

## Licensing Act 2003 - The New Regime

### Guidance Notes

There are three types of licence:

- **Premises Licence**
- **Personal Licence** and
- **Club Premises certificates**, plus **Temporary Event Notices** for “one off” events.



### Alcohol

Any retail sale of alcohol requires a licence however selling liqueur chocolates does not require a licence although they may not be sold to under 16s.

The supply of alcohol by a club or to a member of a club requires the club to have a “Club Premises Certificate.” Only qualifying clubs that are suitably constituted, such as working men’s clubs, can make use of such certificates. Other informal groups such as Parent Teacher Associations are not qualifying clubs and so they need licences to sell alcohol.

### **Premises Licences**

Premises licences allow the holder to use buildings (or land) activities (any combination of the sale and supply of alcohol, music, dancing, film shows, theatre etc. and late night refreshment.

Licences generally last “for the life of the business.” There is an application fee, then annual payments on the anniversary of the grant of the licence.

Our licensing policy, information and links to application forms are available on our Internet site (<http://www.cheltenham.gov.uk>) — or will be sent by the licensing unit, on request.

### Applying for a new licence:

Ask us for an application pack -

[www.cheltenham.gov.uk/libraries/templates/ourservice.asp?URN=1156&FolderID=0](http://www.cheltenham.gov.uk/libraries/templates/ourservice.asp?URN=1156&FolderID=0)

Where alcohol is to be sold, there must be a “designated premises supervisor” (DPS) named on the licence. That person is the individual with day to day control of the premises, responsible for authorising all sales of alcohol, but the premises licence doesn’t have to be in the same name.

- The DPS must hold a valid personal licence (see separate fact sheet for details of personal licensing)
- Only one individual may be named as the DPS; but any number of persons at the premises can hold a Personal Licence.

The premises licence can be held by an individual, a number of individuals, a limited company, a partnership, an unincorporated association or another group (such as a charity). There are a number of issues to consider when deciding who is to hold the licence:-

1. It is possible for the licence to be surrendered by the premises licence holder.
2. The premises licence holder does not need to be at the premises.

3. A premises licence holder can be prosecuted for any offences that take place on the premises (they will have a defence if they can prove they took reasonable steps to avoid the offence being committed).

**On the application form you will need to tell us:**

- what steps you will take to address the **four licensing objectives - protection of children, prevention of crime and disorder, prevention of public nuisance and protection of public safety.**

- which licensable activities you want to offer, including whether you have different rooms in your premises that you wish to operate with different times or with different activities;

- the days and times that you want to be able to offer each activity;

- the identity of the designated premises supervisor (where sale of alcohol is requested- NOT clubs), and whether alcohol is to be consumed on or off the premises or both.

Before applying you should:

1. read our statement of licensing policy, and the Government's notes at the end of the application form;

2. talk to - and take advice from - the responsible authorities, particularly the Police, to make sure that you have put in place all reasonable management controls and therefore minimise the likelihood of them objecting, &

3. if you are seeking to vary an existing licence you must be able to demonstrate using the application form that the changes you propose won't have a negative effect on the local community.

**You will also have to give us:**

• The fee (see below; pay by cheque payable to Cheltenham Borough Council; by credit or debit card over the phone or by cash or card at our customer contact centres)

• where alcohol is to be sold, signed consent from the DPS when nominated (NOT clubs), and

• plans of premises - in accordance with the Regulations (see below).

The application must be sent to us with a copy sent by the applicant to each of the responsible authorities (listed below).

Once you've sent off the forms, you have to advertise the application by:

• Placing a public notice in a newspaper circulating in the area (local press — Echo).

• by posting a notice at the premises for a period of 28 consecutive days from the day after the day on which the application was given to the council. The notice has to be at least A4 size, on **pale blue** paper, printed legibly in black at font size 16 or larger. It must be capable of being conveniently read by passers by. For premises larger than 50 metres square, posters must be displayed every 50 metres along any external perimeters abutting a highway. The notices must be in the form attached. Electronic copies can be downloaded from our web site.

If **NO** representations are received then we will grant your applications with no hearing - subject only to the mandatory conditions detailed in the Licensing Act 2003 and any conditions referred to in your operating schedule.

Your application must be determined on “Its Individual Merit” based on evidence and not speculation and in accordance with the legislation. Objecting must be made under the four Licensing principles of Crime and Disorder, Public Nuisance, Public Safety and Protection of Children from harm.

Responsible Authorities or Interested parties can make representations in relation to your application. They will discuss these with you. If a Responsible Authority wants you to add conditions to your licence you are advised to seek further advice before making such an agreement.

If there are representations that cannot be resolved, we will hold a public hearing before our Licensing Sub-Committee, where the applicant and those responsible authorities or interested parties can speak and the Councillors will make a decision in the light of our Statement of Licensing Policy and the Secretary of State's Guidance on the Act. The applicant may be legally represented, speak for him/herself, get someone else to speak for them, or put a written response to the representation(s) to Licensing Sub-Committee.

### **Entertainment**

“Entertainment” includes both provision of entertainment and provision of facilities for entertainment.

