

Applying for a Provisional Statement

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 Provisional Statement relates to premises which are being or are about to be constructed for the purpose of being used for one or more licensable activities, or are being or are about to be extended or otherwise altered for that purpose (whether or not they are already being used for that purpose).

Where the person applying for the provisional statement is an individual, he must be 18 or over. The 'person' in the context of a provisional statement, can be a business, for example a firm of architects, a construction or finance company. The person who applies for the provisional statement does not have to be the same person who will eventually apply for the premises licence.

Requirements for a Provisional Statement:

- Six completed application forms (The Licensing Authority will forward copies upon the responsible authorities).
- Six sets of Plans of the work being or about to be done to the premises
- Proof that the required fee has been paid.
- Advertisement of application for benefit of interested parties (see note below).

You will need to bring or post your application forms, supporting documentation and copies to the Licensing Office at the address overleaf. Once we receive your application it will be checked to ensure that it is complete and that the appropriate fee has been paid.

The Authority will forward applications on your behalf to the Police, Fire Service, Trading Standards, Planning Authority, Environmental Health, Health & Safety and

the Area Child Protection Committee. They have then 28 days to respond to the application commencing on the day after the application was given to the Licensing Authority.

Responsible authorities and interested parties will be able to make representations against the application.

If there are no representations the statement will be granted. If representations are received a mediation meeting will be held in order to discuss the issues and attempt to reach an agreement without the need for a hearing. If agreement cannot be reached the application will be heard before a panel of the Councils Licensing Committee.

Completing the Operating Schedule

A crucial part of the application form is the section dealing with how you intend to run your premises and meet and promote the four licensing objectives which are:

- Prevention of Crime
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

To help you our Licensing Policy and model conditions should be consulted.

It may be that you decide that customers will be refused entry after 10.30 p.m. and that you will employ registered door supervisors, that you will use noise reduction measures to ensure there is no disturbance to residents, e.g. double/triple glazing/sound proofing and keeping doors and windows closed whilst entertainment is taking place. You may also consider measures to ensure that under age sales do not take place. You must specify the measures on the application form, and they will have to be complied with when the premises are conducting the activity

The steps the applicant proposes to take to promote the licensing objectives that they have set out in the operating schedule will translate directly into conditions that will be attached to premises licences.

The steps to be taken should be both realistic and within the control of the applicant and management of the premises. If a licence is granted with conditions attached requiring the implementation of such steps, the conditions will be enforceable in law and it will be a criminal offence to fail to comply with them (under section 136 of the 2003 Act). As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises.

It is important that all operating schedules should be precise and clear about the measures that it is proposed to take to promote each of the licensing objectives and in particular, the protection of children from harm.

Advertising – Regulation 25

In the case of an application for a premises licence under section 17, the person making the application shall advertise the application in both cases containing the appropriate information set out in regulation 26 –

- (a) for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority, by displaying a notice,
 - (i) which is –
 - (aa) of a size equal or larger than A4,
 - (bb) of a pale blue colour,
 - (cc) printed legibly in black ink or typed in black in a font of a size equal to or larger than 16;
 - (ii) in all cases, prominently at or on the premises to which the application relates where it can be conveniently read from the exterior of the premises and in the case of a premises covering an area of more than fifty metres square, a further notice in the same form and subject to the same requirements every fifty metres along the external perimeter of the premises abutting any highway; and
- (b) by publishing a notice –
 - (i) in either the Oldham Evening Chronicle the Oldham Advertiser;
 - (ii) on at least one occasion during the period of ten working days starting on the day after the day on which the application was given to the relevant licensing authority.

A copy of the newspaper advert, which should clearly show the date advertised, should be forwarded to the Licensing Authority within five working days.

Regulation 26

In the case of an application for a premises licence the notices referred to in regulation 25 shall contain a statement of the relevant licensable activities which it is proposed will be carried out on or from the premises.

In all cases, the notices referred to in regulation 25 shall state –

- (a) the name of the applicant
- (b) the postal address of the premises, if any, or if there is no postal address for the premises a description of those premises sufficient to enable the location and extent of the premises to be identified;
- (c) the postal address where the register of the relevant licensing authority is kept and where and when the record of the application may be inspected. Details of the Authorities address are at the end of this leaflet.

- (d) the date by which any interested party or responsible authority may make representations to the relevant licensing authority;
- (e) that representations shall be made in writing; and
- (f) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.

Procedure

A provisional statement remains in force until such time as an application for a premises licence is made.

The licensing authority has no power to refuse a provisional statement; it may, however, grant the statement with an indication that, when the application is made for a premises licence, it would look to the imposition of certain conditions on that licence or to the exclusion of certain activities. The authority could also indicate that if such an application was made it would likely to be rejected.

Application for a premises licence following provisional statement

When the work on the premises is complete or nearly complete, an application for a premises licence should be made in the normal way.

Except under certain circumstances, further representations from responsible authorities and interested parties will not be accepted and the premises licence will be granted immediately, provided that the following conditions are met:-

- Where the application for a premises licence is in the same form as described in the provisional statement.
- The work in the schedule of works has been completed satisfactorily.
- Given the information in the application for the provisional statement, the responsible authority or interested party could have made the same, or substantially the same, representation, but failed to do so without reasonable excuse.
- There has been no material change in the circumstances relating to either the premises or the area in the vicinity of the premises since the provisional statement was made.

If the above conditions are not met, then further representations can be made and the usual procedure for premises licence application and determination will apply.

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 4481
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.