

Kirklees Environmental Services

The Licensing Act 2003

**A Guide for Applicants
on Public Nuisance
and Public Safety**



The New Licensing Act 2003

A Guide for Licensees on the Prevention of Public Nuisance

How does the new Law affect me?

If you sell alcohol, provide entertainment to people or sell hot food late at night, you will require a new type of licence from your local Council - 'the Licensing Authority'. This will be a single licence that replaces the following licence types:

- Sale of alcohol on or off the premises
- Registered Members Club
- Public Entertainment
- Late Night Refreshment
- Theatre
- Cinema

The Licensing Act 2003 removes automatic time restrictions on when alcohol can be sold. If you apply to transfer existing licences without variation, your existing conditions, including licensing hours, will be applied. Before the Licensing Authority issues a licence it must be satisfied that you can comply with the four key objectives of the Act which are to deal with:

- Prevention of crime & disorder
- Public safety
- Protecting children from harm
- Prevention of public nuisance

Where you require a variation in hours or activities, or you are applying for a new licence, you must demonstrate how you will comply with these objectives within an Operating Schedule that you submit along with your application. Before making a decision on an application, the Licensing Authority must listen to the views of a number of other bodies called Responsible Authorities, as well as other interested parties such as local residents. The Licensing Authority is able to vary or attach conditions to an application in order to ensure the above objectives will be met. In extreme circumstances where the Licensing Authority thinks the objectives cannot be met, the application could be refused.

Kirklees Environmental Services is the Responsible Authority that will consider public safety and the prevention of public nuisance. Environmental Health Officers from this Service have produced this guide to help you understand what the main public safety and public nuisance issues are likely to be for your business, how to assess their impact and how to control them.

A thoughtful and well presented Operating Schedule will give confidence to the Licensing Authority and Responsible Authority that you have properly considered public nuisance and public safety issues and that you will properly control them. If you take time to do this well, your application process is likely to be much smoother.

What is Public Nuisance?

Public nuisance is a broad concept, which concerns how the activity of one person (or business) affects the rights of another, for example, how noise from playing music interferes with another person's right to sleep. The degree to which activities are likely cause public nuisance will depend on a number of factors, including:

- The time of day/night when the activities take place
- How frequently they take place
- How near they are to other people and premises that may be affected
- The design, structure and layout of the premises
- How well the activities are managed

This guide reflects the Licensing Policy and concentrates on four specific areas associated with licensed premises that need to be addressed in order to prevent public nuisance -

1. noise
2. odour
3. litter, waste and street fouling
4. light pollution

As well as routine activities, you should also bear in mind temporary or one-off events such as parties and bank holiday arrangements which may not involve any extra cost, but could require greater management control.

You should also bear in mind the need to comply with other legal requirements, eg structural works which may need planning and building control approval, or your present planning permission may restrict the hours when you can open – having a licence does not override other regulatory controls.

1. NOISE CONTROL

Noise can come either directly or indirectly from licensed premises. Direct noise, such as that from entertainment activity, will be under your direct control. Indirect noise, such as that from vehicles and customers coming to and from the premises may not be under your direct control, but you can strongly influence it.

Typical noise sources include:

- Sound amplification systems and entertainment in general
- Ventilation and air-conditioning units
- Chiller-units and beer pumps
- Handling of barrels, kegs, cylinders and bottles outside
- Vehicles, including taxis, customer and delivery vehicles
- Customers, both inside and outside the premises
- Outdoor play areas and beer gardens
- Fireworks

If your premises are connected to other “noise sensitive” premises (such as a dwelling or office) you will need to take extra care to ensure excessive noise and vibration does not pass through the structure of the building. You are advised to consult a specialist noise consultant in such circumstances. The Institute of Acoustics and the Association of Noise Consultants have a list of experts in this field (see list of Useful Contacts).

Noise Control - what you need to do

You need to take all reasonable steps to:

- Ensure noise is not audible at sensitive locations such as dwellings, hospitals, hotels and other business premises (don't forget the residential parts of other licensed premises in the area).
- Ensure noise does not cause unreasonable disturbance to the wider public, such as passers-by and people using public facilities.

Greater control measures are needed for premises that operate late at night (after 11pm) and/or have regular entertainment.

Within the premises you can:

- Keep windows, doors etc closed – NB: for health and safety reasons it is very important to ensure the premises are properly ventilated and access to emergency exits is not restricted.
- Provide acoustically treated ventilation/air conditioning - allowing windows etc to be closed.
- Use a sound-lobby (with two sets of self-closing doors) at the entrance/exit of premises.
- Provide sound insulation to emergency exit doors and extractor fans.
- Keep speakers inside the premises, and do not position them near to openings such as doors or windows.
- Do not deliberately play or direct music outside the premises as a means of attracting custom.

