



Exeter City Council

To the Chair and Members
of the Licensing Sub-Committee

Philip Bostock, Chief Executive

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Our ref:

Your ref:

A meeting of the **LICENSING SUB-COMMITTEE** will be held on **MONDAY 30 MARCH 2009**, commencing at **9.30 am** in the Bad Homburg Room, Civic Centre, Paris Street, Exeter to consider the following business.

If you have an enquiry regarding any items on this agenda, please contact Howard Bassett, on **Exeter 265107**.

Pages

Part I: Items suggested for discussion with the press and public present

1 **APPOINTMENT OF CHAIR**

To appoint a Chair for the meeting.

2 **DECLARATION OF INTERESTS**

Councillors are reminded of the need to declare personal and prejudicial interests, including the nature and extent of such interests, in relation to business on the agenda, before any discussion takes place on the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

3 **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION OF PRESS AND PUBLIC**

It is considered unlikely that the Committee would wish to exclude the press and public during consideration of the items on this agenda. If, however, the Committee were to exclude the press and public, a resolution in the following form should be passed:

“RECOMMENDED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the particular item(s) on the grounds that it (they) involve the likely disclosure of exempt information as defined in paragraph(s) of Part I of Schedule 12A of the Act.”

LICENSING ACT 2003

4 **APPLICATION FOR A GRANT OF A TEMPORARY EVENTS NOTICE - EX4,** 1 - 18
 FORE STREET, EXETER

To consider the report of the Head of Environmental Health Services.

(Report circulated)

Membership of the Sub-Committee will be drawn from the following members of the Licensing Committee:-

Councillors Noble (Chair), Branston, Cole, Mrs Danks, Gale, Mitchell, Newby, Shiel, R Smith, Sterry, Wadham and Winterbottom

Individual reports on this agenda can be produced in large print on request to Member Services on 01392 265107.

Exeter City Council

REPORT TO LICENSING SUB-COMMITTEE HEARING: 30 MARCH 2009 – 9.30 AM

APPLICATION: Raising Objection to a Notification of a Temporary Event

REPORT BY Principal Licensing Officer

PART 1

1. THE APPLICATION

1.1 Premises user and applicant for the Temporary Event Notice (TEN)

Mr Stephen John David Nash

Premises: EX4 – 162-163 Fore Street, Exeter, EX4 3AT

1.2 The Devon and Cornwall Constabulary have raised objection under the provisions of section 104 of the Licensing Act 2003.

1.3 The application is for an After Party on Monday 13 April from 2.30 am – 6.00 am.

Detail of Objection against the Licensable Activities sought:

1.4 The Devon and Cornwall Constabulary states that based on recent evidence they are concerned that this event will lead to incidents of crime and disorder. It is their view that the Licensing Authority should be made aware of their evidence in order to consider whether or not this event should go ahead.

They will be supporting their position with incident logs and reports relating to recent disorder at these premises on the day of the hearing.

1.5 Section 104(2) provides that where a Chief Officer of Police is satisfied that allowing the premises to be used in accordance with the Notice would undermine the crime prevention objective he must give notice stating the reasons he is so satisfied. The Notice of objection is attached.

PART 11

2.0 RELEVANT REPRESENTATIONS

2.1 There is no provision for any representations other than from the Chief Officer of Police.

PART 111

3.0 RELEVANT LICENSING POLICY CONSIDERATIONS Licensing Objectives

3.1 The statement of licensing policy at section 2 addresses in part, the concerns raised in the representation. Guidance under Section 2.6 of the Policy states that the Licensing Committee may take account of any non-compliance with

statutory requirements brought to its attention if they undermine the licensing objectives.

PART IV

4.0 RELEVANT STATUTORY PROVISIONS AND OFFICIAL GUIDANCE CONSIDERATIONS

- 4.1 Official Guidance issued under section 182 of the Licensing Act 2003 at annex D is contained at section 7 particularly 7.25 to 7.29 the text is attached.

