

Update on the Licensing Service: July 2023

To update the Licensing Committee on the work of the Licensing Team in 2023.

2023 is proving to be a busy year for the Licensing Team.

Festivals and large-scale events

As members are aware, Wiltshire is a popular venue for festivals and other large-scale events. Prevention of harm is a key element when planning an event; Licensing Officers engage in considerable pre-event work, guiding organisers in managing their own event to lessen the impact on the local community and emergency services of Wiltshire. By early intervention and positive engagement, we seek to guide and educate organisers around managing alcohol consumption levels, drug prevention, antisocial behaviour, and the wellbeing of all at events.

Some events are supported through the Event Safety Advisory Group (ESAG). We have started holding these meetings for events planned during this year. This is a forum where the organisers of events meet with the responsible authorities including the emergency services to discuss details of the event and any potential issues and are offered multi-agency advice. The aim of these meetings is to promote well-run, safe events in Wiltshire.

A number of high-profile events have taken place again this year, alongside new or expanded events, Wiltshire offers a diverse range of events for our communities and visitors.

There have been a few concerns from local communities and members in relation to a couple of temporary events notices that have been submitted and acknowledged. As members are aware temporary events notices are light touch form of licensing that can only be objected to by Wiltshire Police and / or the Environmental Health - no other parties can have a view or comment in relation to these notifications.

Whilst the huge majority of functions or events held under a temporary events notice pass without concern or impact on local communities those that do are noted and consideration is then given by the relevant agencies to the suitability of any future Tens submitted of a similar nature. It must be pointed out that Council it about a balance between encouraging small, limited events and managing public expectations. Temporary events notices do not require management plans or any other supporting documentation.

Licence Tens Applications: 2022/2023

Year comparison	2022	2023
Temporary Events Notices	829	909
Late Temporary Events Notices	218	230

See information guidance attached to the bottom of this update.

Hearings

To date in 2023, we have held six licensing hearings.

Annual fees

On 25 April 2012, the Police Reform and Social Responsibility Act amended the Licensing Act 2003 to impose a requirement on Licensing Authorities to suspend premises licenses and club premises certificates if the annual fees are not paid. Previously, non-payment was only recoverable as a civil debt and the premises licence or club premises certificate remained in force even though the fee was not paid. That meant that the premises or club could legitimately continue to trade year after year whilst owing unpaid fees to the Licensing Authority.

The annual fees (are centrally set by the secretary of state based on the premises rateable value) are due year each on the anniversary of the issue of the licence, whilst there is no requirement for Licensing Authorities to invoice licence holders, Wiltshire alongside most Licensing Authorities issue invoices prior to the payment being due.

	A	B	C	D	E
Non-domestic rateable value	£0 - £4,300	£4,301 - £33,000	£33,001 - £87,000	£87,001 - £125,000	£125,001
New application and variation Annual charge*	£100 £70	£190 £180	£315 £295	£450 £320	£635 £350

A reminder is sent either by email or telephone to a licence holder if they fail to pay by the due date that the payment is outstanding and that their licence will be suspended if payment is not received.

A suspension notice is then issued to licence holders who have failed to make payment informing that their premises licence is now suspended, and no licensable activities are permitted to take place on the premises until the fee is paid in full. The licence holder is also reminded that while the licence is suspended it is an offence to undertake licensable activity which could, on summary conviction, lead to imprisonment for up to six months and/or an unlimited fine.

The raising of monthly invoices, collection of annual fees and suspending of licences is conducted and managed by the Licensing team with the support of finance colleagues.

Between 1 April 2022 to 31 March 2023, 1651, invoices were raised, and 83 suspension notices have been issued, 33 licences for this period are still in suspense. Most are premises that are currently not trading or changed their activities or operating hours.

Valuation Office

The Valuation Office Agency (VOA) has updated the rateable values of all business, and other non-domestic, property in England and Wales.

These new rateable values took effect from 1 April 2023. This means that all current licensed premises rateable values will need to be reviewed to see if they have had any impact on their banding under the Licensing Act 2003 for Annual fee payment.

Licensing Act 2003: regulatory easement

The Licensing Act 2003 allows premises licence holders to sell alcohol for consumption on-site or for consumption off-site or both. In response to the pandemic, the Business and Planning Act 2020 (BPA) provided regulatory easements which enabled holders of licences that only allow sales for consumption on-site to automatically do sales for consumption off-site, without any need to amend their licence.

