises. Details of any CCTV system and suitable signs associated with it.
 - Formulation of a dispersal policy. You should ensure that when customers leave the premises, they do so in an orderly manner. A music and lighting policy which encourages a calming effect on customers before they leave can help. It may be that a transportation policy is required to get customers home after the premises when there is no viable alternative.
 - Measures to prevent glasses and bottles being taken away from the licensed premises. Open containers should not be taken from the premises. Signs to reinforce that only drinks purchased on the premises may be consumed on the premises could be advisable.

Public Safety

Examples of steps the Licensing Authority may expect applicants to consider and address include:

- Suggested occupancy figures (including staff and performers). It is the responsibility of the licence holder to do a risk assessment of the business and expert advice may be required. Not only does the size and the number of emergency exits affect the occupancy figure, so does the floor area, ease of exit and the density and type of furniture and fittings.
- Use of equipment and effects. You should be able to demonstrate that equipment, whether fixed or temporary is safe and in working such as the electrical, fire alarm and emergency lighting systems and fire fighting equipment. There are however, types of equipment and effects which require specific risk assessment and advice from experts such as the Environmental Health or Health and Safety officers.
- Levels of door supervision. Please see above in Crime and Disorder. When assessing the numbers of doorstaff, you should consider their safety and employ them in sufficient numbers to ensure that they are able to deal with all emergencies and evacuations, not just in their crime and disorder role.
- Measures to prevent the supply and use of illegal drugs. Please see the General and Crime and Disorder headings.
- Free availability of clean drinking water. It is recognised that some persons either in possession of or under the influence of drugs will gain entry to premises despite stringent search methods. Some drugs combined with dancing can cause overheating of the body and a craving for water. Free availability of clean drinking water and its controlled consumption can help to alleviate the effects of the drug. Water available in sanitary accommodation should not be used for this purpose. It is a mandatory condition on most premises licences that the responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- Physical safety features e.g. use of toughened glass and plastic containers. Please see above in Crime and Disorder;
- Fire safety, training and evacuation procedures;
- Provision of CCTV

The Prevention of Public Nuisance

Examples of steps the Licensing Authority may expect applicants to consider and address include:

- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship and the proximity of other sensitive areas such as schools, war memorials etc;
- The hours of opening, particularly between 11pm and 7pm;
- The nature of the activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises;

- The design and layout of the premises and in particular the presence of noise limiting features and equipment;
- The occupancy capacity of the premises;
- The availability of public transport;
- The availability of parking in residential areas;
- 'Wind down period' between the end of the licensable activities and the closure of the premises;
- The formulation of a dispersal policy;
- Last admission time
- The upkeep of the area immediately surrounding the premises such as litter collection.

Closure of outside areas after a certain time is encouraged to be included in your operating schedule. It is advisable that no regulated entertainment is carried out in outside areas in the evenings without prior consultation with the licensing authority. Noise can also be contained by keeping windows and doors shut, by installing double-glazing or air conditioning and ventilation where appropriate, which should be maintained in good order. Using performers of regulated entertainment to remind customers to respect the premises' neighbours and leave quietly has proved successful.

The changes to regulated entertainment in October 2012 (detailed in Section 1), in particular the provision of live music do not allow licensed premises to cause a noise nuisance. Licensed premises are still subject to environmental protection legislation, and noise nuisance may still be cited as grounds for the review of premises licences.

Protection of children from Harm

Do make a statement regarding the child admission policy of the premises detailing any restrictions. Good management and staff training is essential in dealing with this objective.

Signage can be very important in the protection of children from harm. It is important that signage makes clear the restrictions on access to the premises or part of the premises by children. It is also important to have children supervised at all times in these types of premises.

It is expected to show in your operating schedule that if children are permitted on the premises that any areas where children are not allowed are demarcated, these may be bar areas, in areas with amusements with prizes or a strong element of gambling, suitable refreshments should be available at all times when children are permitted. Do make sure that children needing to use the toilets can get there without crossing areas within which they are not permitted.