PART V

5.0 OBSERVATIONS

- 5.1 The committee are asked to determine the matters raised by the Devon and Cornwall Constabulary in regard to promoting the licensing Objective that relates to the prevention of Crime and Disorder.
- 5.2 The Committee is obliged to determine this application with a view to upholding the Licensing Act 2003 objectives, which is in this case prevention of Crime and Disorder.
- 5.3 There has been no indication of agreement to modify or withdraw the application between the Police and the premises user.
- 5.4 The Committee is obliged to have regard to Council's own Licensing Policy and the Statutory Guidance in making its decision.
- 5.5 The Committee must take one or other of the following steps, as is considered necessary for the promotion of the licensing objective relating to crime and disorder.
- Having regard to the objection Notice and if it is considered necessary for the promotion of the crime prevention objective, give the premises user a counter notice and a notice stating the reasons for the decision or;
 - If it is determined not to give a counter notice under these provisions; give the premises user and the Chief Officer of Police for the Devon and Cornwall Constabulary Notice of the decision and the reasons for that decision.



Principal Licensing officer

Date: 24.03.09



**DEVON & CORNWALL
CONSTABULARY**

Principal Licensing Officer
Exeter City Council
Civic Centre
Paris St
EXETER EX

Licensing Officer
Heavitree Rd Police Station
Heavitree Rd
EXETER
EX1 2LR

20 March 2009

Dear Sir

**Objection - Temporary Event Notice
Mr Stephen Nash**

I write with regard to a Temporary Event Notice served on Police today for an event at EX4, 162-163 Fore St, Exeter. The event is to run 02:30-06:00 on 13 April 2009.

With reference to Licensing Act 2003, Section 104(2) I hereby give notice that the Police consider allowing the premises to be used in accordance with the notice would undermine the crime prevention objective and therefore object to this Temporary Event Notice.

Based on recent evidence we are concerned that this event will lead to incidents of crime and disorder. It is our view that the Licensing Authority be made aware of our evidence in order to consider whether or not this event should go ahead.

We will support our position with incident logs and reports relating to recent disorder at these premises.

Should you have any query, or require any further information please do not hesitate to contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Lesley Carlo'.

Lesley Carlo
Licensing Officer – Exeter

Cc. Stephen Nash, EX4



Rec No: - 025571/1938
19/3/09

Temporary Event Notice

Information on the Licensing Act 2003 is available on the website of the Department for Culture, Media and Sport (http://www.culture.gov.uk/alcohol_and_entertainment/default.htm) or from your local licensing authority.

Before completing this notice please read the guidance notes at the end of the notice. If you are completing this notice by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets if necessary.

You should keep a copy of the completed notice for your records. You must send two copies of this notice to the licensing authority and an additional copy must be sent to the chief officer of police for the area in which the premises are situated. The licensing authority will endorse one of the two copies and return it to you as an acknowledgement of receipt.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	Nash		
Forenames	Stephen John David		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	Ley		
Forenames	Stephen John David		
3. Your date of birth	12/01/81	Day 12	Month 01 Year 81
4. Your place of birth	Torbay		
5. National Insurance Number	JS 70 93 72A		
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
38 May street			
Post town	EXETER	Post code	EX4 6ZZ
7. Other contact details			
Telephone numbers Daytime	07903000810		
Evening (optional)			
Mobile (optional)			
Fax number (optional)			
E-Mail Address (optional)			
8. Alternative address for correspondence (If you complete the details below, we			

will use this address to correspond with you)	
EX4 162-163 Fore street	
Post town Exeter	Post code EX4 3AT
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail Address (optional)	

2. The premises	
Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)	
EX4 162-163 Fore street Exeter EX43AT	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
The Basement part of the premises	
Please describe the nature of the premises below. (Please read note 4)	
Bar and Club	
Please describe the nature of the event below. (Please read note 5)	
After Party	

3. The licensable activities	
Please state the licensable activities that you intend to carry on at the premises (please mark an "X" next to the licensable activities you intend to carry on). (Please read note 6)	
The sale by retail of alcohol	<input checked="" type="checkbox"/>
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input checked="" type="checkbox"/>
The provision of regulated entertainment	<input checked="" type="checkbox"/>
The provision of late night refreshment	<input checked="" type="checkbox"/>
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 7)	
April 13th 2009	
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 8)	
02:30 am — 06:00	
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 9)	180
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please mark an "X" next to the appropriate box). (Please read note 10)	On the premises only <input checked="" type="checkbox"/>
	Off the premises only <input type="checkbox"/>
	Both <input type="checkbox"/>

4. Personal licence holders (Please read note 11)		
Do you currently hold a valid personal licence? (Please mark an "X" in the box that applies to you)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority	Exeter city council	


Licence number	EXE-000386
Date of issue	
Date of expiry	24 Aug 2015
Any further relevant details	

5. Previous temporary event notices you have given (Please read note 12)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the number of temporary event notices you have given for events in that same calendar year		
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

