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**Guidance for Operators of Licensed Premises during COVID-19**

**Licensing Act 2003 & The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (as amended)**

The following document has been produced to assist those considering operating their business alternatively due to the current COVID-19 pandemic, but in such a way that the Premises Licence, or in the case of a members club a Club Premises Certificate, does not contravene legislative requirements. Currently there have been no statutory changes to the Licensing Act 2003, which means that premises must still be operated in accordance with the current licence or certificate i.e. within the permitted activities, timings and all conditions.

The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (as amended), provided closure powers which came into force immediately on Thursday 26th March 2020 as part of the government drive to reduce the spread of the disease, protect the NHS and save lives. The regulations were made under the Public Health (Control of Disease) Act 1984. They provided a criminal sanction (unlimited fine) and enforcement powers to ensure the closure of bars, pubs, restaurants, nightclubs, theatres, cinemas, gyms, museums, spas, massage parlours, bingo, concert halls, casinos, betting shops, indoor skating rinks and swimming pools and leisure centres. However, some exemptions were provided which included take-away food and drink, cafes in hospitals, schools, prisons, supplies to homeless, hotel room-service.

**If you are wishing to operate under the exclusion of food and drink take-away and this includes the sale of alcoholic drinks, you must ensure that the current licence/certificate authorises this.**

In the first instance please read through the current and issued licence/certificate to establish if there are any restrictions which would prohibit the proposal. If you currently can’t view a copy of the Premises Licence, please see this page of our website in order to view a redacted copy online- <https://publicaccess.chichester.gov.uk/online-applications/search.do?action=simple&searchType=LicencingApplication>)

1. On Part A of the licence/certificate, there must be a section ‘Where the licence/certificate authorises supplies of alcohol whether these are on and / or off supplies’. If the licence/certificate states ‘Alcohol is supplied for consumption on the premises’, the licence/certificate currently doesn’t authorise takeaway drinks and any alcoholic drinks sold to be consumed ‘off’ the premises will be a breach of the licence/certificate and an offence would be committed. Currently under the coronavirus restrictions, there must be no consumption of alcohol ‘on’ any premises.
2. You must then read through the licence/certificate to ascertain whether there are any conditions which would prohibit the proposal. For example, if there is a condition which states that alcohol must only be served ancillary to a table meal.
3. The plan(s)/drawing(s) associated with the licence/certificate must also be reviewed to ensure that the area proposed to make sales of alcohol is currently authorised for that activity. For example, you may find that currently only the internal area is licensed for the sale of alcohol and in such a situation you would have to vary the licence to add the additional area(s).

If you are confident in the fact that your proposal to operate as a takeaway business is not prohibited by the licence/certificate, then you may do so. However you must still operate the premises in such a way that the **coronavirus restrictions will be fully adhered to e.g. ensuring social distancing requirements are complied with.**

**Varying a Premises Licence/Club Premises Certificate**

If the current and issued licence/certificate doesn’t permit the proposal, the licence will need to be varied by way of a minor or full variation application. It is possible to make small changes the minor variation process, which is cheaper, easier and quicker than the full variation process.

**The test for whether a proposed variation is ‘minor’ is whether the proposed change(s) could impact adversely on any of the four licensing objectives;** theseare the prevention of crime and disorder; public safety; the prevention of public nuisance and the protection of children from harm.