When considering access by children, you may wish to consider the following:

- Limitations of the hours when children may be present;

- Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Age limitations (below 18);
- Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place.
- Presence of acceptable number of appropriate adult staff to ensure public safety and protection of children from harm.

It should be noted that it is an offence:

- To permit children under the age of 16 unaccompanied by an adult (a person aged 18 or over) to be present on premises open for the supply of alcohol for consumption there and being used exclusively or primarily for the supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or temporary event notice;
- To permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am to be on premises supplying alcohol for consumption on the premises under the authorisation of any premises licence, club premises certificate or temporary event notice.

The offences may be committed by a premises licence holder, designated premises supervisor or any person who works at licensed premises, whether paid or unpaid, in a capacity which authorises him or her to request an unaccompanied child under 16 to leave the premises. It may also be committed by any member or officer of a club, which holds a club premises certificate, who is present on the premises in a capacity which enables him to make such a request or a premises user in relation to premises being used under the authorization of a temporary event notice.

The above suggestions are not a definitive list nor will they be applicable to all premises. They are listed here to give applicants an idea of what the Responsible Authorities and Interested Parties will be looking for when considering an application. Do remember that the statements made in the operating schedule will be transposed into conditions on the premises licence.

SECTION 5 - TEMPORARY EVENT NOTICES

Before an ad-hoc event that includes licensable activities takes place in England or Wales, the local licensing authority must be given a Temporary Event Notice (TEN) for the “licensable activities” that are planned. You should apply to us only for events that take place within the North Kesteven District.

The TEN process is intended to be simple to use and in essence means that, *subject to certain limitations*, there is no permission required to hold temporary events. An applicant must merely give notice of the event to the Licensing Authority and also inform the Council’s Environmental Protection Unit and the Police (the Relevant Persons). Provided the applicant stays within the definition of a TEN then the Licensing Authority can only intervene in certain circumstances, the Relevant Persons may object to the TEN if they feel that the proposed event may undermine any of the Licensing Objectives.

It should be noted that the giving of a temporary event notice does not relieve the premises user from any requirements under planning permission where it is required.

The limitations directly imposed by the Act apply to:

- the number of times a person may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a person may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (15 times in a calendar year);
- the length of time a temporary event may last for these purposes (168 hours or 7 days);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (21 days per calendar year); and
- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

Please note that a notice will be deemed to be from the same premises user if it is made by an associate, namely:

- the spouse of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person or their spouse; or
- an agent or employee of that person or their spouse;

A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse.

A Temporary Event Notice will contain the following information:

- the licensable activities to take place during the event;
- the period (not exceeding 168 hours) during which it is proposed to use the premises for licensable activities;
- the times during the event period that the premises user proposes that the licensable activities shall take place;
- the maximum number of persons (being less than 500) which it is proposed should, during those times, be allowed on the premises at the same time;
- where the licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises or both; and
- any other matters prescribed by the Secretary of State.

On each occasion at least 10 working days' notice must be given, but there is nothing to prevent simultaneous notification of multiple events at a single time so long as the first event is at least ten days away. Temporary Event organisers are encouraged to submit their notifications to the Licensing Authority, Police and our Environmental Health team as soon as is reasonably practical in order for them to consider whether or not there are any concerns and where there are concerns, to enable all parties to take the necessary steps to resolve them.

Late TEN's

- There is a limited provision for us to accept a 'late' TEN - these may be given to us no later than 5 working days before the event and no earlier than 9 working days. Personal licence holders can give up to 10 'late' Notices a year, non personal licence holders can give up to 2, but once these limits are reached then any entitlements to apply for any type of TEN cease for the rest of that year.

The Licensing Authority recommends that at least 20 working days and no more than 40 working days notification be given.

