

## **Variations to premises licences and club premises certificates**

**Updated January 2023**

A premises licence holder or a club that holds a club premises certificate may apply for a variation. This may be to:

- vary the hours during which a licensable activity is permitted ((providing there is no extension to the period for which the licence has effect, if there is a grant application will be required)
- add or remove qualifying club licensable activities
- amend, add or remove conditions within a certificate
- alter any aspect of the layout of the premises which is shown on the plan

A variation can't be used to transfer a licence or certificate from one premises to another. It also can't be used to extend a time-limited licence.

### **Who can apply to vary a premises licence or club premises certificate?**

The holder of a premises licence or a club may apply for a variation in respect of any premises which are occupied by, and habitually used for the purposes of, the club. With regard to a premises licence, the application must also be accompanied by the licence (or the appropriate part of the licence) or, if that is not practicable, by a statement of the reasons for the failure to provide the licence (or part).

### **Application process**

An application to vary a premises licence or club premises certificate must be made to the licensing authority for the area in which the premises is situated.

The application must be accompanied by:

- the required fee
- confirmation that the application has been simultaneously served to the appropriate responsible authorities

A variation to a club premises licence must also be accompanied by:

- a club operating schedule

- plan of the premises
- the club premises certificate or, if that is not practicable, by a statement of the reasons for the failure to provide the certificate

## **Operating schedule**

The operating schedule is a document in which the applicant sets out various details on how a premises is proposed to operate when carrying on licensable activities.

It must contain the following information:

- the licensable activities to be carried out
- the proposed hours that the relevant licensable activities are to take place
- where alcohol is to be supplied, whether supplies are for consumption on and/or off the premises
- a statement of the steps the applicant proposes to take to promote the licensing objectives This is deemed to be one of the most important parts of an application and the Council has produced a **Pool of Conditions** to assist applicants when compiling this, which they are strongly advised to consider.

For a premises licence, the schedule should also contain:

- the name and address of the designated premises supervisor if the licensable activities include the retail sale of alcohol
- a statement of the steps the applicant proposes to take to promote the licensing objectives

The significance of the club operating schedule is that if the application to vary the club premises certificate is granted, it will be incorporated into the certificate and will set out the permitted activities and any limitations.

## **Plan of the premises**

A premises plan must be of the standard scale - 1mm = 100mm (unless previously agreed by the council in another format). The council's preference is also that plans should not be larger than A3 in size.

The premises plan shall include the following:

- the location of the extent of the boundary of the building, if relevant, and any external and internal walls which comprise the premises, or in which the premises is comprised
- the location of points of access to and egress from the premises
- if different from the above, the location of escape routes from the premises
- in cases 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 the case where the premises includes any room or rooms containing public conveniences, the location of any of these
- the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment
- the location of a kitchen, if any, on the premises

The plan may include a legend where indication of the above is by the use of symbols.

### **Responsible authorities**

These are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in respect of the application. All representations made by responsible authorities are relevant representations if they concern the effect of the application on the licensing objectives.

The responsible authorities are:

- The licensing authority
- the Chief Officer of Police
- the Devon and Somerset Fire and Rescue Service
- North Devon Council Health and Safety Team
- the Health and Safety Executive
- North Devon Council Environmental Protection Team
- North Devon Council planning service
- Exmoor National Park if the premises falls within their boundaries
- Devon County Council Local Safeguarding Children's Board
- Devon County Council Trading Standards
- Devon County Council Public Health Devon

When serving the application on the licensing authority, the applicant should simultaneously serve copies of the application and the plan on all relevant responsible authorities. The application is not valid until this has been completed.

### **Consultation and advertising**

The responsible authorities have 28 consecutive days to consider the application served upon them. Any other persons (for example, members of the public) also have a 28-day period within which to consider making a relevant representation - see 'Representations' below.

To advertise the application, the applicant must clearly display a Notice of a size equal or larger than A4 (on pale blue paper) printed legibly in black ink or typed in black in a font size equal to or larger than size 16. This should be immediately on or outside the premises for a period of no less than 28 consecutive days starting on the day following

the day on which the application was given to the North Devon Council and during which time other persons may make representations.

For properties with a frontage onto a highway more than 50 metres long, the notice should be displayed at 50 metre intervals.

The licensing authority will send a notice to be used as above by return (one working day) following receipt of a valid application.

Additionally, the applicant must publish a notice in a local paper such as the North Devon Gazette and Advertiser or North Devon Journal. This should be on at least one occasion during the period of 10 working days starting on the day following the day on which the application was given to North Devon Council.

### **Content of notice (for premises display and advertisement in local paper)**

The notice should clearly contain a brief summary of the application setting out details as follows:

- proposed relevant licensable activities to be carried on or from the premises;
- the name of the applicant
- the postal address of the premises, if any, or if there is no postal address for the premises a description of those premises sufficient to enable the location and extent of the premises to be identified
- the postal address and, where applicable, the world-wide web address where the North Devon Council register is kept and where the record of the application may be inspected (see footer of this guidance document)
- the dates between which an interested party and responsible authorities may make representations to North Devon Council (see advertising applications above)
- a statement that representations shall be made in writing
- 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 - £5,000

### **Representations**

A hearing on an application will only occur where non-frivolous or vexatious objections or representations from responsible authorities or other persons are received. However, these representations must be considered by the licensing authority to have an impact on the promotion of one or more of the licensing objectives.

It is important to note that representations can be negative (objection) or positive (in support) of the application and must be made in writing, by email or online through the public register.