6. Associates and business colleagues (Please read note 13)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices your associate(s) have given for events in the same calendar year		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

7. Checklist (Please read note 14)	
I shall (Please mark the appropriate boxes with an "X")	
Send two copies of this notice to the licensing authority for the area in which the premises are located	<input checked="" type="checkbox"/>
Send a copy of this notice to the chief officer of police for the area in which the premises are located	<input checked="" type="checkbox"/>
If the premises are situated in one or more licensing authority areas, send two copies of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, send a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
Make or enclose payment of the fee for the application	<input type="checkbox"/>
Sign the declaration in Section 9 below	<input type="checkbox"/>

8. Condition (Please read note 15)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 16)	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence:	
(i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and	
(ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both.	
Signature	
Date	19/3/09
Name of Person signing	Stephen John David Nash

For completion by the Licensing Authority

10. Acknowledgement (Please read note 17)	
I acknowledge receipt of this temporary event notice.	
Signature	On behalf of the Licensing Authority
Date	
Name of Officer signing	

- ◆ police enforcement of the normal law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices
- ◆ the prosecution of any personal licence holder or member of staff selling alcohol to people who are drunk
- ◆ confiscation of alcohol from adults and children in designated areas
- ◆ Police/LA powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- ◆ the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate.

2.5 When making a licensing decision the licensing authority is also bound to apply certain legislation: -

Legislation

- ◆ Section 17 Crime and Disorder Act 1998
- ◆ The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- ◆ The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000

The Council, when making decisions, has a duty to do all that it reasonably can to prevent crime and disorder, under Section 17 of the Crime and Disorder Act 1998.

The Council is under a duty to protect the rights of residents to privacy and family life under Article 8 of the European Convention on Human Rights. At the same time, the Council must recognise the right of legitimate business to operate their premises without unnecessary restraint.

Public authorities have a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

2.6 The licensing authority will also have regard to other legislation, strategies, policies and guidance in its decision making: -

- ◆ Crime and Disorder Act 1998
- ◆ Health and Safety at Work etc. Act 1974
- ◆ Environmental Protection Act 1990
- ◆ The Anti-Social Behaviour Act 2003
- ◆ Building Regulations
- ◆ Fire Precautions (Workplace) Regulations 1997 and any successor legislation
- ◆ Town and Country Planning Act 1990
- ◆ Private Security Industry Act 2001
- ◆ Disability Discrimination Act 1995

In reaching a decision on whether or not to grant a licence, the licensing authority may take account of any non-compliance with other statutory

requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not adequate to protect the public from harm or nuisance.

Strategies

- ◆ Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance
- ◆ Safer Clubbing
- ◆ LACORS/TSI Code of Best Practice on Test Purchasing
- ◆ Community Safety Strategy

Policies

- ◆ Crime and Disorder Reduction Strategy
- ◆ Enforcement Concordat
- ◆ Local Plan
- ◆ Local Transport Plan

Guidance

- ◆ Guidance to Health and Safety at Outdoor Events (Purple Book)
- ◆ Guide to Fire Precautions in Entertainments and Like Premises
- ◆ Good Practice Guide on the Control of Noise from Pubs and Clubs (Institute of Acoustics)
- ◆ Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- ◆ The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
- ◆ Council guidance in relation to noise nuisance etc.

2.7 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. It is the licensing authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

2.8 The licensing authority recognises that the provision of entertainment is a significant contributor to the economy of the city attracting tourists and visitors, making for a vibrant city and is a major employer. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses.

2.9 The licensing authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the infrastructure and police resources to cope with the influx of people, particularly at night.

2.10 In determining a licence application, the overriding principle adopted by the licensing authority will be that each application will be determined on its merits. Licence conditions will be tailored to the individual application and only those necessary to meet the licensing objectives will be imposed.

7. Temporary event notices

7.1 This Chapter describes best practice in administering the arrangements in the 2003 Act for the temporary carrying on of licensed activities at premises which are not authorised by a premises licence or club premises certificate.

GENERAL

7.2 The most important aspect of the system of permitted temporary activities is that events do not have to be authorised as such by the licensing authority. Instead the premises user notifies the event to the licensing authority and the police, subject to fulfilling certain conditions.

7.3 In general, only the police may intervene to prevent such an event taking place or to agree a modification of the arrangements; and it is characterised by an exceptionally light touch bureaucracy. The licensing authority may only ever intervene of its own volition if the statutory limits on the number of temporary event notices that may be given in various circumstances would be exceeded. Otherwise, the licensing authority is only required to issue a timely acknowledgement.

