



THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

THE LICENSING ACT 2003

GUIDE FOR RESIDENTS

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1 Introduction

- 1.1 The Licensing Act 2003 requires individuals and businesses carrying on the following activities to be licensed by the Local Authority in which their premises are situated:
- Selling alcohol
 - Providing regulated entertainment (Plays, Film Exhibitions, Indoor Sporting Events, Boxing or Wrestling Exhibitions, Dancing by the public or performers, the provision of live and recorded music) in certain circumstances. See section 2
 - Selling hot food or drink (late night refreshment) between 11.00pm and 5.00am for consumption on or off the premises
- 1.2 The Act introduced four Licensing Objectives:
- The prevention of crime and disorder
 - The prevention of public nuisance
 - Public safety
 - The protection of children from harm
- 1.3 Every licence holder has to show how they will promote each of these objectives and every decision of the Licensing Authority must be clearly and directly related to the promotion of them.
- 1.4 Additionally, every representation made to a licence application by residents and others must relate directly to one or more of these objectives and state why the particular premises which are the subject of the application will fail to promote them.
- 1.5 Under the Licensing Act 2003 operators are allowed to **apply** to sell alcohol between whatever hours they wish. This potentially allows the operators of licensed premises to apply to trade 24 hours a day.

2. Regulated Entertainment Deregulation

- 2.1 Over recent years the original Licensing Act of 2003 has been amended by other legislation with the result that the number of activities that need a licence from the Local Authorities have been reduced. The specific legislation is listed below:

The Live Music Act 2012,

The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013,

The Legislative Reform (Entertainment Licensing) Order 2014, and

The Deregulation Act 2015.

- 2.2 The effect of these changes are shown below:

(i) **Plays:**

- No licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.

(ii) **Dance:**

- No licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.

(iii) **Films:**

- No licence is required for 'not-for-profit' film exhibitions 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.

(iv) **Indoor sporting events:**

- No licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.

(v) **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.

(vi) **Live Music**

- No licence is required for: Amplified live music taking place between 8am and 11pm before audiences of no more than 500 persons on premises authorised to sell alcohol by a premises licence or club premises certificate, at a time when alcohol is being sold.
- Amplified live music taking place between 8am and 11pm before audiences of no more than 500 persons in workplaces not otherwise

licensed under the 2003 Act (or licensed only for the provision of late night refreshment).

- Unamplified live music taking place between 8am and 11pm in any place.

(vii) **Recorded Music**

- Recorded music in premises authorised to sell alcohol benefits from the same exemption as live music above, with the same audience limit. Anyone that provides recorded music to an audience on premises not licensed for the sale or supply of alcohol will need authorisation from the licensing authority.;

(viii) **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.

3. Immigration Act 2016

3.1 In 2017 a new Immigration Act (2016) became effective. This Act amended the original Licensing Act 2003 and introduced immigration safeguards in respect of licensing applications, for example:

- Licences will not be granted to those without lawful immigration status or entitlement to work in the UK.
- The Secretary of State has been added to the list of existing responsible authorities under the Licensing Act 2003. This means that, in appropriate circumstances, Immigration Officers can object to a licence application and call an existing licence in for a review by the Licensing Authority.

3.2 Where it is necessary to prevent illegal working and immigration crime, the Secretary of State (Immigration Enforcement) will submit an objection to the grant of a licence to the relevant Licensing Authority, or request that conditions

be applied to a premises licence. Immigration Enforcement may also request the review of an existing premises licence as a result of enforcement activity which identifies the commission of immigration offences or where the holder of a licence issued before the 6 April 2017 no longer has immigration permission to work. In all cases it is the Licensing Authority that makes the decision on the licence application or review, having considered any representations. This legislation does not change the existing process of licensing hearings and appeals.

4. Premises licence

- 4.1 This licence relates to the actual premises and will detail exactly what licensable activities are allowed to be provided and between what hours, and under what conditions.
- 4.2 For example, a premises licence for the 'Dog and Duck' public house may allow the sale of alcohol between 10am and 12 midnight seven days a week on the ground and first floor, music and dancing between 7pm and midnight on Thursday to Saturdays on the ground floor only and the provision of films between 2pm and 11pm seven days per week on the first floor only. The licence, once granted, will not require a renewal and will continue for the life of the business unless it is revoked, it lapses, or it is surrendered by the licence holder. The licence may be held in the name of individuals, companies, charities etc.

