

EVENT SAFETY MANAGEMENT GUIDANCE.



PART 4

Licensing of Events

LICENSING

Licensing Act 2003

The Licensing Section at Amber Valley Borough Council co-ordinates and administers the process of licensing events and issuing licences, authorisations and permits.

If you are organising an event it is always a good idea to contact the Licensing Team to discuss the activities that will be carried out, so we can ascertain if a licence will be required. It is advisable to make contact early in your planning stage to avoid abortive work. Ideally you should initially contact us at least 6 months before a licence is required.

The Licensing Section is more than happy to assist applicants for event licenses in completing their application. Please telephone us for an appointment and one of our Officers will be pleased to help you make your application.

Licensing Objectives

You need to bear the four licensing objectives in mind when completing your application for a premises licence. They are:

- Prevention of public nuisance;
- Prevention of crime and disorder;
- Public safety;
- The protection of children from harm.

What do I need a licence for?

You need to obtain a premises licence for the following activities:

- To sell or supply alcohol
- To supply alcohol to a club member, or to sell alcohol to a guest of a club member

- To provide regulated entertainment
- To sell late night refreshment (hot food or drink between 11.00pm and 5.00am)

What is regulated entertainment?

The following kinds of entertainment are regulated entertainment:

1. Performance of a play
2. Film exhibitions
3. Indoor sporting events
4. Boxing or wrestling exhibitions (including martial arts)
5. Live music (karaoke included)
6. Recorded music
7. Performance of a dance

The Live Music Act 2012 has amended the Licensing Act 2003 and no licence is required for the following activities taking place between the hours of 08:00 and 23:00 on any day:

- Performance of a play – in the presence of any audience of no more than 500 people
- Indoor sporting event – in the presence of no more than 1,000 people
- Performance of dance – (unless of a sexual nature) in the presence of any audience of no more than 500 people
- Live music (unamplified) – any location and no audience restriction
- Live music (amplified) – in a workplace in the presence of an audience of no more than 200 people
- Live music on licensed premises (whilst open for the sale of alcohol) – in the presence of an audience of no more than 200 people

What about one off events and special occasions?

If you are holding a licensable activity that falls into both the following categories

- Less than 500 people attending
- Lasting for not more than 168 hours

you can hold your event by submitting a Temporary Event Notice (TEN) to the Licensing Section. This notice allows you to hold a licensable activity on premises that are not currently licensed, or to hold activities an existing licence does not permit.

If your event/activity falls outside these restrictions, you will require a full premises licence.

You may apply for a standard TEN which must be served on all the below bodies at least 10 working days prior to the event, not including the day of service or the day of the event. There is the provision for a late TEN, which must be submitted between 5 and 9 working days prior to the event.

The TEN must be served on:

- The Licensing Section of Amber Valley Borough Council
- The Environmental Health Department

and

- Licensing Section of Derbyshire Constabulary (currently based at Heanor Police Station, Geoffrey Street, Heanor DE75 7ED)

Please be aware that should representations be made against a late TEN, a counter notice will be issued and the event cannot go ahead. However in the case of a standard TEN the applicant may attend a Panel Hearing which will determine the application. It is therefore in your best interest to make an application for a TEN as early as possible. Further information on TEN's is available from the Licensing Section.

General Information

Many of the larger events will require a full premises licence rather than a temporary event notice (TEN). Such events would normally include street fairs, carnivals, circuses, outdoor music festivals, agricultural shows, etc. where more than 499 persons are expected to attend the event at any one time.

Remember, the Licensing Authority require up to two months under the licensing laws to process your premises licence application. You should therefore ensure that you organise and submit your application well in advance of your event. The Licensing Section recommends that you submit your application at least 3-6 months before the event. If your event involves the supply of alcohol, then you will need a nominated Designated Premises Supervisor (DPS) in your premises licence application. They must give their written consent and hold a personal licence to sell alcohol by the time your event begins.

The Licensing Section strongly recommends that event organisers contact responsible authorities in advance of drafting/submitting a licence application. The responsible authorities (including the Police, Fire Service and Environmental Health Department) are normally in a position to offer expert and specific advice on the promotion of the four licensing objectives, and practical experience of dealing with events. This approach can both minimise the potential for responsible authority representations (objections) against your proposals and help ensure that your event runs smoothly and safely.

Some event organisers also actively advise and consult local residents and the parish/town council directly on their proposed event (although this is not a statutory requirement).

Procedural Information

The Licensing application form contains a notes page and you should read these notes carefully prior to completing the form.

A 'premises' under the 2003 Act can be any place including part of a street, field, market square, temporary structure as well as a building (or part of a building). Certain exemptions can apply to certain types of 'premises' (such as churches). You should contact the Licensing Section if you require further guidance in this respect.