7.4 It should be noted that giving a temporary event notice does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

LIMITATIONS

7.5 Such a light touch is possible because of the limitations directly imposed on the use of the system by the 2003 Act. The limitations apply to:

- the number of times a person (the "premises user") may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);

- the number of times a temporary event notice may be given for any particular premises (12 times in a calendar year);
- the length of time a temporary event may last (96 hours);
- the maximum total duration of the periods covered by temporary event notices at any individual premises (15 days); and
- the scale of the event in terms of the maximum number of people attending at any one time (less than 500).

7.6 In any other circumstances, a full premises licence or club premises certificate would be required for the period of the event involved. A person may also choose to apply for a premises licence or club premises certificate if they do not wish to take advantage of the light touch arrangements.

7.7 In determining whether the maximum total duration of the periods covered by temporary event notices at any individual premises has exceeded 15 days, licensing authorities should be aware that any event beginning before midnight and continuing into the next day would count as two days towards the 15 day limitation.

7.8 Many premises users giving temporary event notices will not have commercial backgrounds or ready access to legal advice, including for example, people acting on behalf of charities, community and voluntary groups, etc who may hold public events involving licensable activities to raise funding. Licensing authorities should therefore ensure that local publicity about the system of permitted temporary activities is clear and understandable and should strive to keep the arrangements manageable and user-friendly for these groups.

Section 104-100-01

The Board of Health shall have the honor to receive and read all communications from the public, and to answer the same insofar as they may be answered.

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WHO CAN GIVE A TEMPORARY EVENT NOTICE?

Personal licence holders

- 7.9 A personal licence holder can give a temporary event notice for licensable activities, at any premises on up to 50 occasions in each year for up to four days on each occasion (subject to the limitations for each premises – see paragraph 7.11 below), subject to informing the licensing authority and the police for the area in which the event is to take place of relevant details. The relevant information is itemised in the prescribed notice contained in regulations made by the Secretary of State, which may be viewed on the DCMS website.
- 7.10 A personal licence holder may also use their allocation of 50 temporary event notices at premises which have a premises licence or club premises certificate. This might be, for example, to hold an event involving live music, to extend the hours when alcohol may be sold for an ad hoc occasion or to provide late night refreshment after a quiz night. However, if the ad hoc event is something that is predictable and anticipated to occur on a number of occasions it is expected that the licensable activities would form part of the application for a premises licence.
- 7.11 Only 12 notices may be granted for the same premises up to an overriding maximum total duration of 15 days.

Non-personal licence holders

- 7.12 The 2003 Act provides that any individual person aged 18 or over may give a temporary event notice whether or not they hold a personal licence. They will not therefore have met the tests and qualifications described in Part 6 of the Act. Where alcohol is not to be sold, this should not matter. However, many events will involve combinations of licensable activities. In the absence of a premises user holding a personal licence, the Act limits the number of notices that may be given by any non-personal licence holder to 5 occasions per year. In every other respect, the Guidance and information set out in the paragraphs above applies.
- 7.13 Temporary event notices may also be given by non-personal licence holders for club premises covered by club premises certificates. This means, for example, that a club which under its certificate is normally only permitted to supply alcohol to its members and their guests may during the period covered by a temporary event notice (subject to the limitation on numbers and occasions) under the authority of the notice and the responsibility of the individual giving the notice (the premises user) admit members of the public and sell alcohol to them as well as provide regulated entertainment. Only 12 notices may be given for the same club premises in any calendar year and the maximum total duration of 15 days will also apply.

NOTIFIED PREMISES

- 7.14 A temporary event notice may be given for part of a building such as a single room within a village hall, a plot within a larger area of land, or a discrete area within a marquee as long as it includes a clear description of the area where the licensable activities will take place and the premises user intends to restrict the number of people present in the notified area at any one time to less than 500. If the premises user fails to restrict the numbers to a maximum of 499, they would be liable to prosecution for carrying on unauthorised licensable activities.

NOTIFICATION ARRANGEMENTS

- 7.15 Premises users are required to send a temporary event notice, in the form prescribed in the regulations, to the licensing authority and the police at least 10 working days before an event. The Government recommends that notices should not be returned if they contain obvious and minor factual errors that can easily be amended.
- 7.16 There is nothing to prevent notification of multiple events at the same time so long as the first event is at least ten days away. For example, an individual personal licence holder wishing to exhibit and sell beer at a series of country shows may wish to give several notices simultaneously. However, this would only be possible where the events are to take place in the same licensing authority (and police area) and the premises to be used at the show would be occupied by no more than 499 people at any one time.