5. Club Premises Certificate

- 5.1 This permission relates solely to registered clubs such as Working Men's Clubs, Conservative/Labour/Liberal Democrat Clubs and so on. Once again, the certificate will state what licensable activities can take place in the club and between what hours. The club itself will be the applicant for the certificate but in all other respects it is similar to a premises licence with the exception that these premises are exempt from the need to have a designated premises supervisor or a personal licence holder, and will not require any separate permission to provide hot food and non-alcoholic drink between 11pm and 5am. A club premises certificate is also not subject to any renewal and will continue until it is either revoked or surrendered.
- 5.2 A register of current licences and club premises certificates, and licence applications, can be found at:

<https://www.rbkc.gov.uk/licensing/licensingregister/default.aspx>

6. Personal licence

- 6.1 This licence is held by an individual and will allow him/her to sell alcohol and to authorise others to sell alcohol. The licence is 'portable' and will be valid anywhere in England and Wales. The applicant for this licence must apply to the Licensing Authority in whose area he/she lives, which may not necessarily be the one in which he/she works. In April 2015 the requirement to renew a personal licence was de-regulated. Personal licences are now valid indefinitely, unless surrendered or revoked. Any premises that is authorised to sell alcohol to the public (which includes off licences) must also specify on the premises licence who the 'Designated Premises Supervisor' (DPS) is (except premises with club premises certificates).
- 6.2 A DPS must be the holder of a personal licence and must be the individual who will be in day-to-day control of the premises. Although the 2003 Act does not state that this person has to be on the licensed premises at all times during which it is operating, as a matter of practice he/she will be the person authorised officers, such as the police or Licensing Authority officers, will be looking for when they enter premises to inspect them.
- 6.3 An applicant for a Personal licence will have to fulfil the following criteria:
- 1 The applicant is aged 18 or over.
 - 2 The applicant must have a right to work in the UK, evidence of which must be supplied with the application.
 - 3 The applicant possesses a licensing qualification or is a person of a prescribed description.
 - 4 No personal licence held by the applicant has been forfeited in the period of 5 years ending with the day the application was made, and
 - 5 The applicant has not been convicted of any 'relevant offence' or any 'foreign offence'.
- 6.4 The Police and The Secretary of State are the only 'bodies' who may object to an application for a Personal licence. The Police can only object on the grounds that they are satisfied that granting the licence would undermine the crime prevention objective based on any relevant, or foreign, convictions of the applicant. Where the Police object, the application will be considered by the Licensing Sub-Committee who will have the option to either grant or refuse the application – they will not have the discretion to grant the application and place conditions on the licence.
- 6.5 A personal licence holder may have his/her personal licence forfeited or suspended by a court following a conviction for a 'relevant offence'. Relevant offences are detailed in Schedule 4 to the Act and include offences under the Theft and Firearms Acts and offences involving violence, of a sexual nature, the supply of drugs and other matters. Foreign offences mean offences committed abroad that are similar to the offences listed in Schedule 4 to the Licensing Act 2003.

- 6.6 Section 138 Policing and Crime Act 2017, which has been effective since 6 April 2017, allows licensing authorities to suspend or revoke a personal licence. Where a Licensing Authority decides to suspend or revoke a licence, the licence holder will have the opportunity to make representations to the Licensing Sub-Committee, and will have a right to appeal to a magistrates' court. The Courts have also retained their existing powers.

7. Temporary Event Notices

- 7.1 These 'Notices' replaced the system of 'occasional' licences for the provision of public entertainment or the sale of alcohol or 'late night refreshment'. Temporary Event Notices (TENs) are applicable to any event where 'regulated entertainment', and/or alcohol is supplied, and/or hot food and drink are sold between 11pm and 5am, where the maximum number of people on the 'premises' holding the event does not exceed 499 at any one time.
- 7.2 Any premises may host such an event on up to 15 occasions per year and each event can last for up to 168 hours (seven days) with a minimum of 24 hours between the event and the start or finish of another TEN. However, the maximum number of days per year during which an individual premises may host such events is 21. Under the Licensing Act, organisers of these events do not make an 'application' to hold them, but 'give notice' to the Licensing Authority that the event is going to be held.
- 7.3 The holder of a 'personal licence' may 'give notice' of such events on no more than 50 occasions per year, while a person who is not the holder of a 'personal licence' may only 'give notice' on 5 occasions per year.
- 7.4 A TEN should be submitted to the Licensing Authority, Police and Environmental Health at least **ten** working days before the proposed event (excluding the event day and the day the notice is submitted).
- 7.5 The Licensing Authority may accept a TEN (a 'Late TEN') submitted between five and nine working days prior to the event (excluding the event day and the day the notice is submitted). A holder of a personal licence can serve up to 10 late TENs per year, whereas the limit for a non-personal licence holder is 2.
- 7.6 Only the Police and Environmental Health responsible authorities may object to a TEN. If they believe that any of the licensing objectives will be undermined by the event, they will issue an 'Objection Notice' to all relevant parties. The Objection Notice will outline the reasons why the TEN is being objected to and will be issued within 3 working days of the TEN being served. **Local residents have no ability to object to a TEN.**
- 7.7 In the case where an event is being held at a premises that also holds a premises licence, the Police or Environmental Health Authority may also ask that any or all conditions that are currently attached to that licence remain in force for the duration of the event. In order to do this, they would have to have

already lodged an objection to the TEN and have real concerns about the event. This option is not available for late TENs.