SECTION 6 - FEES

Fees for all 2003 Act permissions and applications are set by Central Government. All cheques should be made payable to "North Kesteven District Council". We do not accept cash payments.

Premises licences, club premises certificates, variations to conditions, conversions and annual maintenance fees are based on the non-domestic rateable value (NDRV) of the premises. These are sub-divided into 5 bands. To calculate the fee you will have to pay you will need to know the NDRV of your premises. The annual fee is payable 1 year after the grant of the licence or certificate.

Band	A	B	C	D	E
Non-domestic rateable value	£0- £4,300	£4,300- £33,000	£33,001- £87,000	£87,001- £125,000	£125,001 and over
Fees payable for: Premises Licence/Club Certificate and variations to conditions (but not changes of name and address or changes of designated premises supervisor)	£100	£190	£315	£450 £900*	£635 £1905*
Multiplier*					
Annual fee	£70	£180	£295	£320 £640*	£350 £1050*
Multiplier*					

**The Government has introduced multipliers to bands D and E for premises whose exclusive or primary business is selling alcohol for consumption on the premises.*

To find out how much your non-domestic rateable value of your premises is please enter your postcode into the Valuation Office's website, www.voa.gov.uk.

There are other occasions that fees and charges must be paid to The Licensing Authority:

Occasion on which a fee may be payable	All fees are to be paid to North Kesteven District Council	Who should be sent copies of application other than the Licensing Authority
Application for making a provisional statement	£315.00	Responsible Authorities Advertised at premises and in local paper
Application to transfer premises licence	£23.00	Lincolnshire Police. Designated Premises Supervisor
Interim Authority Notice	£23.00	Police

Application for personal licence	£37.00	N/A
Application for copy of licence or summary on theft, loss etc. of licence or summary	£10.50 in all cases	N/A
Application for copy of certificate or summary on theft, loss etc. of certificate or summary	£10.50 in all cases	N/A
Notification of change of name or alteration of club rules	£10.50 in all cases	N/A
Change of relevant registered address of club	£10.50 in all cases	N/A
Temporary Event Notices	£21.00	Police, Environmental Health
Application for copy of notice on theft, loss etc. of temporary event notice	£10.50	N/A
Application for copy of licence on theft, loss etc. of personal licence	£10.50	N/A
Notification of change of name or address (personal licence)	£10.50	N/A
Notice of interest in any premises	£21.00	N/A
Copies of information contained in register	£10.50	N/A

Exemptions

No fee or annual charge would be payable by church halls, chapel halls, village halls, parish and community halls or other premises of a similar nature for a premises licence authorising **only** the provision of regulated entertainment.

No fee or annual charge would be payable by a school or college for a premises licence authorising **only** the provision of regulated entertainment carried on for the purposes of the school or college.

Exceptionally large events, may give rise to exceptional problems and licensing costs. Such events might include major festivals and other events, which often involve the building of substantial temporary structures requiring expert checking by officials and sub-contracted experts. Where it is proposed that the number of people at any one time attending such a temporary event will exceed 5,000 people,

there will be an additional fee on an application for a premises licence authorising the event.

Number of people	Additional Fees	Additional Annual fee if applicable
5,000-9,999	£1,000	£500
10,000-14,999	£2,000	£1,000
15,000-19,999	£4,000	£2,000
20,000-29,999	£8,000	£4,000
30,000-39,999	£16,000	£8,000
40,000-49,999	£24,000	£12,000
50,000-59,000	£32,000	£16,000
60,000-69,999	£40,000	£20,000
70,000-79,999	£48,000	£24,000
80,000-89,000	£56,000	£28,000
90,000 and over	£64,000	£32,000

For premises under construction, and have not been allocated a non-domestic rateable value but will be given such a value as soon as a completion certificate is given, the band will be band C. Subsequent annual fees will relate to the non-domestic rateable value given to the property.