- 7.17 Although 10 working days is the minimum possible notice that may be given, licensing authorities should publicise locally their preferences in terms of forward notice and encourage notice givers to provide the earliest possible notice of events likely to take place. Licensing authorities should also consider publicising a preferred maximum time in advance of an event that applications should be made. For example, if an application is made too far in advance of an event, it may be difficult for the police to make a sensible assessment and could lead to objections that could be otherwise avoided.

- 7.18 Section 193 of the Act defines "working day" as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales. "Ten working days" notice means ten working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given.

ROLE OF THE LICENSING AUTHORITY

- 7.19 One reason for the notification requirement is to enable the licensing authority to check that the limitations set down in Part 5 of the 2003 Act are being observed and to intervene if they are not. For example, a temporary event notice would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate, or someone who is in business with the relevant premises user, in respect of the same premises. This is to prevent evasion of the 96 hour limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for

these purposes, a notice is treated as being from the same premises user if it is given by an associate. The 2003 Act defines an associate as being:

- the spouse or civil partner of that person;
- child, parent, grandchild, grandparent, brother or sister of that person;
- an agent or employee of that person;
- the spouse or civil partner of a person listed in either of the two previous bullet points.

7.20 A person living with another person as their husband or wife is treated for these purposes as their spouse. 'Civil partner' is defined by the Civil Partnership Act 2004.

7.21 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the person giving the notice – the premises user. Where the temporary event notice is in order, the fee prescribed by the Secretary of State paid, the event falls within the limitations in the Act, and there has been no police intervention on crime prevention grounds, the licensing authority will record the notice in its register and send an acknowledgement to the premises user.

7.22 Licensing authorities may not seek to attach any terms, conditions, limitations or restrictions on the carrying on of licensable activities at such events under the authority of a temporary event notice. It is however desirable for licensing authorities to provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution or the building of temporary structures; of other necessary permissions, for example, with regard to road closures or the

use of pyrotechnics in public places; with regard to local bye-laws; and the need to prevent anti-social behaviour by those attending. Premises users are not required to be on the premises for the entire duration of the event, but they will remain liable to prosecution for certain offences that may be committed at the premises during the temporary event if the event is not adequately managed/supervised including the laws governing sales of alcohol to minors. These matters may be covered in the licensing authority's statement of licensing policy.

7.23 In the case of an event proceeding under the authority of a temporary event notice, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.

7.24 Section 8 of the Act requires licensing authorities to keep a register containing certain matters, including a record of temporary notices received. Licensing authorities should be aware that there is no requirement to record all the personal information given on a temporary event notice, and should avoid recording certain details, such as national insurance numbers, which may give rise to identity fraud.

POLICE INTERVENTION

7.25 The second and more important reason for the notification requirement is to give the police the opportunity to consider whether they should object to the event taking place on the grounds that it would undermine the crime prevention objective.

- 7.26 Such cases might arise because of concerns about the scale, location or timing of the event. However, in most cases, where alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (e.g. at weddings or small social, community, charitable or sporting events) this should not give rise to the use of these police powers. If the police do not intervene, they will still be able to rely on their powers of closure under Part 8 of the 2003 Act should disorder or noise nuisance arise subsequently.
- 7.27 The police may issue an objection notice within 48 hours of being notified. This 48 hour period includes weekends and other non "working days" such as bank holidays. The licensing authority must consider the objection at a hearing before a counter notice can be issued, but it must restrict its consideration to the crime prevention objective. It may not, for example, uphold a police objection notice on grounds of public nuisance or an objection notice given more than 48 hours after the temporary event notice is given. At the hearing, the police and the premises user may be heard by the relevant licensing committee. A hearing would not be necessary if the objection notice is withdrawn by the police.
- 7.28 The possibility of police intervention is another reason why event organisers should be encouraged by local publicity not to rely on giving the minimum amount of notice and to contact local police licensing officers at the earliest possible opportunity about their proposals.
- 7.29 The police may withdraw their objection notice at any stage if the proposed premises user agrees to modify the proposal to meet their concerns. For example, if the premises user agrees to modify the period during which alcohol may be sold. The licensing authority will then be sent or delivered a copy of the modified notice by the police as proof of their agreement, but they can subsequently withdraw it.