The statutory requirements for applying for a premises licence for an event are no different to an application for a permanent licence for a public house, bar or entertainment venue. You will need to provide a plan of the premises, advertise the application in a local newspaper and on the premises, serve a copy of the full application to all responsible authorities and pay any statutory fee applicable to your application.

Remember, if you are seeking a Premises licence for Council owned land (such as a public park) then you will need to ensure that you serve a copy of your application to the Health and Safety Executive as well as all other responsible authorities under the 2003 Act. A minimum of 3 months notice is required in respect of events to be held on Council owned land.

It is helpful to persons with an interest in your application if you give an indication, within your operating schedule, of the maximum number of persons (including staff and performers) you anticipate will attend your event at any one time. Normally your premises licence will be time limited to the day or days of your event.

The application form provides a space for you to provide this information. However an alternative option may be for you to apply for a licence which authorises licensable activities by your society/organisation for a set number of days each year – the date of the event to be notified in writing to the Licensing Authority, Derbyshire Police and the Derbyshire Events Safety Advisory Group (whilst the Group is in operation)

prior to the event. This would save the need for you to apply for a licence each year and also give you the opportunity of holding a licence, which is not restricted to a particular date or weekend each year.

Carefully check the fee payable with your application. Some premises, which may include fields, streets, village greens etc. will not have their own Non-Domestic Rateable Value (NDRV) and therefore pay the lowest (Band A) licence fee. However some premises may be part of a premise that is rated and that fee will apply to your application. This could for example apply to an open space, within the boundaries of a factory, being used for licensable activities. To check NDRV for your particular premises then access the Valuation Office Agency (VOA) website: www.voa.gov.uk

Additional licence fees may be payable if your event is attended by 5000 or more persons.

An integral part of your licence application is the plan of the premises, which you must provide by law. Plans should be drawn to a scale of 1:100, unless written agreement has been agreed with the Licensing Team to submit the plan to an alternate scale (for example 1:200, or in the case of open spaces 1:2500).

The plan should indicate each area of the premises, which is required to be licensed. This includes all areas, which may be accessed by the public during a licensed event.

You do not need to have your plan professionally drawn but it must contain the information set out by Regulation and clearly identify and delineate the area you are seeking to licence. You may wish to specify an ordnance survey map reference to help identify the area.

In order to assist the Licensing Section and responsible authorities understanding your application you may wish to provide more than one plan. This can be helpful for applications where, for example, a marquee or staging/seating area is erected in a field. You could consider showing the marquee or stage in a scale of 1:100 with the surrounding area as a site plan at scale 1:2500.

In some cases you may not, at the time of application, know the exact final layout and finer details of your plan. Matters such as seating/staging arrangements may change after you submit the application.

You may wish to consider providing in your operating schedule a commitment to provide the relevant authorities with a more detailed or any revised plan shortly before your event takes place.

Operating Schedule

The operating schedule forms part of the licence application. It is the document that outlines what activities are proposed, when these activities will take place, the overall opening hours and how the activities will be managed, particularly in respect of the licensing objectives.

One of the most critical parts of the operating schedule is the section where 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.

A risk assessment should be done on the proposed activities to identify the risks to the licensing objectives. These risks should then be addressed and an operating schedule should emerge from the risk assessment.

What Happens to your Application

Any of the responsible authorities and/or members of the public are entitled to make representations about your application, provided they are relevant to one or more of the licensing objectives. However, representations received from members of the public are likely to carry more weight if the person lives or runs a business in the vicinity of the premises concerned.

If representations are received a Licensing Panel (consisting of Councillors) will determine your application. You will be invited to attend the meeting in support of your application.

The Panel will determine your application and should you be dissatisfied with the decision made you may appeal to South Derbyshire Magistrates' Court.

A copy of the Licensing Act 2003 can be viewed via the following link:

<http://www.legislation.gov.uk/ukpga/2003/17/contents>

Amber Valley Borough Council Licensing Policy

The Council's Statement of Licensing Policy is available on the Council's website: www.ambervalley.gov.uk. The Authority's enforcement protocol, licensing guidance and other related information is available by contacting the Licensing Section.

Charitable Collections

You will require a street collection permit available from the Licensing Section in order to carry out a charitable street collection within the Amber Valley Borough Council area. If the collection takes place on private property / land then authorisation is not required from the Council. However it is always advisable to obtain the consent of the landowner before undertaking such a collection.

Lotteries, Raffles and Similar Gambling Activities

The Gambling Act 2005 strictly regulates lotteries, raffles and other forms of gambling. In most instances gambling activity must be registered with the Local Authority or the Gambling Commission. However incidental non-commercial lotteries, private lotteries, customer lotteries and free draws and prize competitions enjoy exemption from registration. The exemptions are dependent on rules contained in the 2005 Act and accompanying regulations. All other lotteries and raffles need to be registered either with the Local Authority or the Gambling Commission.

