

Licensing Without Hiccups

July 2019



Licence Revocation for Retail Store Upheld by Magistrates' Court

The original licence review was brought by Home Office Immigration Enforcement after an illegal worker was found on the premises during a multi-agency visit on 8 June 2017. The premises licence was revoked by Reading in March 2018. The District Judge, in her written judgment on 25 February 2019, stated that the Licensing Sub Committee's decision was appropriate and proportionate at the time and remained correct at the time of the court hearing. The decision was reported in the [local press](#).

Appeal Against Revocation of Premises Licence for Restaurant Also Rejected

Reading Council also revoked the premises licence of a restaurant following immigration offences in May 2019. The operator appealed to the magistrates' court. [Local press](#) reports indicate that the court not only rejected the appeal, but also awarded costs to the council.

Amendments to Licence Application Forms

A number of licence application forms (i.e. personal licence, premises licence and transfer forms) changed at the end of January, with the changes relating to the proof of right to work (including an updated list of documents to provide evidence of entitlement to work in the UK and the option to provide evidence using the Home Office online right to work checking service). In short, an individual can now permit the licensing authority to carry out an online check with the Home Office, by providing a nine-digit share code to the licensing authority (the share code that is provided when accessing the right to work service). By entering the code and the applicant's date of birth, the licensing authority can access the individual's current right to work details. This includes the date of expiry, if the individual's right to work is time-limited, and any work-related conditions. Although the changes to the form are minor, some local authorities will reject applications submitted on previous forms. Updated forms for [premises licences](#) and [personal licences](#) can be accessed through the government website.

Home Office Publishes Toolkit for Child Exploitation Disruption

The [publication](#) is aimed at frontline staff working to safeguard children from sexual and criminal exploitation. However, it is also intended to help others understand and access existing legislative opportunities at their disposal and to target specific risks and threats, which may be helpful to operators of licensed premises. For example, some of the scenarios listed in the document refer to incidents in hotels and, in particular, there is a section relating to information about guests at hotels believed to be used for child sexual exploitation. General guidance in the document also lists various types of licensed premises as locations of concern, including takeaways, pubs and clubs. The toolkit suggests that relevant officers agree an action plan with such businesses, including providing exploitation and vulnerability awareness briefings to staff and management regarding signs of child criminal exploitation and child sexual exploitation, including security guards, bus or train station staff and shopkeepers.



Call for Evidence on Airside Licensing Laws

The government issued an [evidence call](#) at the end of 2018, requesting views on whether introducing alcohol licensing laws airside at airports in England and Wales could help tackle the problem of drunk and disruptive passengers (currently only “landside” operations before passport control require a premises licence, or temporary event notice, under the provisions of the Licensing Act 2003). The call for evidence closed on 1 February 2019 and feedback is currently being analysed.

Summer Is Here – External Area Coverage

Operators must remember to check whether external areas are covered under a premises licence before allowing the sale of alcohol outside (this could include a temporary bar or table service where orders are taken and payment is made outside). If not, you could cover one-off occasions using temporary event notices, although British weather can be notoriously difficult to predict that far out! Remember, too, that using chairs and tables on the highway will require permission of the local authority, and temporary dispense points could also require approval for “street trading”.

Guildford Council Prosecutes for Breach of Licensing Hours

A [press release](#) from the council confirms that it took the enforcement action against a chicken restaurant, following a report from a local resident and checks of CCTV footage.

Government Report Into Live Music – Urban Music Acts

The Department for Digital, Culture, Media and Sport (DCMS) Committee has published a [report](#) on live music, following an [inquiry](#) that looked at the economic, cultural and social benefits of live music. The report comments on evidence given in the inquiry that smaller venues may be pressured to cancel events by the police or licensing authorities. The Musician’s Union has suggested that a solution would be to give venues the knowledge and confidence to manage risks and defend their programming if questioned by local authorities. It suggests that the DCMS, the Ministry of Housing, Communities and Local Government and the Home Office should work together to develop guidance for licensing authorities, police forces and music venues on how to collaborate on managing risks to ensure that urban music acts are not unfairly targeted. In the interim period, venues should continue to properly assess the risks of any events booked, check that such events are properly covered by the licence times and conditions, and ensure appropriate safeguards, where required, are implemented.

Average Food Safety and Hygiene Fines Rise by Almost £5,000

The trade press has [reported](#) on the findings from the Sentencing Council’s impact assessment relating to fines since the relevant Sentencing Guidelines came into force. In addition, the number of organisations in the food service sector which have been sentenced has remained stable at around 130 per year (as opposed to less than half that in 2013).





Life Drawing Classes and Events

When an application for a new premises licence is made, the applicant must indicate whether there is or will be any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children and such matters can include nudity or semi-nudity. As nudity for life drawing is not in connection with provision of licensable activities (unlike nude cabaret/sexual entertainment, for example, where there is music), the fact that a hotel starts to offer life drawing classes is unlikely to require a variation to the licence, unless there is a condition attached to your premises licence preventing such activities. If there is such a condition, an application can be made in the usual way and we would expect that it could be dealt with as a minor variation.

There can be some confusion as to whether a sexual entertainment venue licence is needed if a hotel or other venue wishes to host a "life drawing" class. It is unlikely that a local authority would take this approach: although the definition of relevant entertainment requiring a "sexual entertainment venue" licence makes reference to live displays of nudity, it also requires that the entertainment must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating a member of the audience. It is unlikely that it would be reasonable to assume that for a life drawing class and, indeed, the persons attending would be participants in the class, as opposed to an "audience". Guidance from the Home Office that was originally issued in relation to the Policing and Crime Bill 2009 made clear that "although the definition of relevant entertainment makes reference to a 'live display of nudity', the mere fact that there is a display of nudity does not mean that a sex establishment licence will necessarily be required. For example, if the display forms part of a drama or dance performance in a theatre, in most cases it cannot reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience."

Allergen Developments: Ingredient Labelling for Foods Prepacked for Direct Sale

The government has [announced](#) that it will be introducing new laws to require full ingredient labelling of foods which are prepacked for direct sale. Please see our earlier [article](#) on the Consultation, which set out the details of the category of products that this will affect and the background to the proposals. This may affect 'grab and go' ranges that are made and displayed on some licensed premises.

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