At the noise source you can:

- Play sound amplification systems through a sound limiting device.
- Use in-house speakers rather than artist and DJ speaker systems.
- Provide sound insulated enclosures to external plant and machinery.
- Provide sound insulation to ventilation ductwork and outlets.
- Use anti-vibration mountings for speakers.
- Use rubber matting and handling aids for the movement of barrels, cylinders, bottles etc.
- Provide solid fencing/barriers around car parking, play areas and beer gardens etc.

In addition you can:

- Ensure all staff, DJs and artists understand your noise control requirements.
- Operate at realistic times, which will not impact on others.
- Use different finishing times for different parts of your operation – eg finish entertainment earlier than alcohol or food sales.
- Play relaxing or calming music towards the end of an event and allow customers' hearing to adjust before they leave the premises which will mean they are more likely to be quieter as they leave.
- Use outdoor areas at reasonable times and do not remove waste and bottles late at night.
- Use signs requesting customers and staff to be quiet when leaving the premises.
- Designate a specific taxi firm for staff and customers to use and ensure that taxi drivers do not use the vehicle horn to attract attention.

- Arrange for deliveries to be made at reasonable times.
- Carry out regular monitoring checks to ensure noise is being adequately controlled.

**You may find it useful to refer to the following publications about controlling noise:
The Institute of Acoustics Guide: “Good Practice Guide on the Control of Noise from Pubs and Clubs” – tel. 01727 848 195.**

Please note. Employers have a duty under health and safety law to protect their employees from hearing damage caused by excessive noise. DJs, bar staff and others working in areas where loud amplified music is played are particularly at risk. If you employ staff who work in a noisy environment you should assess their level of noise exposure and control excessive noise. This requirement is not directly related to the Licensing Act and need not form part of your application or operating schedule.

2. ODOUR CONTROL (Offensive smells)

The main sources of odour from licensed premises are waste and bottle storage areas, drainage systems, and discharged air from kitchen extraction systems.

- a) Most commercial kitchens will require a mechanical extraction system, and the type and size will depend on the size of the cooking facility, type of food prepared and type of cooking appliances used. You may need to get advice from specialist air handling engineers about controlling odour from kitchen air extraction systems.

When installing air extraction equipment you will need to take the following into account:

- The extracted air should be discharged at a high level taking into account other buildings in the area – at least 1metre above the highest point of the licensed premises or other nearby buildings is recommended.
 - The air being extracted from the cooking area should be replaced by clean air, ideally supplied by mechanical means. Opening windows and doors should be avoided.
 - The extraction system should be designed to ensure the flow of air is not restricted by acute angles in ductwork, dirty filters, inadequate fans and cowls at the exit point.
 - Use grease filters and other odour control techniques such as carbon filters, electrostatic precipitation, scrubbers and neutralising agents etc. Specialist advice should be taken on the suitability of such techniques.
 - Ensure noise from fan housings does not cause a nuisance to others.
 - In every system an effective and regular programme of cleaning and maintenance is of vital importance.
- b) Controlling odour from waste and bottle storage areas is entirely down to good management practice which involves:
 - Using sealed waste bins big enough to hold all waste and which can be thoroughly cleaned.
 - Ensuring waste is collected on a regular basis by a reputable/licensed waste carrier.
 - Screening waste storage areas from sight and making sure the area can be properly cleaned and has adequate drainage.

- Using a regular cleaning programme for all storage areas and waste bins
- c) Odour comes from blocked and inadequately vented drainage systems, so it is important to:
 - Ensure food waste is not put into the drainage system.
 - Provide a grease-trap to the drainage outlet for kitchens.
 - Regularly clean grease-traps and drainage systems.
 - Ensure the head of the drainage system is vented at a high level using a vent stack.

When installing ductwork, consult Kirklees Planning and Building Control Services to find out if you need permission.

In addition to the above, you should take care to ensure cooking odours do not filter through the structure into adjoining premises by sealing gaps around services in party walls and ceilings.

Mobile traders should think carefully about where they site their vehicle in order to avoid odour problems.

The main guidance document on this subject is the “Control of Odour and Noise from Commercial Kitchen Exhaust Systems” (CIE 150:2003). This is available from the Department for Environment, Food and Rural Affairs (DEFRA) – tel. 020 7238 6000.

3. CONTROL OF LITTER, WASTE AND STREET FOULING

Licensed premises of all types can potentially cause public nuisance from litter and waste. There are a number of laws relating to proper waste collection and disposal, not least of which is the “duty of care” to ensure any waste is properly contained and controlled while in the operator’s possession, and that it is collected by a reputable waste carrier. The Licensing Act does not duplicate these laws, but you will need to apply good waste management practice in order to prevent public nuisance.

