

**GENERAL GUIDANCE FOR THE NEW
PROVISIONS FOR LATE NIGHT REFRESHMENT
UNDER THE LICENSING ACT 2003**

Status of this Leaflet

This is not statutory guidance and does not form any part of the Licensing Authority's Policy (which is available separately). The leaflet does not replace the Act or any statutory guidance issued under it, so reference should always be made to that before submitting applications.

General

A Premises Licence authorises the use of premises for licensable activities described in the Act. Any person who is carrying out a business, which involves the use of premises, may apply for a Premises Licence either on a permanent basis or for a time-limited period. This could include the sale by retail of alcohol, the provision of regulated entertainment and the provision of late night refreshment

Under the Licensing Act 2003 the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment will all be carried on with one authorisation. The Licensing Authority will be Oldham Council.

For the purposes of the Act, the provision of late night refreshment means the supply of hot food or hot drink to the public, for consumption on or off the premises, between 11pm and 5am or the supply of hot food or hot drink to any persons between those hours on or from premises to which the public have access. This means it will include take-aways, fast food outlets and mobile catering vehicles. Premises that provide late night refreshment will need to hold a Premises Licence once the Act comes into force.

The Government feels that it is necessary to protect local residents because premises, which service late night refreshment can be used by customers who may have been drinking at other premises earlier in the evening, thereby creating the potential for disorder on or near the premises. Also, because large numbers of customers may gather at places serving late night refreshment, there is a potential for nuisance and disturbance for local residents. The regulation of late night refreshment will tackle these issues and allow residents and other interested parties and responsible authorities to make representations about new, and seek reviews of existing licences

where they are concerned that the licensing objectives below will be or have been affected.

Background to the Act

Licensing objectives – The Act lays out 4 licensing objectives:

- The prevention of crime and disorder
- Public Safety
- The protection of children from harm
- The prevention of public nuisance

Licensable activities – There are several licensable activities contained within the Act but one particularly in relation to late night refreshment:-

- The supply of hot food and/or drink from any premises between 11.00pm and 5.00am.

Types of Application

- **Conversion applications** – These are applications made within the first six months of the transition period whereby there will be a presumption that existing licensed premises will be granted a new Premises Licence unless there are any Police objections on grounds of crime prevention.
- **Variation applications during transition** – These are applications made within the first six months of the transition period where the applicant wishes to vary a part of his/her current licence permissions. For example, he/she may wish to extend their hours.
- **New applications** – These are applications made by persons who either do not hold a licence at the start of the transition period but wish to have a licence effective by the end of the transition period.

Applying for a New Premises Licence for the Provision of Late Night Refreshment

Under the current licensing system, premises that provide hot food and drink refreshment between 11pm and 5am for consumption off the premises, e.g. late night takeaway and hot dog vans do not need to be licensed, other than being the holder of a street trading licence. From the second appointed day they would need to hold a Premises Licence if they wish to continue to provide late night refreshment as defined by the Act.

Applying for a conversion of a Late Night Refreshment Licence to a Premises Licence during the Transition Period

Premises which provide hot food and drink on the premises between 11pm and 5am may currently hold a Late Night Refreshment Licence issued by Oldham Council. If the applicant wishes to continue to run their business the same as was authorised under this licence type then he/she may apply for a conversion to a Premises Licence. The application must be made to Oldham Council's Licensing Authority during the first six months of the transition period which commenced 7th February 2005.

Exemptions

The following are exempt from requiring a Premises Licence for late night refreshment:

- Hot drink consisting of, or containing alcohol (although a Premises Licence under the Act will be required for the supply of alcohol).
- Hot drink distributed by means of a vending machine where the payment for the hot drink is inserted into the machine by a member of the public, and his hot drink is supplied directly by the machine to the member of the public.
- Hot food or hot drink supplied free of charge, where there is also no charge for admission to any premises, or for some other item to obtain the hot food or hot drink.
- Hot food or hot drink supplied by a registered charity or by a person authorised by a registered charity (i.e. a charity which is registered under section 3 of the Charities Act 1993 or a charity which, by virtue of subsection (5) of that section is not required to be registered).
- Hot food or hot drink supplied on a vehicle, which is not permanently or temporarily parked at the time.
- Hot food or hot drink supplied to members or guests or recognised clubs that hold a Club Premises Certificate.
- Hot food or hot drink supplied to guests (and their guests) of hotels or similar premises that supply accommodation as their main purpose.
- Refreshment made available to employees or a particular employer between 11pm and 5am whose shift patterns require them to be present at the workplace between 11pm and 5am.

How to obtain an application pack

Please contact the Licensing Office whose details can be found overleaf. You will then be issued with an application pack pertinent to your circumstances.

For further information contact Oldham Council's Licensing Section

In person or in writing to:	Licensing Section Oldham MBC North House, 130 Rochdale Road, Oldham, OL1 2JA.
By phone:	0161 911 4730 or 4731
Fax:	0161 911 3481
E-mail:	licensing@oldham.gov.uk

<u>Opening Hours</u> In person	Mon to Wed & Friday 9am – 4pm Thursday 10am-4pm (to allow for training)
By phone	Mon to Wed & Friday 8.40am to 5pm Thursday – 10am-5pm

Any advice given in this guidance is not to be taken as legal advice. Independent legal advice should be sought on any points of law.

Important Note

Any licence issued by the Authority will only become valid on the second appointed date issued by the Government in due course.