Where no objections or relevant representations are made by responsible authorities or other persons, the licensing authority must vary the club premises certificate on the 29th consecutive day subject only to the \*mandatory conditions and the operating schedule.

In the unlikely event, that you have not heard anything regarding your application after the 28-day period above, please contact us. The outcome of your application is not deemed granted if you have not heard from us for reasons of public health and safety. If relevant representations are received, the licensing authority must hold a hearing and consider the representations, unless successful mediation has occurred.

### **Mandatory conditions**

As applicable to the granted licensable activities, the conditions below are mandatory and will be shown on the certificate in addition to those volunteered in the operating schedule/imposed at a hearing:

Alcohol – specific to a premises licence:

- There shall be no sale or supply of alcohol when there is no Designated Premises Supervisor (DPS) in respect of the premises licence or at a time when the said Premises Supervisor does not hold a personal licence or when his/her licence is suspended.
- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Alcohol – specific to a club premises certificate:

- A club premises certificate may not authorise the supply of alcohol for consumption off the premises unless it also authorises the supply of alcohol to a member of the club for consumption on those premises.
- A club premises certificate which authorises the supply of alcohol for consumption off the premises must include the following conditions:
  - The supply must be made at a time when the premises is open for the purposes of supplying alcohol in accordance with the club premises certificate, to members of the club for consumption on the premises.
  - Any alcohol supplied for consumption off the premises must be in a sealed container.
  - Any supply of alcohol for consumption off the premises must be made to a member of the club in person.

Exhibition of films:

- Admission of children (under the age of 18) to any exhibition of films must be restricted in accordance with the film classification body designated as the authority under Section 4 of the Video Recordings Act 1984.

- Where the film classification is not specified or the relevant licensing authority has notified the premises licence holder under Section 20 (3)(b) of the Licensing Act 2003, the admission of children must be restricted in accordance with any recommendation made by the licensing authority.

Door supervision – specific to a premises licence:

- Any person used to carry out a security activity as required under the operating schedule conditions must be licensed by the Security Industry Authority.

## **Mediation**

Mediation is successful where all parties, such as the applicant, all parties making relevant representations and with the agreement of the licensing authority, agree that the reasons for representation have been overcome and that these may be reflected in the licence issued – for example, the operating schedule/licence conditions.

## **Hearing (mediation unsuccessful)**

Details of the date and time of the hearing together with details of the procedures to be followed will be sent to the applicant, responsible authorities and other persons at least 10 working days before the day of the hearing.

The applicant and parties described above must give notice to North Devon Council at least two working days before the start of the hearing stating:

- whether they will attend the hearing in person
- whether they will be represented by someone else (for example lawyer / councillor / MP)
- whether they think a hearing is unnecessary (if, for example an agreement has been reached before a formal hearing)
- any request for another person to attend the hearing, including how they may be able to assist the licensing authority in relation to the application

## **Hearing - what action is available to the licensing sub-committee?**

When a hearing is held, the committee must take such steps as it considers necessary for the promotion of the licensable objectives.

For a premises licence, these are:

- grant the variation - subject to either the conditions volunteered in the operating schedule, modified to such extent as the committee considers necessary for the promotion of the licensing objectives, or any mandatory conditions

- exclude from the scope of the licence any of the licensable activities to which the application relates
- refuse to specify a person in the licence as the premises supervisor
- reject the application

For a club premises certificate, these are:

- modify the conditions of the certificate (conditions altered, omitted or new conditions added)
- reject the whole or part of the application to vary

## **Appeal**

Right of appeal exists to the magistrates' court for the applicant, relevant responsible authorities and other persons and must be lodged with the court within 21 consecutive days of the date of the objection notice.

The longest possible expected timescale for the determination of a variation, where a hearing proceeds, is 91 consecutive days (excludes the appeals process).

## **Determination**

Where an application is either granted or rejected, the licensing authority will give a notice to that effect to the applicant, relevant responsible authorities and other persons having made a successful representation and the chief officer of police for the area in which the premises is situated.

Where there is a hearing, the committee must give clear and comprehensive reasons for its eventual determination of the application.

## **Holding and deferring electronic applications (s182 guidance)**

If an application has been given at the weekend, the notice advertising the application (where applicable) may already be displayed outside the premises by the time that the licensing authority downloads the application. The Government therefore recommends that if a licensing authority holds an application, it should inform the applicant that the original (or if necessary, amended) notice must be displayed until the end of the revised period. Therefore, the applicant should not advertise the application in a local newspaper until they have received confirmation from the licensing authority that the application includes all the required information. This advice ensures applicants do not incur any unnecessary costs.

## **Trade associations**

ALMR - Association of Licensed Multiple Retailers

BECTU - Broadcasting, Entertainment, Cinematograph and Theatre Union

FLVA - Federation of Licensed Victuallers Associations

IEAP - Institute of Entertainment and Arts Professionals

## **Fee**

The fee for the variation of a club premises certificate is based on rateable value.

## **Register**

Current applications to vary a premises licence or club premises certificate and those previously completed can be viewed on the Premises Licence Public register, listed together with other 'events' held against a given premises.

## **Complaints**

If you want to make a complaint about a licensed premises or club, please contact us. See also 'Review of premises licences or club premises certificates' on the council's website.

If you feel we have failed to provide you with good service or are concerned about the progress of your application, please telephone the Customer Service Centre. The Licensing team will endeavour to resolve any concerns you may have.

The council also has a formal complaints procedure.