



LICENSING TRANSITION NEWS 2005

All Corporate Members (especially Premises Licence holders)

Issue 1: 7 March 2005

We are now one month into the transition to the new licensing regime and it is clear that all is far from plain sailing. We are particularly concerned that the timescale for applications and grants is over optimistic and it is certain that new rules and interpretations are being revealed almost daily. The *ALMR* will therefore issue **Licensing Transition News** at least once per month during 2005 with 2 objectives:

- **Update** members on the number of grey legal areas emerging as well as clarifying other matters. This is designed to supplement the Frequently Asked Questions published recently on our website. www.almr.org.uk/licensing.htm
- To receive members **Applications Progress** report to monitor their applications made by them. Regular completion of this continuing report by Premises Licence applicants will be very helpful to establish progress and identify obstacles; feedback will help us influence Government thinking, improve our lobbying and provide an early warning of major problems arising.

UPDATE

As we tentatively progress through the transition to the new licensing regime, and the first applications are made, we are beginning to see a number of grey legal areas emerging as well as clarification on other matters.

Much of the information set out below has come about directly through queries from members which have been researched with DCMS and legal advisers. We would remind all members that the office is available to respond to specific queries relating to applications or procedural matters. If there is something which you need to know which has not been covered by our briefings, or an issue arises which you need clarification on, please let us know.

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- **What can I grandfather?** In order to have a grandfather right then your licence or permission must have been in place and valid on the first appointed day ie 7th February. New licences granted after that date cannot be grandfathered, but providing the permission was in place on 7th February, any subsequent changes to it can also be grandfathered. For example, an extension of hours to an existing special hours certificate would be able to be grandfathered after 7th February providing the existing certificate was in force on that date. Equally, named licensees added to an justices licence which was in force on 7th February would also be eligible for grandfather rights for a personal licence until 6 August.

Tip: if you have an application pending you may wish to wait until resolved before submitting your conversion application

- **What happens about summer time?** Existing special hours certificates and some other licences, include a provision to allow licensees to trade until 3am when the clocks change in Spring. This will automatically carry over as a grandfather right.

Tip: if your existing licence does not take account of this and you are planning to open later, make sure you include it as part of your variation application



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- **When does my personal licence take effect?** All licences lie dormant until the second appointed day – which has yet to be confirmed. However, in respect of personal licences, once the application is approved and the licence granted, then the obligations for the holder kick in, even during transition and before the licence is effectively operational. Once your application is in during the transitional period, you will need to make sure that you keep the licensing authority informed of any relevant changes of name or address or any convictions for relevant offences.
- **What do I need to include in my advert and notice of variation?** The details of this are set out in the regulations governing transition. Both the notice and the advert need to include the name and address of the premises, the applicants contact details and the licensing authority where a full copy of the application may be viewed and the deadline for objections. In addition, they must contain a brief description of the variation being sought – but there is precious little detail to guide applicants on the level of information to include. Ultimately it will be for the courts to decide whether a notice and advert meets the requirements.

However, the reference to a brief description of the variation mirrors the wording used in the actual application form and could be the best form of direction. This would suggest that a simple overview of the conditions or aspect of the business is most appropriate. This should be in layman not legal terms and should be relatively short – around 3-4 lines of text at the most. Remember, the purpose of the advert and the notice is to direct residents to the source of the full application and it is not designed to provide all the information about the proposed changes.

Some local authorities are publishing their own notices to be used in adverts and displayed on site.

Tip: Only add lots of detail if you think it will help your application progress smoothly. The more info you provide the easier it will be for someone to object without having to make the effort to see the full application.

- **Do I need to include outside tables and chairs on my plans?** This issue has become less clear cut in the re-drafting of Government regulations. Originally, the inclusion of beer gardens and all external areas was an absolute requirement for all plans, but the Government has now decided that it is unnecessary to include it in plans for variation or new applications. However, plans accompanying conversion applications will need to show where alcohol sales and consumption take place 'on the premises'. It is a moot point whether external areas are actually 'on the premises' or not and some parties have argued that this requirement only relates to areas inside the building. However, if a beer garden or external area is currently used for licensable activities – and most will be under the off-sales provisions of existing licences – then it is probably best to mark them on the plans.

Tip: this is an area of lawyerly disagreement and debate but most local authorities are expecting to see external areas featured in plans and it would be safest not to take any chances by leaving them out

- **Do I need to display the licensee's name over the door under the new regime?** No, but you will need to display a summary of the premises licence which will include the name of the holder and the designated premises supervisor on site.

Tip: remember that you will need to comply with the 1964 Act until the 2nd Appointed Day, so don't remove signs too early.



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- **Do I need to pay twice if I apply to vary as well as convert your licence?** Unfortunately the Government has had a last minute change of mind and there is now a small additional fee for variation applications during transition. This will only apply if the variation being applied for relates to the sale of alcohol eg to add this in as a licensable activity for the first time or to change hours. If your variation does not relate to alcohol sales eg add in regulated entertainment to replace the 2 in a bar rule, then you will not pay the additional fee.

NB/KN

Ealing

7 March 2005

*PLEASE NOW COMPLETE AND RETURN THE PROGRESS
REPORT ON YOUR LICENCE APPLICATIONS*



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PROGRESS REPORT

- This is a rolling survey and will provide a snapshot of applications made to date and any key issues arising, as well as a means of collating general concerns.
- We are only seeking responses from those companies seeking to hold the premises licence.
- Please only provide information on applications made to date and already submitted to licensing authorities.
- If you have not yet made any applications, please submit a zero return

Name of company:

No of premises licences - managed: _____ **- leased :** _____

Date of this report:

Number of applications submitted in the following categories:

Rateable value bands	A	B	C	D	E	Total
Total number of premises licence applications submitted to date						
How many of these are seeking to <u>vary</u> as well as convert existing permissions						
How many of these are seeking to extend trading by up to 2 hours per day						
How many of these are seeking to extend trading by more than 2 hours per day						
How many of your applications have attracted objections						

Please rate each of the following indicating in each case how satisfied you are (1 = very unhappy, 5 = very pleased):

The quality of information you are receiving from your licensing authority/ies	
Speed of basic application processes within licensing authority/ies	
Handling by licensing authority/ies of queries & concerns	

Do you have any specific concerns about the way in which reform is being implemented and applications handled? – especially if this overall report is based on many local authorities.

(please print this page, complete and fax to ALMR on 020 8579 7579)