



Licensing Act 2003 - Premises Licence guidance

The Licensing Act is underpinned by the four licensing objectives which carry equal weight.

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

Blackburn with Darwen Council is responsible for issuing:

- Premises Licences (either with or without alcohol)
- Personal Licences
- Club Premises Certificates and
- Temporary Event Notices (TEN)

Any person proposing to carry on a business that involves licensable activities must have authority to do so under the Licensing Act 2003.

Applications may be made by an individual aged 18 or over, a business, a qualifying club, a charity, the proprietor of an educational establishment, a health service body or the Chief Officer of Police.

The responsibility for the licence and payment of the annual fee lies with the Premises Licence Holder. For leased public houses this may be the tenant or the pub operating company. It is not for the council to decide who should apply for the premises licence, but for the tenant and the operating company to agree contractually.

Applications

Applications for new premises licences and full variations must include

- the completed application form
- a plan of the premises
- the prescribed fee
- If the licensable activities include the supply of alcohol, a consent form completed and signed by the individual who the applicant has specified as the DPS in the application
- A share code to verify with UKVI that the applicants(s) have the right to work in the UK

Blackburn with Darwen Council encourages application to be submitted through the Gov.UK service. On receipt of an application submitted electronically, the Licensing Authority will distribute copies to the Responsible Authorities. If the applicant wishes instead to post a paper application, they must also serve copies on each of the Responsible Authorities which are:

- Lancashire Police
- Lancashire Fire and Rescue Service
- Blackburn with Darwen Council's Health and Safety Service

- Blackburn with Darwen Council's Environmental Health Service
- Blackburn with Darwen Council's Child Protection Service
- Blackburn with Darwen Council's Planning Department
- Blackburn with Darwen Council's Trading Standards Service
- Blackburn with Darwen Council's Public Health Department
- The Secretary of State (Home Office-Immigration Enforcement)
- The Licensing Authority

Applicant's right to work / immigration status

Entitlement to work/immigration status is required for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual, or an individual in a partnership who:

- Does not have the right to live and work in the UK; or
- Is subject to a condition preventing him or her from carrying on a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they are entitled to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity by providing proof with the application.

A copy of these applications must also be sent to the Home Office.

Designated Premises Supervisor (DPS)

In most cases, premises licences which authorise the sale and supply of alcohol must specify a person to be the DPS. This person must hold a valid personal licence and should be someone with responsibility for the day to day running of the premises.

The holder or applicant for a premises licence must check that the DPS has the right to work in the UK, using the online service provided by UKVI.

The Operating schedule

The operating schedule sets out details on how the premises will operate and must include the following information:

- The licensable activities
- The proposed hours that the licensable activities are to take place
- The proposed hours that the premises will be open to the public
- The name and address of the DPS if the licence is to include the sale of alcohol
- Where alcohol is to be supplied, whether this is for consumption on or off the premises
- Conditions that the applicant would like to volunteer
- If the licence is for a limited period, that period

Plans

Plans must be submitted with the application and include all of the following:

- Entrances and exits
- Fire safety equipment (alarms, blankets, extinguishers)
- A clear line around the area intended to be licensed

- Boundary of the building
- Fire escapes
- Fixed structures
- Any raised areas within the licensed area including the height of the raised area
- Location of toilet facilities
- Additional rooms and/or kitchen area in the building

Plans must be clear and legible. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information and the scale is indicated.

Advertising applications

All applicants **must** advertise their applications in the following ways:

- 1) for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority, by displaying a notice,
 - (a) which is of a size equal or larger than A4, of a pale blue colour, and printed legibly in black ink or typed in black in a font of a size equal to or larger than 16
 - (b) in all cases, the notice should be placed prominently at or on the premises which the application relates to enable it to be read from the exterior of the premises. In the case of a premises covering an area of more than fifty meters square, a further notice in the same form and subject to the same requirements every 50 meters along the external perimeter of the premises abutting any highway; and
- 2) by publishing a notice—
 - (a) in a local newspaper circulated in the area such as the Lancashire Evening Telegraph
 - (b) on at least one occasion during the period of ten working days starting on the day after the day on which the application was given to the relevant licensing authority

The notices must contain the following information:

- The relevant licensable activities to be carried on at the premises
- The name of the applicant
- The address or location of the premises
- The address where copies of the application may be viewed
- The dates when representations may be made to the licensing authority
- A statement that representations must be made in writing
- A statement that it is an offence to knowingly or recklessly 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.

Representations

If a relevant representation has been submitted and not withdrawn, there must be a hearing unless all parties agree that it is unnecessary.

