

SUMMER 2019
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Welcome to the first issue of Licensing News which contains important information for premises selling alcohol in Ipswich.

We hope you find the information useful but if you would like to ask any questions or give us some information, you can email: licensing@ipswich.gov.uk or telephone 01473 433076.

WE ARE HERE TO HELP YOU

IN THIS ISSUE

- Pubwatch Revived
- Recent Prosecutions
- Mandatory Licence Conditions
- Know your licence

LICENSING

NEWS

PUBWATCH REVIVED!

If you are operating your premises as a pub, club or bar, you should have received a letter from Adrian Smith of the Dove Street Inn advising that Pubwatch is being revived in Ipswich and inviting you to attend a meeting to sign up for it. Pubwatch is not just for these types of premises.

If you did not receive a letter, but would like to know more, please email: ady@dovestreetinn.co.uk or telephone 01473 211270.

PERSONAL LICENCE DETAILS

Are your details up to date on your licence? You are required to notify the Council that issued your licence of a change of name and/or address. There is a fee of £10.50 to do this, but it is a legal requirement that you do it.

PURPLE FLAG STATUS

Purple Flag is an accreditation scheme that recognises excellence in the management of town and city centres at night. Entertainment areas that achieve the standard will be those that offer a better night out to visitors. Purple Flag aims to raise standards and improve the quality of towns and cities at night. Ipswich has Purple Flag accreditation.

To achieve and maintain accreditation a town is assessed, this involves written submissions and inspections, including overnight inspections. At the assessment in 2017 Ipswich was rated as above standard in four of the five categories and met the standards in the fifth.

This isn't as well publicised as we would like and ideas are being encouraged from you, especially if you are involved in the night time economy of the town as to how this can be achieved.

If you have any ideas how we can publicise the scheme or would like to be involved, email: community.safety@ipswich.gov.uk

licensing@ipswich.gov.uk

telephone 01473 433076



IPSWICH
BOROUGH COUNCIL

KNOW YOUR LICENCE

And make sure your staff know your licence

Every premises that has a licence issued under the Licensing Act 2003, MUST have a summary of the licence on display in the premises. A full copy of the licence, including the conditions attached to the licence, should be available in the premises. If it isn't, the licence can be seen and printed from the public register: <https://licensing.ipswich.gov.uk/PAforLalpacLIVE/1/WcaHome>

The conditions on the licence must be complied with at all times and in the event that a licence condition is breached, there is an unlimited fine and/or up to 6 months imprisonment on summary conviction.



ARE THE LICENCE DETAILS CORRECT?

It is an offence to fail to change the name and/or address for a premises licence holder, and for a failure to change the Designated Premises Supervisor (DPS) on a licence. Both of these involve a small fee and a simple application form and can have immediate effect.

In a recent case a convenience store in Ipswich had a routine visit by licensing officers to ensure compliance with the licence and conditions. The officers discovered that the premises had been sold to someone else and the staff working there had never heard of the DPS. Despite letters being sent to the premises licence holder and DPS, no response was received and after 2 months no application had been received to transfer the licence or change the DPS. The premises was then ordered to stop selling alcohol until the licence was sorted. The premises failed to comply with this order, so a multi-agency raid took place and the alcohol was seized from the premises, along with some illicit tobacco. Prosecution of those involved is likely to take place in the future.

Make sure that the premises licence holder named on the licence is correct and that the person named as the DPS is still the DPS.

If you are a named DPS and leave a premises, ensure you tell us when you leave as you could be held accountable for any licence breaches and find yourself in Court.

RECENT PROSECUTIONS

Best Kebab and Perfect Kebab for continuing to serve hot food and/or drink beyond the times of the licence. In both cases the premises licence holders had received prior warnings from the Council and Police. Both were prosecuted by the Council and found guilty and received fines and/or ordered to pay costs. One of the premises was licensed to sell alcohol and had a DPS named on the licence. The DPS was prosecuted along with the premises licence holder and received a large fine and was ordered to pay costs.