Fouling by people urinating, vomiting etc in the street is becoming an increasing problem, particularly in our town and city centres. With extended drinking hours, and possible increased alcohol consumption, the potential for such anti-social behaviour is much greater. Clearly the individuals concerned are ultimately responsible for these actions which in some cases can result in criminal action being taken. However, you can take action to help prevent this happening and make our streets an attractive environment for all.

Uncontrolled litter, waste and street fouling is unsightly and can lead to a negative image of the area. It can cause offensive odour, may attract rats and insects and therefore be a public health risk, it may cause people to slip, trip and injure themselves, and it may harm the reputation of your business.

Typical examples of litter, waste and street fouling that may cause problems include take-away packaging and food dropped by customers, wind-blown waste and litter from refuse storage areas, discarded and broken bottles, glasses and cans, promotional leaflets (flyers) and posters, and people who have consumed too much alcohol and urinate and vomit in the street.

What you need to do:

- Contact Kirklees Environmental Waste Service (tel: 01484 414700) to discuss your waste disposal needs or to arrange a contract with the Council.
- Ensure there are enough storage facilities for waste to prevent any overspill from containers. Fully contained and lockable bins which can be thoroughly cleaned and kept away or screened from public areas are recommended.
- Reduce packaging to a minimum and recycle bottles, cans and other waste wherever possible.
- Set up a litter control plan to assess the scale of the litter problem and carry out litter patrols on a regular basis.
- If litter is a problem around your premises contact Kirklees Street Cleansing Service to discuss how to control litter or the possibility of sponsoring a litter bin in your area (tel: 01484 414700).
- Encourage customers to dispose of litter responsibly using posters inside premises and on bins.
- Arrange for the area around your premises to be cleared of litter and fouling on a regular basis, and always at the close of business.
- If you are a mobile trader you will need to provide a suitable waste bin and take your waste away with you for proper disposal.
- Cut down the use of promotional leaflets and publicity and only hand flyers directly to the public – do not put on vehicle windscreens. Ensure a litter bin is near to the distribution point and clear discarded flyers afterwards.
- Provide clean and accessible toilet facilities for customers to use.
- Challenge those who foul the area around your premises.

4. LIGHT POLLUTION CONTROL

Outdoor artificial lighting is used for a number of reasons, including work, recreation, security, safety, advertising, display, and to create a pleasant atmosphere where people gather socially. As many of the premises operating under the Licensing Act will use outdoor lighting late at night, it is important to ensure that it does not become a nuisance to others. Light 'spilling over' onto other property can cause annoyance, distraction and discomfort and may cause driving problems by glaring into drivers' eyes or competing with signs and other traffic signals.

The design of larger outdoor lighting installations will require advice from a specialist Lighting Engineer, but you can control even the smallest outdoor installation by:

- not "over-lighting" an area – use lighting with an appropriate output for the required purpose. Take particular care when selecting tungsten or halogen lighting.
- siting the lighting carefully and aiming the beam away from sensitive premises and transport systems. Take advantage of natural screening and barriers.
- using high mounting positions and directing light downwards, rather than mounting it low and using horizontal light beams.
- using properly designed screens, baffles, hoods and louvres on lights to control the direction of the light beam.
- turning off lighting when not required. If using timed automatic cut-off switches, bear in mind the possible safety issues this may create.

- ensuring lights activated by sensors are properly set and used appropriately – ie the light is not repeatedly switching on and off, as this itself may cause annoyance.

Note: You may wish to provide additional security lighting to poorly lit areas around your premises in order to improve safety and deter crime. You are encouraged to do so as this is a key aim of the Licensing Act – just take care that the lighting does not cause nuisance to others.

The main guidance document on this subject is the “Guide on the Limitation of the Obtrusive Effects of Obtrusive Light from Outdoor Lighting Installations” (CIE 150:2003). This is available from the Chartered Institute of Building Services Engineers (CIBSE) - tel 020 8675 5211.

Further Help

For further guidance on prevention of public nuisance contact:

**Kirklees Environmental Services
Pollution & Noise Control
Riverbank Court Wakefield Road
Aspley Huddersfield HD5 9AA**

**Tel: 01484 414739
E-Mail: pollution@kirklees.gov.uk
Visit: www.kirklees.gov.uk**

Further information about the Licensing Act 2003 is available on the Government website at www.culture.gov.uk

Please note that the information provided here is for general guidance in relation to the Licensing Act 2003 and the prevention of public nuisance. It is not exhaustive and you will need to take account of the other relevant legal requirements when completing a licence application form.