- 7.8 Except where the TEN is late, the local licensing authority must hold a hearing if an objection notice is served, unless the organiser of the event agrees that any conditions from the Premises Licence specified by the Police/Environmental Health are attached to the TEN. In these circumstances the event can go ahead under the authority of the TEN. If agreement between the Police/Environmental Health and the organiser cannot be reached and the matter goes before the Licensing Committee, the authority may issue a counter notice and stop the event taking place if the Committee considers it necessary for the promotion of one or more of the licensing objectives or, in the case of premises already licensed, impose one or more conditions which are stated on the premises licence as it considers appropriate for the promotion of the licensing objectives. A decision must be made at least 24 hours before the beginning of the event.
- 7.9 Where an objection notice is received to a 'Late TEN' the licensing authority will issue a counter notice without the need for a hearing by the Licensing Committee, which means that the event is **NOT** authorised.

8. The Licensing Authority

- 8.1 The Licensing Act 2003 created the term 'Licensing Authority' which is, in effect, the Local Authority or Council. The Act states that each Licensing Authority must have a Licensing Committee made up of between 10 and 15 Councillors from which a number of Sub-Committees of three Councillors can be formed. The Royal Borough has formed a Licensing Committee made up of 15 Councillors and, in nearly every case, a contested licence application will be heard by a Sub-Committee of three Councillors.

9. New Applications and Variations

- 9.1 Any application for a new premises licence, along with an application to vary an existing licence, will have to be advertised. The statutory advertising requirements are that the applicant must place a notice in a local newspaper within 10 working days of making the application and place a notice (blue paper of at least A4 size) on or at the premises for a period of 28 consecutive days, starting on the day after the application was made, outlining the details of the application. The Council has also set up an automated email notification scheme that is open to any resident to subscribe to free of charge to receive details of applications within their area via emails. You may subscribe to this scheme via:

<https://www.rbkc.gov.uk/myrbkc/Login.aspx>
and then click on Email Notification Service.

10. Minor Variations

- 10.1 It is possible to make small changes to a premises licence or club premises certificate through submitting a minor variation, which is quicker than the full variation process. A minor variation is defined as one that could not impact adversely on any of the four licensing objectives.
- 10.2 The process may be used for changes such as:
- small changes to the structure or layout of a premises;
 - the addition of an authorisation for late night refreshment or regulated entertainment (such as performance of plays or film exhibitions);
 - small changes to licensing hours (but see below on changes that relate to alcohol);
 - revisions, removals and additions of conditions (this could include the removal or amendment of out of date, irrelevant or unenforceable conditions, or the addition of volunteered conditions).
- 10.3 A Minor Variation application cannot be submitted to:
- add the sale or supply of alcohol to a licence
 - extend licensing hours for the sale or supply of alcohol at any time between 11pm and 7am;
 - increase the amount of time on any day during which alcohol may be sold or supplied;
 - extend the period for which the licence or certificate has effect;
 - transfer the licence or certificate from one premises to another, or vary substantially the premises to which it relates.

11. Representations

- 11.1 The bodies known as 'Responsible Authorities' and any other person may make representations regarding an application for the new grant of, or variation to an existing, licence within 28 days of the application being made. Representations must be made in writing (letter, emails, and faxes providing it has your name and address).
- 11.2 Any representation made must relate specifically to the individual premises that is the subject of the application and must also relate directly to one or more of the Licensing Objectives. Once the Licensing Authority has received a representation it will be checked to make sure that it is not irrelevant, vexatious or frivolous. Irrelevant, vexatious or frivolous representations will be disregarded by the Licensing Authority, as will any received after the 28 day consultation period.
- 11.3 The following may make representations for or against a licence application:

Responsible Authorities

The Police.

The Fire Authority.

The Planning Authority.

Health and Safety Officers.

The Health and Safety Executive for those premises it is responsible for.

Noise & Nuisance Officers (includes those responsible for preventing litter etc.)