The Licensing Act Sub-Committee will consider the representations and may:

- Grant the licence in the accordance with the application
- Refuse to grant the licence
- Add additional conditions or restrictions

Decisions

If there are no objections or relevant representations made by responsible authorities or interested parties

during the 28 day representation period, the licensing authority must grant the application. The licence will be granted as applied for, subject only to the mandatory conditions and conditions drafted to reflect the operating schedule.

However during the application process a Responsible Authority may identify other conditions or restrictions which they wish to have added to the licence in order to promote the licensing objectives. If agreement cannot be reached with the applicant during the consultation period, the application must be determined by the council's Licensing Act Sub-Committee.

Variations

The holder of a premises licence may apply at any time to vary to

- varying the hours during which a licensable activity is permitted;
- add new licensable activities;
- amending, adding or removing conditions;
- altering any aspect of the layout of the premises which is shown on the plan.

Depending on the proposed changes, it may be possible for you to submit a 'minor variation' application. You should contact the Licensing unit to discuss whether a minor variation would be appropriate

Reviews

If a licensed premises causes issues either for any of the responsible authorities or neighbours, a review application can be made to the licensing authority. Ordinarily before matters reach this stage there will have been communication with the Premises Licence Holder and if appropriate the DPS.

When a valid application for a review is made the licensing authority will hold a hearing. After hearing all the evidence the Licensing Act Sub-Committee may:

- Modify conditions
- Exclude an activity
- Remove the DPS
- Suspend the licence (for a maximum of three months)
- Revoke the licence

Any party to the decision has the right of appeal to the Magistrates Court who can:

- Dismiss the appeal
- Substitute any alternative decision which the council could have made
- Send the case back to the local authority with directions to deal with it

Other circumstances

A premises licence will automatically lapse 28 days after the holder of the licence:

- Dies
- Becomes mentally incapable
- Becomes insolvent
- Ceases to be entitled to work in the UK

Licensable Activities

Retail sale of alcohol

Anyone selling alcohol to the public within Borough of Blackburn with Darwen must have authority to do so from the Licensing Authority, in the form of a Premises Licence or TEN.

If you include alcohol as part of a ticket price (such as cheese and wine) or offer a 'complimentary' drink as part of a paid for service (such as beauty treatments) this is still classed as a retail sale and must be licensed.

Regulated Entertainment

Due to legislative changes there has been a partial deregulation of regulated entertainment since the introduction of the Licensing Act in 2005.

Subject to the conditions, definitions and exemptions, the types of entertainment regulated by the Licensing Act 2003 are:

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment; (indoor and outdoor)
- live music
- recorded music
- performances of dance and
- entertainment of a similar description to live music, recorded music and the performance of dance, where the entertainment takes place in the presence of an audience and is provided at least partly to entertain that audience.

Exemptions

	Between	Audience	Premises type	Notes
Live unamplified music	8am & 11pm	Less than 500 persons	any	
Live amplified music	8am & 11pm	Less than 500 persons	Alcohol on-licensed premises*	Premises must be open for customers under the terms of the licence
Live amplified music	8am & 11pm	Less than 500 persons	Non-licensed workplace	
Live amplified music	8am & 11pm	Less than 500 persons	Non-licensed church, community or village hall or similar	Consent required from person responsible for premises
Live amplified music	8am & 11pm	Less than 500 persons	Non-licensed residential premises of a local authority, hospital,	Consent required from organisation responsible for premises
Recorded music	8am & 11pm	Less than 500 persons	Alcohol on-licensed premises	Premises must be open for customers under the terms of the licence
Recorded music	8am & 11pm	Less than 500 persons	Non-licensed church hall, village hall, community hall or similar	Consent required from person responsible for premises
Recorded music	8am & 11pm	Less than 500 persons	Non-licensed residential premises of a local authority, hospital,	Consent required from organisation responsible for premises

Any entertainment	8am & 11pm	Less than 500 persons	Local authority premises, hospital, school	Entertainment provided by the local authority, health care provider or school
Plays	8am & 11pm	Less than 500 persons	Any premises	
Dance	8am & 11pm	Less than 500 persons	Any premises	
Films	8am & 11pm	Less than 500 persons	Community premises	Not for profit event Consent required from organisation responsible for premises Screening is suitable for age of attendees
Indoor sporting events	8am & 11pm	Less than 1000 persons	Any premises	
Greco-Roman or freestyle wrestling	8am & 11pm	Less than 1000 persons	Any premises	
Travelling circuses	8am & 11pm	No limit	Any moveable structure that the audience is held within	Circus may not be located on same site for more than 28 days

Notes on live music

- Karaoke is classed as a performance of amplified live music
- A backing track, drum beat or band accompanying live singer(s) is classed as amplified live music

Further examples of activities that do not require a licence. However this list is not exhaustive and if you are in doubt please seek independent legal advice or contact the Licensing team.