The Council had written to the DPS at the address on record, but following the Court case, it was found that the DPS had failed to notify us of a change of address. Not only this, but the DPS had stopped working at the premises some time before the offences were committed.

In this instance, the DPS made two mistakes, the first was to fail to tell us about his change of address and the second was to fail to remove himself as the DPS of the premises. It cost him nearly £1000 in fines and costs and he now has a criminal record which could affect his personal licence.

CRIMINAL CONVICTIONS

If you are a Personal Licence holder and are convicted of an offence, you are required to notify the Council which issued your personal licence of this conviction. Not all convictions will affect your licence, but you must tell the Council about any conviction that is a 'Relevant Conviction'; a list of relevant convictions can be found online, but if you are in any doubt as to whether to declare it or not, either seek independent legal advice or declare it to the Council anyway. If a conviction is not for a relevant offence, the Council will not take any action.

MANDATORY CONDITIONS ON A PREMISES LICENCE

There are normally at least two sets of conditions on a premises licence. The first set are mandatory conditions and are set by law. These appear on every premises licence and are occasionally changed by a revision of the law. The second set of conditions are offered or agreed at application stage. A third set are those imposed at a licensing hearing.

The most up to date mandatory conditions are as follows:

LICENSING ACT 2003 - WHERE LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

- No supply of alcohol may be made under the premises licence-
 - at a time when there is no designated premises supervisor in respect of the premises licence, or
 - at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

DOOR SUPERVISION

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority.

WHERE THE LICENCE AUTHORISES THE EXHIBITION OF FILMS

- The admission of children to the exhibition of any film must be restricted in accordance with this section.
- Where the film classification body is specified in the licence, unless subsection (3) (b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
- Where- (a) the film classification body is not specified in the licence, or (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
- In this section- "children" means persons aged under 18; and "film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

THE LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) (AMENDMENT) ORDER 2014

- The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
 - games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - drink a quantity of alcohol within a time limit

- (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - drink as much alcohol as possible (whether within a time limit or otherwise);
 - provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
 - The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-
 - a holographic mark, or
 - an ultraviolet feature.
 - The responsible person must ensure that-
 - where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

- beer or cider: ½ pint;
 - gin, rum, vodka or whisky: 25ml or 35ml; and
 - still wine in a glass: 125ml;
 - these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.
- A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
 - In this condition:-
 - "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where-
 - P is the permitted price,
 - D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - "relevant person" means, in relation to premises in respect of which there is in force a premises licence-
 - the holder of the premises licence,
 - the designated premises supervisor (if any) in respect of such a licence, or
 - the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
 - Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.
 - Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
 - The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

WHOLESALE ALCOHOL RETAILER GUIDANCE

If you sell alcohol to another business you may need to apply for approval for the Alcohol Wholesaler Registration Scheme (AWRS), which has been introduced to tackle alcohol fraud.

If you buy alcohol to sell from a UK Wholesaler, you need to check that the wholesaler has been approved by HMRC and has an AWRS Unique Reference Number and you should keep records of these checks as evidence of your due diligence.

Full details can be found at:

www.gov.uk/guidance/the-alcohol-wholesaler-registration-scheme-awrs

CONDITIONS

All conditions attached to a premises licence MUST be complied with. In normal circumstances, if a licensing visit shows that conditions are not being complied with, you will be given a warning letter and an opportunity to comply. If a follow-up check shows that only some or no action has been taken and breaches are still occurring, we may issue a further warning letter or, depending on the severity of the breach, may decide to issue legal proceedings. There is also the option of reviewing the premises licence.

If you have a CCTV system in the premises, and it is a condition of your licence, you need to carry out regular checks to ensure that the system is still recording, the time and date are correct and that the system retains the recordings for the time specified. You will also need to ensure that staff members are trained in how to download the footage onto a memory stick or disc in the event that the Police or Council require this.