Provisions in the BPA also temporarily increased the annual number of temporary event notices during 2022 and 2023, from 15 to 20 notices per premises and increase the maximum number of days on which temporary events may be held from 21 days to 26 days per year.

The BPA measures in relation to off sales were due to expire on 30 September 2023 and 31 December 2023 for TEN's notification to Local Authorities in July stated that this was the case.

However, on 14 August 2023 the government released the following statement:

Government has decided to extend the alcohol licensing regulatory easements relating to off-sales, set out in the Business and Planning Act 2020 (BPA), until 31 March 2025. As you will be aware, the BPA provided that - for a time-limited period - holders of licences that only cover on-sales would automatically be entitled to make off-sales without any need to amend their licence and would be able to serve alcohol in the area covered by any pavement licence that they had, facilitated by a parallel but independent easement to pavement licensing. This extension to Spring 2025 means that businesses will be able to continue to benefit from these provisions for a further 18 months.

We recognise that we previously communicated to you that this easement would lapse on 30 September, and we sincerely apologise for any confusion that this has caused. The decision to extend this easement further has been taken after careful consideration within Government. Ultimately, whilst the immediate Covid crisis has passed, the residual effects continue to cast a long shadow, especially for businesses in the hospitality sector that have been adversely affected. The Government has therefore made this decision to ensure the hospitality sector can maximise every opportunity to recover fully from ongoing effects of the pandemic. This extension will alleviate uncertainty over the status of off sales for those premises affected and will allow for long term business planning.

The Government's ultimate goal is to create a unified pavement licence that includes licensing consent for the consumption and sale of alcohol in the outside pavement area. During the 18-month period of the temporary extension to the off-sales provision, we will therefore be working on a permanent solution with the Department for Levelling Up, Communities and Housing. We would be grateful for your support on this matter and will be reaching out for further engagement in due course.

As you will know, another regulatory easement set out in the BPA related to Temporary Event Notices (TENs); it temporarily increased the annual number of TENs that a licensed premise user can have in respect of a premises from 15 to 20 per year and increased the maximum number of days on which temporary events may be held at such premises from 21 to 26 per year. For the avoidance of doubt, this easement will not be extended, given that the additional TENs provided for in the BPA have been under-utilised. As such, on 31 December 2023, this easement will lapse.

The government's indication is that a unified pavement licence should include licensing consent for the consumption and sale of alcohol in the outside pavement area is seeking to reduce the administrative burden on cafes, pubs and restaurants having to apply for multiple consents from their council. It is our understanding that local residents and responsible authorities would still be able to make representations on the merits of such a licence, and the terminal hours may differ outside from those inside.

Revised guidance statutory 182 guidance (issued August 2023)

[Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/revised-guidance-issued-under-section-182-of-licensing-act-2003)

This guidance is provided to licensing authorities in relation to the conducting of their functions under the 2003 Act.

It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers, and the general public.

Following on from the recommendations made in relation to the Manchester Arena Inquiry, the Home Office have made amendments to the section 182 Guidance which accompanies the Licensing Act 2003.

2.10 Counter terrorism and public safety

2.11 Licensing committees may wish to give due consideration to appropriate counterterrorism measures and advice when considering licence applications, for example at high profile or large premises or events or where there are factors which may increase attractiveness to attacks, and in particular when in receipt of relevant advice from police counter terrorist staff.

2.12 It is particularly relevant to consider conditions around health care provision in this regard. Any additional licensing conditions should be appropriate and proportionate to the venue as noted in para 1.16. We recommend that all licensing authorities pay particular attention to terrorist threats when making specific licence conditions in relation to security or health care provision at appropriate premises and events applying for a licence.

2.13 As noted in para 2.8 licensing authorities can recommend conditions where appropriate to do so, such as ensuring appropriate access for emergency services and vehicles such as ambulances; good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4); and ensuring the presence of sufficient trained first aiders on the premises and appropriate first aid kits.

2.14 However, in some instances, licensing authorities may wish to tailor their approach, depending on the particular nature of the application, and go further when addressing concerns around possible terrorist or other such risks. We have provided [an Annex](#) to help inform and support licensing authorities in their decision making with regards to additional licence conditions for premises and events, that may benefit from further security planning and health care provision in the aftermath of a particular type of incident.