Useful Contacts

Organisation	Telephone	Web-site
Department of Culture Media & Sport (DCMS)	020 7211 6200	www.culture.gov.uk
Department for Environment, Food & Rural Affairs (DEFRA)	08459 33 55 77	www.defra.gov.uk
The Institute of Acoustics	01727 848 195	www.ioa.org.uk
The Association of Noise Consultants	01763 852 958	www.association-of-noise-consultants.co.uk
The Institute of Lighting Engineers	01788 576 492	www.ile.org.uk

Guidance on the Provision of Public Safety

Licensees must be able to demonstrate that they have considered and put into effect measures to protect the safety of any person visiting or working in licensed premises.

To this end applicants will be expected to identify public safety issues (including fire safety) and to demonstrate in their Operating Schedule that suitable and sufficient measures will be implemented and maintained to ensure public safety relevant to their premises and the events. The majority of measures taken may be contained in your Health & Safety Policy and Risk Assessments.

The Council will expect the premises to be constructed, maintained and managed to recognised standards of safety. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation and relevant technical standards where appropriate.

In order to demonstrate how public safety will be ensured, the Operating Schedule should include proposals on how you will deal with the main public safety issues. This list is for guidance only and gives examples of the sort of things to consider when preparing the Operating Schedule.

- You need to demonstrate that proposed occupancy levels are safe and that sufficient management controls exist to prevent the levels being exceeded. Where the premises are split into different parts it would be wise to identify the occupancy for each individual part.
- You should indicate details of the specific management arrangements in place to ensure adequate installation, testing, maintenance and certification of the following:
 - fire detection and alarm systems
 - fire fighting equipment/fire suppression systems
 - emergency lighting system
 - electrical installation to the premises
 - portable electrical appliances
 - music cut-out systems
 - fire retardant treatments for materials used in drapes, furnishings and decorations, including frequency of treatment
 - heating systems and cooking appliances, eg gas boilers/pressure systems
 - hot and cold water systems, eg certain air con units re: Legionella
- If you intend using special effects such as lasers, pyrotechnics, smoke machines, foam machines or fireworks, you should show the safety precautions to be taken.
- You must employ or engage a sufficient number of readily identifiable people to secure the safety of everyone attending the premises or event.
- You must demonstrate appropriate instruction, training and supervision of those employed or engaged on the premises or associated with the event.
- You need to make sure you have made general fire precautions. Fire safety features should be marked on the floor plans accompanying the licence application.
- Give details of how you intend to regularly inspect and maintain structural elements such as walls, floors, roof members, beams, mezzanine floors, stairs, lintels, ceilings etc. It is similarly important to ensure that the integrity of materials providing fire resistance to these structural elements is also maintained.

- Show that you have written procedures for the inspection and maintenance of items of general housekeeping, for example:
 - escape routes, kept clear with escape doors being easily operable without the use of key, card, code or similar means
 - fire doors and the door operating furniture
 - fire safety signs, adequately illuminated
 - removable security fastenings, removed from exit doors whenever the premises are open to the public or occupied by staff
 - damage to furnishings and fabrics
 - guarding to stairs, balconies, landings, and ramps
 - general condition of floor surfaces (eg trip hazards, non-slip surfaces)
 - safety glazing with manifestation (visible safety markings) in critical locations
 - suspended decorations, lights, and amplification systems
 - guarding to fires, candles and open flames
 - edges of treads to steps and stairways, kept conspicuous
 - systems for the collection of glass and bottles
- Show that proper management controls are in place to deal with specific activities, such as drinks promotions.
- Show what safety measures you have considered when hot food and drink is prepared in close proximity to the public.
- Indicate the number of trained first aid staff and give details of the first aid equipment provided on the premises. Consideration should also be given to treating persons affected by drugs or alcohol and having a policy of providing free drinking water where necessary.
- Show that any transport access points on your premises (eg taxi pick-ups) are positioned so as not to provide a hazard to customers leaving the premises.
- Indicate how you intend controlling noise levels to prevent damage to the hearing of employees and to the public visiting your premises.

Other Areas to Consider

Although not required as part of your Operating Schedule, you need to consider the requirements of other relevant legislation. For example:

- You must provide adequate sanitary accommodation in accordance with current British Standards.
- You need to provide reasonable access and facilities for people with disabilities, for example, safe evacuation from your premises by staff trained to implement emergency exit plans, provision of suitable sanitary accommodation, etc.

For further guidance on health and safety contact:

**Kirklees Environmental Services
Health and Safety Team
Riverbank Court
Wakefield Road Aspley
Huddersfield HD5 9AA**

**Tel: 01484 414739
E-Mail: healthandsafety@kirklees.gov.uk
Visit: www.kirklees.gov.uk**