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| **The process could be used for changes such as:** | **The minor variation process cannot be used to:** |
| Small changes to the structure or layout of a premises | Extend the period for which a licence has effect |
| Vary substantially the premises to which it relates |
| The addition of authorisation for late night refreshment or regulated entertainment (e.g. performance of plays or film exhibitions) | Specify an individual as the Designated Premises Supervisor |
| Add the supply of alcohol as an activity authorised by a licence |
| Small changes to licensing hours | Authorise the supply of alcohol at any time between 23:00 and 07:00 |
| Authorise an increase in the amount of time on any day during which alcohol may be sold by retail or supplied |
| Revisions, removals and additions of conditions (this could include the removal or amendment of out of date, irrelevant or unenforceable conditions, or the addition of volunteered conditions) | Include the alternative licence condition requiring that every supply of alcohol under a licence granted in respect of a community premises is made or authorised by a management committee; or |
| Transfer a licence from one party to another. |

As always with minor variations, each application is considered on its own individual merits, this includes taking into account for example the nature of the changes made, any additional conditions being offered to promote the four licensing objectives , the timings of a particular proposal and the location of the premises etc.

If you wish to discuss any aspect of a particular application prior to its formal submission, in particular whether we would consider a proposal(s) as suitable for a minor variation, then please do not hesitate to contact us. In order to fully consider a proposal, please provide all of the relevant details and information by email to: Licensing@chichester.gov.uk

As an example, you an applicant wished to vary a licence to include ‘off’ sales for a café, they may wish to offer a condition that alcohol will only be sold with a meal and in sealed containers. If applying to vary the existing licensed area in which alcohol can be sold to include a beer garden, the applicant may wish to specify a condition that the beer garden will close at a particular time.

Sussex Police have also confirmed that they would be happy to consider any applications prior to submission and have asked that licensees send a draft application to WS\_Licensing\_WOR@sussex.pnn.police.uk

Sussex Police have provided the following conditions which would be welcomed on any application for an alcohol delivery service:

* All forms of advertising and promotional literature detailing the delivery service (including internet sites and flyers/leaflets) will clearly state that a challenge 25 policy is in place, the recommended forms of ID accepted, and that alcohol should only be purchased for delivery to intended recipients (or persons who will accept delivery on behalf of the named recipient) who are aged over 18.
* Alcohol deliveries will only be made to a residential or business address.
* The person accepting the delivery must be aged 18 years or over. Where the person accepting delivery appears to be under 25, a recognised photographic ID must be produced prior to delivery. Failure to produce satisfactory age verification ID will result in the alcohol not being delivered and instead returned to the premises. All refusals will be documented in the refusals book.
* Customers ordering alcohol for delivery to a residential or business address must have their age verified. This process will be documented, the records of which must be retained at the premises for no less than twelve months and produced on request to an officer of a Responsible Authority.
* For deliveries where the alcohol is delivered by a third party where the DPS has no direct supervision or control over the delivery and delivery is anticipated to take more than 24 hours (such as an independent courier or Royal Mail):
* All forms of advertising and promotional literature detailing the delivery service (including internet sites and flyers/leaflets) will clearly state that alcohol should only be purchased for delivery to intended recipients (or persons who will accept delivery on behalf of the named recipient) who are aged over 18.
* In the event that the person ordering and paying for the alcohol nominates another person as the recipient of the alcohol, as a gift etc., the person ordering and paying for the alcohol will be required to state as part of their order that the recipient is aged over 18.
* Where the premises contracts a third party to deliver alcohol on their behalf and the person collecting the alcohol from the premises delivers it directly to the customer within a short timescale (such as Deliveroo, Just Eats), the premises will ensure that the above conditions are adhered to by the third party.

**Please note that if a minor variation application is objected to, the application will be refused and a full variation application would be required if the applicant wishes to pursue the matter. In such cases there is no refund of the minor variation application fee.**

**Useful Links**

Link to information and relevant documents for submitting a Minor or Full Variation Application- <https://www.chichester.gov.uk/licensingact>

Link to the ‘Coronavirus (COVID-19)’ page on our website which includes advice and support for businesses- <https://www.chichester.gov.uk/coronavirus>

If you are unsure of which premises have been asked to close by the Government, please see page of the GOV website- <https://www.gov.uk/government/publications/further-businesses-and-premises-to-close> If you are still unsure, please contact our Health Protection Team at healthprotection@chichester.gov.uk