Gambling Act 2005

CONSULTATION (Summary)

In April 2023, the “Gambling Act Review” white paper was published setting out the government’s plans for modernising the regulation of gambling in Great Britain. This includes a number of measures to adjust outdated regulatory restrictions applying to premises-based gambling sector. The area of gambling managed by Licensing Authorities.

Restrictions on numbers/supply were originally considered as an important protection in the 2005 Act, but in the light of the availability of remote gambling the characteristics of products and quality of monitoring have assumed greater importance. The proposals that the DCMS is seeking views on include:

Machines in arcades and bingo halls: changing the 80/20 ratio governing higher to lower stake gaming machines to enable venues to better meet customer demands and save on energy costs.

Cashless payments on gaming machines: helping future proof the industry by consulting on the player protections needed to remove the prohibition on the direct use of debit cards on gaming machines.

Introduction of a legal age limit of 18 for certain gaming machines: protecting children and young people by banning anyone under the age of 18 from playing low stake Category D slot machines that payout cash.

Licensing authority fees: ensuring that licensing authorities have the funding they need to perform their licensing and enforcement duties for premises licences.

The purpose of this consultation is to ensure that the government is able to consider a range of views and evidence on this range of proposals before finalising the details of each policy.

The consultation will be open for 10 weeks, closing at 11:55pm on 4 October 2023. Following the closure of the consultation, the government will publish a formal response to set out its decision and reasoning before implementing the changes.

For more in-depth information, the consultation can be viewed following the link below:

<https://www.gov.uk/government/consultations/measures-relating-to-the-land-based-gambling-sector/measures-relating-to-the-land-based-gambling-sector>

Animal Licensing

Two licensing officers attended a recent Zoo licensing course / workshop.

Due to the increase in the number of complaints licensing is receiving often lacking in detail in relation to possible unlicensed animal activities which takes up an inordinate amount of officer time trying to find and collaborate information, licensing is looking at identifying a clear protocol on what information or concerns we will follow up on to ensure the best outcomes.

Latest Team News

Emma Hyde has returned from maternity this has meant a slight change to the officer's areas.

OFFICER	AREAS
Lisa Grant & Teresa Isaacson	Royal Wotton Bassett
	Marlborough
	Calne
	Devizes
	Pewsey
Roy Bahadoor & Carla Adkins	Chippenham
	Malmesbury
	Corsham
	Trowbridge
	Westbury
Kat Edge & Andy Noble	Salisbury
	South Wiltshire
	Amesbury
	Tidworth
	Southwest Wiltshire
Emma Hyde	Melksham
	Bradford On Avon
	Warminster

Licensing Officers contact details

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Technical Support Officers

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Julie Macey	01225 716681	publicprotectionwest@wiltshire.gov.uk
Lauren Webster	01249 706555	publicprotectionnorth@wiltshire.gov.uk
Claire Baker	01225 716655	publicprotectionwest@wiltshire.gov.uk

Linda Holland
Licensing Manager
Public Protection
1 September 2023

Temporary Event Notice (TEN)

Temporary Event Notices are used for small scale or one-off events and were introduced by Government as a light touch form of licensing.

A TEN is a time-limited notice, which authorises specified 'licensable activities' at a defined location or 'premises'. A premise may be one room, a series of rooms, a whole building, a field or other open space. One TEN may be sufficient to cover a 'premises' with several areas, but this depends on the types of licensable activity, hours and the numbers attending. The event may last for up to 168 hours (7 days) and no more than 499 people may be on the 'premises' at any one time, including staff. There are limits on the number of applications, which may be made by any one person or in respect of any premises.

A TEN can be used for events involving the following licensable activities:

- Plays or films
- Indoor sporting events, boxing, wrestling
- Live/recorded music
- Performance of dance
- Sale/supply of alcohol
- Provision of late-night refreshment (hot food and drink between 23:00-05:00)

Including the cost of alcohol in the ticket price or requesting 'donations' to cover the cost still constitutes a 'sale' and requires to be authorised by a TENs or a premises licence.

A Tens can also be used to authorise an event outside of the terms of an existing premises licence. Or it can be used to provide authority for an event where there is no existing premises licence.

Each TENs cost £21.00 (statutory fee set by Government) and is non-refundable.

Contentious TENs take up significant officer time that is not covered by the fee.