Entertainment means any of the following:

- The performance of a play (this means any piece where a dramatic role is acted out);
- An exhibition of a film (this means any display of moving pictures);
- An indoor sporting event;
- Audience/exhibition;
- Snooker;
- Boxing or wrestling entertainment;
- A performance of live music;
- Any playing of recorded music;
- A performance of dance, or
- Entertainment of a similar description to live music, recorded music or dance.

Entertainment only requires licensing if it takes place in the presence of an audience (however small). Licensing may not be required if the entertainment is ancillary to a particular event.

Entertainment facilities are those enabling people to take part in an entertainment of the following sort:

- making music;
- dancing
- Entertainment of a similar description to making music or dancing.

“Entertainment facilities” are, for example, a dance floor provided for customers to use, whereas “entertainment” might involve a performance of dance provided for an audience.

In addition the entertainment or entertainment facilities must be provided:

- (a) to the public, or

(b) exclusively for members and their guests of a club which is a qualifying club, or  
(c) where (a) and (b) do not apply, for consideration and with a view to profit.

The provision of music or the performance of a play to the public, or to members of a qualifying club (e.g. Working Men's Club etc.), or to members of an association, which is not a qualifying club, (e.g. Parents Association) where an entrance fee is paid to raise funds, are all licensable activities.

Dance schools do not provide entertainment when giving lessons although they would require a licence if they decided to give demonstrations of their students abilities to the public or to members of a qualifying club.

There are some exemptions. For example:

- films shown in museums or art galleries as part of an exhibit
- music - provided it is incidental to a non licensable activity like a fashion show
- showing television programmes as they are broadcast
- entertainment, such as music or a play as part of a religious meeting or service or at a place of public religious worship (e.g. nativity plays during a service anywhere, choral works or a play in a church even where not part of a service)
- garden fetes
- Morris dancing or entertainment in vehicles whilst they are in motion.

### **Late Night Refreshment**

"Provision of late night refreshment" means the supply of hot food or hot drink to the public between 11pm

and 5am. This applies to both "eat in" and "takeaway" sales.

"Hot" means that it has been heated to above ambient temperature, or can be heated on the premises after its been sold.

Any restaurant, pub, snack bar, chip shop, 24 hour supermarket or similar wanting to supply hot food or hot drink after 11pm will need to hold a Premises Licence.

There are some exemptions, including supply to:

- Members of qualifying clubs
- Someone staying at a hotel (including guest house, lodging house, hostel, caravan site, camping site, etc.) for the night,
- By an employer to employees, or
- Guests of the above.
- supply of alcoholic hot drinks (but would need a premises licence permitting sale of alcohol)
- Drinks (not food) from vending machines
- Free food or drink, and
- Food or drink supplied by registered charities
- Drink not given as part of the sale of food
- Buying and heating up of food.

### **Plans:**

The scale plan of the building - unless we agree in writing beforehand - must comply with the 'Regulations, which state:

The plan shall be drawn at a scale of 1:100 and 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 paragraph (1)(b), the location of escape routes from the premises;
- (d) In a case where the premises is used for more than one existing licensable activity or qualifying club activity, the area within the premises used for each activity;
- (e) Fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (f) In a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) In a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (h) In a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (i) The location and type of any fire safety and any other safety equipment; and
- (j) The location of a kitchen, if any, on the premises.

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

### **Get help at:**

Licensing  
Cheltenham Borough Council  
PO Box 12  
Municipal Offices  
Promenade  
Cheltenham  
Gloucestershire  
GL50 1PP

Telephone: 01242 775200

Fax: 01242 264294

Email: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)

### **Electronic Service of Applications**

The legislation does permit electronic service but only after prior agreement with the authorities involved.

Where service is by electronic means, the periods allowed for determination of applications will not begin until all necessary hard copy documents are received by the licensing unit.

**Licensing Act 2003**  
**Contact Details for Responsible Authorities**

**Gloucestershire Constabulary**

Licensing Dept.  
1 Waterwells Dr  
Waterwells Business Park  
Quedgeley  
Gloucester GL2 2AN  
Direct telephone: 01452754482  
General Email: [licensing@gloucestershire.police.uk](mailto:licensing@gloucestershire.police.uk)  
Fax: 01452 754797

**Gloucestershire Fire and Rescue Service**

Service Delivery Support  
Waterwells Drive  
Quedgeley  
Gloucester  
GL2 2AX  
Telephone 01452 753333  
fax 01452 753304  
email: [fire.safety@glosfire.gov.uk](mailto:fire.safety@glosfire.gov.uk)

**Pollution Prevention**

Cheltenham Borough Council  
Pollution Control Team  
Public Protection Division  
Municipal Offices  
Promenade  
Cheltenham  
GL50 9SA  
Tel- 01242 775178  
Fax -01242 264210  
email: [ehbusinesssupport@cheltenham.gov.uk](mailto:ehbusinesssupport@cheltenham.gov.uk)