Trading Standards Officers.

The Public Health Authority

Child Protection Officers

The Licensing Authority

The Secretary of State

11.4 'Any other person'

In relation to licensing applications, the Police Reform and Social Responsibility Act 2011 describes 'any other person' as anyone 'likely to be affected by the application'. Representations by 'any other person' submitted for or against a licence application must relate to one or more of the licensing objectives and must not be frivolous or vexatious.

- 11.5 If an application for a new grant of a licence, or to vary an existing licence, receives relevant representations from any of the above then it will be brought before the Licensing Committee for a hearing – unless an agreement can be reached by all the interested parties to amend the application in a manner that is satisfactory for all involved.

12. Reviews of Premises licences

- 12.1 Responsible Authorities and 'any other person' may apply for premises licences to be 'reviewed' by the Licensing Authority.
- 12.2 The ability to review an existing licence has been included in the Act so that any premises operating in a manner that does not promote the licensing objectives, e.g. noise from music constantly escaping from premises late at night and causing disturbance to local residents – not promoting the 'prevention of public nuisance' objective - can be brought to the attention of the Licensing Authority.
- 12.3 However, any application to have a premises licence reviewed must clearly show how the operation of the individual premises has not promoted, or has worked against, one or more of the Licensing Objectives.
- 12.4 The person, or 'body', submitting the application to review a licence must serve a copy of the application on the relevant licence holder, the Licensing Authority and each of the 'Responsible Authorities'.

- 12.5 Once an application for a premises licence to be reviewed has been made, the Licensing Authority must advertise the application by placing a notice, of size A4, on, at or near the premises subject to the application.
- 12.6 The Royal Borough will also place a notice at the Town Hall advertising the application and place the relevant details on the RBKC website. Those individuals who have subscribed to the automated email notification scheme will receive an email detailing any relevant applications for a review.
- 12.7 'Any other person' and the 'responsible authorities' may also make representations relating to the premises subject of a review within 28 consecutive days of the original application being made. The review application will trigger a hearing before the Licensing Committee.
- 12.8 **Contact details for the Licensing Authority and the Responsible Authorities are:**

The Licensing Authority: The Licensing Team, Council Offices, 37 Pembroke Road, London W8 6PW (Email: licensing@rbkc.gov.uk) 020 7341 5152

Police: The Licensing Officer, c/o Council Offices, 37 Pembroke Road, London W8 6PW (Email: AWMailbox.licensing@met.police.uk) 020 7370 5319

The Fire Authority: Fire Safety Regulation: South West Area 4, 169 Union Street, London SE1 0LL (Email: fsw@london-fire.gov.uk)

The Health and Safety Authority: The Team Manager, Health and Safety Team, Department of Environmental Health, Council Offices, 37 Pembroke Road, London W8 6PW (Email: environmentalhealth@rbkc.gov.uk)

(Unless the premises are normally under the jurisdiction of the Health and Safety Executive, i.e. museums etc, when applications should be sent to: The Health and Safety Executive, Rose Court, 2 Southwark Bridge Road, London SE1 9HS.)

The local planning authority: The Senior Administration Officer (Licensing) – The Planning Department, The Town Hall, Hornton Street, London W8 7NX (Email: planning@rbkc.gov.uk)

The authority with a duty to minimise or prevent the risk of pollution of the environment or of harm to human health: The Team Manager, Noise and Nuisance Team, Department of Environmental Health, 37 Pembroke Road, London W8 6PW (Email: Noise@rbkc.gov.uk)

The Child Protection Body: Angela Flahive, Head of Safeguarding, Review and Quality Assurance, Room 242, Kensington Town Hall, Hornton Street, London W8 7NX- angela.flahive@rbkc.gov.uk

The Weights and Measures Inspector: The Team Manager, Trading Standards Team, Department of Environmental Health, 37 Pembroke Road, London W8 6PW (Email: trading.standards@rbkc.gov.uk)

Public Health Authority: Tri-borough Public Health, Westminster City Council, 64 Victoria Street, London, SW1E 6QP
(Email: PublicHealthDepartment@westminster.gov.uk)

The Secretary of State: The Home Office, Alcohol Licensing Team, Lunar House, 40 Wellesley Road, Croydon CR9 2BY
(Only for applications for premises licences involving alcohol or late night refreshment)
(Email: alcohol@homeoffice.gsi.gov.uk)

- 12.9 If a licence review hearing is necessary the Licensing Committee will have the following options open to it having heard the evidence at the review:

Take no further action;
Issue a warning;
Modify the conditions of the licence;
Exclude a licensable activity from the scope of the licence;
Remove the designated premises supervisor;
Suspend the licence for up to three months;
Revoke the licence.