APPENDIX A

Responsible Authorities

Responsible Authorities are mainly public bodies that under the terms of the 2003 Act must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate or for the issue of a provisional statement.

All applications for Licences under the Licensing Act 2003 will need to be addressed to the Licensing Authority (North Kesteven District Council) at the address given on the front of this guidance

Applicants for new Premises Licences and Club Premises Certificates will need to submit a copy of their application, including the plan, to the 'Responsible Authorities'. This must be done **on the same day** as applying to the Licensing Authority (above). The Responsible Authorities for the North Kesteven District Council area are:

Lincolnshire Police

Lincolnshire Fire & Rescue

North Kesteven District Council

- Food/Health & Safety Team
- Environmental Protection Team
- Planning Services

Lincolnshire Child Protection Services

Lincolnshire Trading Standards

Lincolnshire Public Health

Home Office (Immigration) – must receive copies of certain types of application.

Their full contact details may be found in our separate guidance document 'NKDC Responsible Authorities'.

APPENDIX B
Example of "Premises Notice"

LICENSING ACT 2003

(NAME AND ADDRESS OF PREMISES)

I/We (name of applicant(s)) hereby give notice of an application to North Kesteven District Council for a Premises Licence/Club Premises certificate in respect of the above premises. The proposed licensable activities are as follows:-

(A brief description of the licensable activities) e.g.

1. To enable the sale of alcohol from – to -,
2. To enable the sale of late night refreshment from – to -,
3. To enable regulated entertainment from – to -,

Full details of the application can be viewed at the offices of North Kesteven District Council, Kesteven Street, Sleaford from 9.00am to 4.30pm Monday to Thursday and 9.00am to 4.00pm Friday, up to 28 days from the date of this application.

All representations made by Interested Parties or Responsible Authorities to the Licensing Authority must be in writing.

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 is liable on summary conviction for the offence is unlimited.

Dated this (day) day of (month) 20**

APPENDIX C

Personal Licence Qualifications

Persons applying for a personal licence will need to obtain an accredited licensing qualification. The aim of the qualification is to ensure that licence holders are aware of licensing law and the wider social responsibilities attached to the sale of alcohol.

The current qualification is the Level 2 Award for Personal Licence Holders. (This replaces the Level 2 National Certificate for Personal Licence Holders, which will no longer be accepted if dated after 31st March 2011).

The Secretary of State accredits personal licence qualification training providers under the 2003 Act.

For details see: [Accredited personal licence qualification providers](#)

(<https://www.gov.uk/government/publications/accredited-personal-licence-qualification-providers/accredited-personal-licence-qualification-providers>)

Contact the course providers direct for more information on the costs and local venues where they can be taken.

The courses are one-day courses and topics in the syllabus include:

- **licensing authorities**
- **personal licences**
- **alcohol**
- **unauthorised licensable activities**
- **Police powers**
- **duties of the personal licence holder**
- **premises licences**
- **operating schedules**
- **permitted temporary activities**
- **disorderly conduct on licensed premises**
- **protection of children**
- **rights of entry**

IF YOU HAVE UNANSWERED QUESTIONS ABOUT THE LICENSING ACT THEN PLEASE CONTACT US BY:

Visiting the Council's website www.n-kesteven.gov.uk
or telephone the Licensing Team on 01529 414155 or
e-mail licensingteam@n-kesteven.gov.uk.

Alternatively you can also make an appointment with an officer of the Licensing team.

The Licensing Team
Environment and Public Protection
North Kesteven District Council
District Council Offices
Kesteven Street
Sleaford
Lincolnshire
NG34 7EF

PLEASE NOTE THAT THE INFORMATION CONTAINED IN THIS GUIDANCE DOCUMENT IS THE LICENSING AUTHORITY'S UNDERSTANDING OF THE CURRENT LEGISLATION. APPLICANTS ARE STRONGLY ADVISED TO SEEK ADVICE FROM A QUALIFIED PROFESSIONAL.