Limitations on events under a TEN

- Each premises can hold no more than 15 TEN events per calendar year (increased to 20 in years 2022 and 2023 only)
- Maximum total period covered by TENs at any premises is 21 days per calendar year (increased to 26 days in years 2022 and 2023 only)
- No more than 499 people on the premises at any one time for each event
- A TEN event can last up to 168 hours (7 days)
- Must be a minimum of 24 hours between each event notified by the same event organiser at any premises
- Anyone over the age of 18 can submit a maximum of 5 TENs per calendar year, 2 of which can be late TENs
- Personal Licence Holders can submit a maximum of 50 TENs per calendar year, 10 of which can be late TENs
- A TEN is treated as being from the same premises user even if it is given by an associate.

In circumstances where the above criteria are not met, the Licensing Team must reject the TEN and the event will not be allowed to go ahead.

Provided that the criteria set out above are met, only the Police or Environmental Control & Protection Team in Public Protection Service may object to an event covered by a TEN. Where a TEN authorises the supply of alcohol, the notice contains a statement confirming that all such supplies are made by or under the authority of the premises user.

Amongst other things, a TEN must also provide details of the following:

- Details of the licensable activities
- Location of the event and how long it will last
- Times when licensable activities will take place
- Maximum number of people to be allowed on the premises at any one time

Premises may be hired out to organisations/individuals for their own events. Premises owners/operators should be aware that TENS submitted by such persons will be counted under the limits set down in the Act. Wiltshire Council recommends that booking agreements are used. This will ensure that all TENS made in respect of a premises are made with the agreement of the premises owner/operator.

It is an offence to exceed the times or dates specified on an acknowledged TEN.

Turnaround times

A **standard notice** must be submitted at least ten working days before the event.

A **late notice**, which is submitted between nine and five working days before the event. However, if either the Police or Environmental Health object, to a late ten the event will not be permitted and there is no hearing or appeal process.

The working days do not include the day it is received, the first day of the event or Bank Holidays or weekends. If a TENS is submitted with less than five working days before the event it will automatically be rejected

If the premises where the event is to be held straddles two or more local authority areas, then a TEN must be served on each council.

Requirement for additional documentation

The event organiser is responsible for ensuring that all reasonable steps are taken to protect the health and safety of staff, volunteers, performers, public and anyone else attending the event who may be affected by the activities being conducted. Risk assessments demonstrate how the event will comply with health and safety law.

In some cases where events are more complex with high visitor numbers or is high profile or high-risk activities may be proposed, it may be appropriate / advisable to compose / produce an Event Management Plan which could / should include plan of the event layout, any noise management plan, traffic management plan if appropriate and risk assessments.

Organisers of such events are often asked to submit / or produce this documentation and therefore is it helpful if it submitted at time as the Tens notification allowing sufficient time prior to the event for relevant officers to review the documentation and comment. There is no legal requirement for these however, it is good practice and demonstrates that organisers have considered what appropriate management / and monitoring systems are required for their event.

Objections

Only the Police and Environmental Control & Protection Team have the right to object to a notice and it is not subject to any other consultation. There is no facility in the Act, for representations by other Responsible Authorities or any other parties. If the Police or Environmental Control believe that allowing the event will undermine any of the licensing objectives, they must give the premises user and Wiltshire Council an objection notice. Licensing objectives are:

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

Objections must be made within three working days of receiving the TEN.

With the agreement of the premises user, the Police or Environmental Health can modify the TEN. However, a late TEN cannot be modified. If no agreement is reached, Wiltshire Council must hold a hearing to consider the notice at least 24 hours before the event. The Licensing Sub Committee may decide to allow the event to go ahead as stated in the notice. If the premises already has a premises licence or club premises certificate, existing conditions can be applied to the TEN. Alternatively, the Sub Committee can decide that the event would undermine the licensing objectives and should not take place. In this case, the Council must issue a counter notice. The Licensing Service will issue a hearing decision notice giving details of the reason for the decision made.

The Council receives around 2,000 TEN applications each year, and only those events run under a TEN that raise significant local concerns are subject to officer involvement.

Appeals

An appeal process is available if parties are not satisfied with the decision of the Licensing Sub Committee. This is available to the premises user, the Police and Environmental Control Team. Any appeal must be lodged at the local Magistrates' Court within 21 days of the date the hearing decision was made. However, no appeal may be brought later than five working days before the first day of the event.

Complaints

If an event generates complaints from local residents, responsible authorities etc it will be reviewed by Environmental Health and taken into consideration should any future notification be received for similar events at the same location.