By far the most common exempt raffle is an Incidental Non-Commercial Lottery. Such a lottery is exempt from the usual raffle/lottery registration requirement provided certain criteria can be met.

These lotteries or raffles will usually be held as part of a fundraising event such as a bazaar, village fete, dinner dance, sporting or athletic event or other entertainment of a similar character. The proceeds of the event, must along with the proceeds of the lottery or raffle, be used for a purpose(s) other than private gain (i.e. charitable purposes or benevolent purposes). In addition the exemption can only be made where the raffle or lottery is deemed to be small and 'incidental' to the main event on that day.

A fundraising social event with an entrance fee would be non-commercial if the profits went to the relevant benevolent society but would not be non-commercial if the profits were retained by the organiser for private gain.

With regard to incidental non-commercial lotteries it is important to note that the 2005 Act specifies that:

- the promoters of the lottery may not deduct more than £100.00 from the proceeds in respect of
- the expenses, such as the cost of printing tickets, hire of equipment, etc.
- not more than £500 can be spent on prizes.
- the lottery cannot involve a rollover of prizes from one lottery to another.
- all tickets must be sold at the location during the event, and the result made public while the event takes place.

Alcohol can legally be offered as a prize at a non-commercial event. However the alcohol prize must be in a sealed container.

Further information regarding the legality of lotteries is available in the Gambling Commission document 'Lotteries and the Law (Gambling Act 2005) - Advice for society and local authority lotteries (May 2007)'. The document is available on the Commission's website (www.gamblingcommission.gov.uk) or by contacting the Council's Licensing Section.

Can I run a ‘race night’ for charity?

“Race nights” are events in which participants stake money on the outcome of recorded or virtual races, where the selection is totally dependent on chance, and where no “odds” or “form” are available to assist the selection.

As a general principle, “race nights” may only take place at events where none of the proceeds from the event itself are used for private gain, and all participants must be told what “good cause” is to benefit from the profits from the gaming. No authorisation is required to operate this kind of gaming provided that all the relevant statutory requirements are complied with.

Further information regarding race nights, including the statutory requirements, can be found on the Gambling Commission’s website www.gamblingcommission.gov.uk)

Can I organise a casino night at which proceeds go to charity?

For many years, commercial organisations have offered to provide equipment and gaming staff to persons organising non-commercial casino nights. Organisers will not require authorisation for these events provided that the event is a non-commercial event (i.e. no part of the proceeds is to be appropriated for the purpose of private gain).

Proceeds are defined as: The sums raised by the organisers (whether by way of fees for entrance or for participation, by way of sponsorship, by way of commission from traders or otherwise), minus the amounts deducted by the organisers in respect of costs reasonably incurred in organising the event.

No authorisation is required to operate this kind of gaming provided that the statutory conditions are complied with.

Further information regarding casino race nights, including the statutory conditions, can be found on the Gambling Commission’s website www.gamblingcommission.gov.uk)

The law controlling gambling activity is extremely complex. If you are in any doubt about the legality of a proposed gambling event, it is recommended that you seek independent legal advice as a matter of urgency.

Street Trading

The Council has designated certain streets as consent or prohibited streets for the purposes of street trading. Where a street has been designated a prohibited street no street trading is allowed. In those streets, which are consent streets a specific street trading consent is required from the Council before trading is allowed. Some types of trade (such as pedlars and news vendors) are exempt from the restrictions. Further information is available from the Licensing Section.

Licensing Contact Details:

The Licensing Section
Amber Valley Borough Council
The Town Hall
Ripley
DE5 3BT

Telephone 01773 841602
E-Mail: licensing@ambervalley.gov.uk

Further useful information:

Performing Rights Society (PRS) Licence

The Performing Right Society (PRS) is a non-profit making membership organisation. The PRS collect royalties from music users across the UK on behalf of their members (the writers and publishers of copyright music). The majority of premises using music will already have a PRS Music Licence. However, if you do not currently have a PRS Music Licence and are thinking of using music in your event, you will need to check the situation with the PRS. You can view more details regarding the PRS at www.prsformusic.com

Smoke Free Legislation

From 1 July 2007, virtually all enclosed public spaces and work places in England became subject to Smoke Free Legislation. Virtually all workplaces used by more than one person are affected. Anyone wanting to smoke will have to go outside.

The law applies to anything that can be smoked. This includes cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes.

Managers of smokefree premises have legal responsibilities to prevent smoking and to ensure that no smoking signs are displayed as required by the law.

For more information on the smokefree law go to:
www.smokefreeengland.co.uk



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