**Health and Safety Enforcement – where the local authority is the enforcing authority**

Cheltenham Borough Council  
Programmed Services  
Public Protection Division  
Municipal Offices  
Promenade  
Cheltenham  
GL50 9SA  
Tel- 01242 775178  
Fax - 01242 264210  
email: [ehbusinesssupport@cheltenham.gov.uk](mailto:ehbusinesssupport@cheltenham.gov.uk)

**Health and Safety Enforcement – where the HSE is the enforcing authority**

Health and Safety Executive  
4th Floor, The Pithay  
All Saints Street  
BRISTOL  
BS1 1ND  
Tel: 0117 988 6000  
Fax: 0117 926 2998  
email: [formsadmin.bristol@hse.gsi.gov.uk](mailto:formsadmin.bristol@hse.gsi.gov.uk)

**Local Planning Authority**

Planning Enforcement  
Built Environment Division  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP  
Tel 01242 264138  
Fax 01242 227323  
email: [builtenvironment@cheltenham.gov.uk](mailto:builtenvironment@cheltenham.gov.uk)

**Child Protection**

Gloucestershire Safeguarding Children Board  
Block 4, 1<sup>st</sup> Floor, Room 133B,  
Shire Hall,  
Westgate Street,  
Gloucester,  
GL1 2TH  
Tel 01452 583629  
email: [gscb@gloucestershire.gov.uk](mailto:gscb@gloucestershire.gov.uk)

**Trading Standards**

Gloucestershire Trading Standards,  
The Tri-Service Centre,  
Waterwells Drive,  
Quedgeley,  
Gloucester  
GL2 2AX  
Email: [tradstds@gloucestershire.gov.uk](mailto:tradstds@gloucestershire.gov.uk)

**Responsible Authority for Health**

Public Health Department  
Block 4, 2nd Floor  
Gloucestershire County Council  
Shire Hall, Westgate Street, Gloucester GL1 2TG  
Telephone: 01452 328699  
Email: [publichealth@gloucestershire.gov.uk](mailto:publichealth@gloucestershire.gov.uk)

**Home Office Alcohol Team**

Alcohol Licensing Team  
Lunar House

40 Wellesley Road,  
Croydon, CR9 2BY

Email: [Alcohol@homeoffice.gsi.gov.uk](mailto:Alcohol@homeoffice.gsi.gov.uk)

## Licensing Act 2003: Fee Information

The following shows the fee structure for premises licences.

**Premises** are banded according to their non domestic rateable value and the fee will fall into one of the bands below.

NB: Please ensure that you enter the rateable value of your premises in the box on the application form.

Band	A	B	C	D	E
Non domestic rateable value	None to £4,300	£4,301 to £33,000	£33,001 to £87,000	£87,001 to £125,000	£125,001 plus
Premises licences*					
New application and variation	£100	£190	£315	£450	£635
Annual charge*	£70	£180	£295	£320	£350
Club premises certificates					
New application variation	£100	£190	£315	£450	£635
Annual charge	£70	£180	£295	£320	350

A multiplier is applied to premises in Bands D & E where they are **exclusively or primarily** in the business of selling alcohol:

Band	<u>D (x 2)</u>	<u>E (x 3)</u>
<b>Application Fee</b>	£900	£1905

### EXEMPTIONS:

1.) Church halls, chapel halls or other similar buildings, or village, parish or community halls, or schools or colleges (for the purposes of the educational institution) do not have to pay for premises licences - unless retail sale of alcohol is to be included in the premises licence. If that happens, the full fee (as detailed above) is payable.



2.) No fee or annual charge payable 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 for a premises licence authorising only the provision of regulated entertainment:

- that the educational institution is a school or a college; and
- 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.

### **How do I pay**

The Licensing Team, Cheltenham Borough Council must receive your application fee before your application can be considered as valid.

Please refer to the following table, which explains the type of payment methods accepted.

<b>Method of Payment</b>	<b>How to Pay</b>
<b>Cheque – Cheltenham Borough Council's preferred method of payment</b>	<b><i>Made payable to: Cheltenham Borough Council – forwarded to the Licensing Team along with your completed application form.</i></b>
<b>Cash or Debit/ Credit Card</b>	<b><i>Please do not send cash in the post. Call into to the Council Offices and ask to see someone from licensing, who will be able to help with your payment.</i></b>

## **Public Notice Licensing Act 2003**

I / we. .... applied on (Date)  
**for a premises licence / variation of a premises licence at (Address)**

**for (describe licensable activities applied for)**

**on (times and dates)**

Full details are included in the application held at Cheltenham Borough Council.

The application has been made to:  
Cheltenham Borough Council,  
Licensing Team, PO Box 12, Municipal Offices,  
Promenade,  
Cheltenham,  
Glos.  
GL50 1PP

E mail [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk) .

The application can be inspected at the Council's offices from Monday to Friday between 9am and 5pm.

Any person wishing to make representations about this application may do so in writing to Cheltenham Borough Council no later than .....  
(DATE 28 days beginning the day after the application was submitted)

It is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum penalty on conviction fine not exceeding Level 5 on the standard scale (£5,000).