- Acts of religious worship
- Activities in places of public worship
- Education-teaching students to perform
- The demonstration of a product
- 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 (such as pool, darts and table tennis)
- Stand-up comedy and
- Provision of entertainment facilities (such as dance floors)

Late night refreshment

Late night refreshment is the supply of hot food or hot drink to the public between 11.00pm and 5.00am, for consumption on or off the premises. This includes hot food delivered from a premises.

Food or drink is “hot” if it is heated above ambient air temperature on the premises or elsewhere before it is supplied, or if it may be heated on the premises for this purpose after it is supplied.

Late night refreshment exemptions

There are some instances where the provision of hot food and hot drink does not need to be licensed:

- Hot drinks from a vending machine where payment is inserted into the machine by a member of the public and the hot drink is supplied directly by the machine to the member of the public (this exemption does not apply to hot food)
- Hot food or hot drink supplied free of charge, where there is also no charge for admission to any premises, or for some other item to obtain the hot food or hot drink
- Hot food or hot drink supplied by a registered charity or by a person authorised by a registered charity
- Hot food or hot drink supplied on a vehicle, which is not permanently or temporarily parked at the time (mobile catering vehicles which park up each evening to serve customers from busy licensed premises) need to be licensed
- Supplies of hot food or hot drink are also exempt when the premises are used exclusively for guests of hotels or similar premises – that is guest houses, lodging houses, hostels, caravan or camping sites or other premises supplying accommodation as their main purpose
- Members of recognised clubs and their guests
- Employees of a particular employer and their guests, for example where refreshment is made available to employees whose shift patterns require them to be present at the workplace between 11.00pm and 5.00am
- A person who is engaged in a particular profession or who follows a particular vocation, for example a tradesman carrying out work at particular premises

Fees

Band	A	B	C	D	E	D* See notes	E* See notes
Rateable value	£1- £4,300	£4,301- £33,000	£33,001- £87,000	£87,001- £125,000	£125,000 +	£87,001- £125,000	£125,000 +
Application fee	£100	£190	£315	£450	£635	£900	£1905
Annual fee	£70	£180	£295	£320	£350	£640	£1050

The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 and requires Licensing Authorities to **suspend a premises licence for non-payment of the annual fee.**

Premises licences	
Minor variation	£89.00
Application to vary licence to specify individual as premises supervisor	£23.00
Application for transfer of premises licence	£23.00
Interim authority notice following death of licence holder	£23.00
Right of freeholder to be notified of licensing matters	£21.00
Duty to notify change of name or address of Premises Licence Holder	£10.50

Replacement of premises licence /certificate following theft or loss	£10.50
Application for a provisional statement where premises being built	£315.00
Temporary Event Notice (TEN)	
TEN	£21.00
Replacement of TEN certificate following theft or loss of temporary event notice	£10.50
Personal licences	
Application for the grant of a personal licence	£37.00
Replacement of personal licence following theft or loss	£10.50
Duty to notify change of name or address of personal licence holder	£10.50
Club Premises Certificates	
Notification of change of name or alteration of rules of club	£10.50
Change of relevant registered address of club	£10.50

Notes

- 1) For premises which have a capacity over 5000 please see schedule 3
- 2) Premises that do not have a non-domestic rateable value (vessels, crown property, mobile catering unit, fields etc.) attract the fee from band A
- 3) In the case of a smaller premises that is part of a larger rated area i.e. a shop on a caravan site, the fee will be based on the RV of the site as a whole, unless the smaller element is rated separately
- 4) For premises in bands D and E that are used exclusively or primarily for the supply of alcohol for consumption on the premises, the amount of the fee is shown in D* and E*. That is for band D* twice the amount shown for D and in band E* three times the amount shown for band E.
- 5) The act allows for some exemptions from the need to pay the initial licence fee and the annual fee when the premises are only being used for regulated entertainment - when no alcohol is being sold. These are:
 - (a) in the case of an application by a proprietor of an educational institution in respect of premises that are or form part of an educational institution:
 - (i) that the educational institution is a school or a college and
 - (ii) the provision of regulated entertainment on the premises is carried on by the educational institution for and on behalf of the purposes of the educational institution or
 - (b) that the application is in respect of premises that are or form part of a church hall, chapel hall or other similar building or a village hall, parish hall or community hall or other similar building

Schedule 3 - Additional fees are payable where 5,000 or more people are attending an event.

Number attending	Addl. fee	Number attending	Addl. fee	Number attending	Addl. fee
5,000 to 9,999	£1,000	30,000 to 39,999	£16,000	70,000 to 79,999	£48,000
10,000 to 14,999	£2,000	40,000 to 49,999	£24,000	80,000 to 89,999	£56,000
15,000 to 19,999	£4,000	50,000 to 59,999	£32,000	90,000 and over	£64,000
20,000 to 29,999	£8,000	60,000 to 69,999	£40,000		