- 12.10 A decision to modify conditions or exclude a licensable activity can be made on a permanent or temporary basis (for up to three months) depending on the particular issues raised in the ‘representations’ and the evidence given at the review hearing.

- 12.11 Every decision the Licensing Committee and sub Committee make must relate directly to one or more of the four licensing objectives, having had regard to the application itself, the representations received, the relevant sections of the [Secretary of State’s Guidance](#) and the Authority’s own [Statement of Licensing Policy](#).

13. Appeals

- 13.1 Every decision of the Licensing Sub-Committee can be challenged by way of an appeal to the Magistrates’ Court. Not only does an applicant for a licence or review of a licence have a right to appeal against a decision of the Sub-Committee, but so does any other person, the police and the other responsible authorities who originally submitted representations. An appeal can be lodged if the Sub-Committee grants an application, refuses an application, partially refuses an application, revokes or suspends a licence, or attaches, or fails to attach, conditions to a licence.

- 13.2 If any party to such an application wishes to appeal against the decision they must lodge their appeal with the court (which in this area would be Westminster Magistrates Court, 181 Marylebone Road, London NW1 5BR) within 21 days of the notice of the sub-committee's decision being received.

14. Licensing Enforcement Policy

- 14.1 The Licensing Team is responsible for carrying out duties for various different licensing functions, including enforcement. When carrying out enforcement duties within the Borough, licensing officers must have due regard to the 'Regulators Code' which places a number of obligations on local authorities undertaking enforcement duties. This includes taking a consistent approach to enforcement and being proportionate in response to any licensing breaches. To achieve this, the Council has adopted an enforcement policy which sets out the Licensing Team's general approach to enforcement. Read the Environmental Health Service Group's Enforcement Policy at: <https://www.rbkc.gov.uk/pdf/Environmental%20Health%20Service%20Group%20Enforcement%20PolicyFINAL.pdf>

15. General Information

- 15.1 There are approximately 1000 licensed premises in the Royal Borough, and each year the Council receives around 850 Temporary Event Notices for one-off events. For details of licensed premises or temporary events in your area visit the **licensing registers page**:
<http://www.rbkc.gov.uk/environmentandtransport/licensing/licensingregisters.aspx>
- 15.2 The following links explain how you can find out about applications which may affect you, by signing up to the **Email Notification Service**:
<https://www.rbkc.gov.uk/myrbkc/Login.aspx>
or searching the **List of Pending Applications open for public consultation**:
<https://www.rbkc.gov.uk/licensing/licensingapplications/default.aspx>
- 15.3 How to go about **Making Representations to an application**:
<https://www.rbkc.gov.uk/wamdocs/Making%20Representations.pdf>
- 15.4 What to do if you are experiencing problems with a licensed premises, for example by **Reviewing a premises licence/club premises certificate**:
<https://www.rbkc.gov.uk/licensing-information/applicants-and-businesses/licensing-reviews>
- 15.5 Where an application is unopposed, the Council must grant the licence as applied for, subject to conditions which are consistent with the applicant's operating schedule and which are necessary to promote the licensing objectives. Applications which are opposed are referred to the Council's Licensing Sub Committee for consideration.

15.6 The following additional guidance notes and information are available:

- **Licensing Policy Documents**

<https://www.rbkc.gov.uk/licensing-information/policy-documents/licensing-policy-documents>

- **Licensing initiatives**

<https://www.rbkc.gov.uk/licensing-information/licensing-news-initiatives-and-consultations>

- **Frequently Asked Questions about temporary event notices**

<http://www.rbkc.gov.uk/environmentandtransport/licensing/ldoc.ashx?docid=e952bf93-33bb-4dc3-9559-69b39e7e1435&version=-1>

15.7 Guidance notes produced by the Department for Culture, Media and Sport, and the Home Office:

- **Making Representations**

<http://www.rbkc.gov.uk/environmentandtransport/licensing/ldoc.ashx?docid=38468b14-66f3-4ca5-9427-fc64510b3478&version=-1> - this guide describes the process for making representations to licensing authorities

- **Appealing licensing decisions**

<https://www.rbkc.gov.uk/wamdocs/Licensing%20Act%20Appealing%20licensing%20decisions.pdf> - this guide describes the process for appealing a licensing authority's decision

- **Applying for a review**

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003> - this guide describes how to apply for a review of a premises licence or club premises certificate

If you require any further information regarding the Licensing Act 2003 please contact the Licensing Team at 37 Pembroke Road, London W8 6PW or by telephone on 020 7341 5152