

WRS BOARD

13th February 2020

Temporary Event Notices – Information Report

Recommendation	<p>That the Board notes the Report and that members use the contents of the information provided in their own reporting back to fellow members of the partner authorities.</p>
Background	<p>The Licensing Act 2003 is in place to regulate various “licensable activities” and in doing so seeks to promote the four “licensing objectives.” The Act establishes a single integrated scheme for licensing premises in England and Wales (only) which are used for the sale or supply of alcohol, to provide regulated entertainment, or to provide late night refreshment</p> <p>Licensable activities include:</p> <ul style="list-style-type: none">• The sale by retail of alcohol• The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club• The provision of regulated entertainment• The provision of late night refreshment <p>Licensing objectives include:</p> <ul style="list-style-type: none">• The prevention of crime and disorder• Public safety• The prevention of public nuisance• The protection of children from harm <p>Responsible authorities</p> <p>As well as creating licensing authorities, the 2003 Act sets out a number of responsible authorities that all have a role to play in the regulation of licensable activities. The responsible authorities are:</p> <ul style="list-style-type: none">• The Chief Officer of Police• The local fire and rescue authority• <i>The relevant enforcing authority under the Health and Safety at Work etc Act 1974</i>• <i>The local authority with responsibility for environmental health</i>• The local planning authority• Each local authority’s Director of Public Health

Report

- The local weights and measures authority (trading standards)
- A body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm
- Home Office Immigration Enforcement

Temporary Event Notices (TEN's)

A temporary event notice (TEN) can be used to hold one-off licensable events at unlicensed premises without the need for a premises licence, club premises certificate or the presence of a personal licence holder, provided certain criteria are met. They can also be used to temporarily extend the hours or activities permitted by a premises licence or club premises certificate.

The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the "premises user") gives notice to the licensing authority of the event (a "temporary event notice" or "TEN").

Temporary Event Notice (TEN) Practice

- The fee to serve a TEN is £21. (This fee has not changed since its introduction in November 2005).
- A premises user can serve a TEN in respect of any "premises." The 2003 Act defines a premises as "any place." The definition is therefore very wide and can include temporary structures and discreet areas of land within a larger area.
- Any individual over the age of 18 can serve up to five TENs per calendar year. If an individual holds a personal licence issued under the Licensing Act 2003, they can serve a maximum of fifty TENs per calendar year.

Temporary Event Notices are typically used for:

- Fundraising and charitable events
- Private parties
- Food and drink festivals
- Farmers markets
- Small music festivals

TENs can be used to authorise licensable activities at premises not otherwise authorised to be used to provide them and also to extend the permitted hours or activities at licensed premises on a temporary basis.

The vast majority of the TENs served relate to small low-risk events, however there is always the potential for a premises user to utilise a TEN to seek to authorise licensable activities in circumstances that pose a greater risk to the promotion of the licensing objectives.

Notification Requirements

A “**standard**” TEN must be served no less than 10 clear working days before the event is due to take place. These 10 working days do not include either the day of service or the first day of the event.

In exceptional circumstances, a “**late**” TEN can be served, but this must be served between 9 and 5 clear working days before the event is due to take place. Again this does not include either the day of service or the first day of the event.

If the premises user does not give at least 5 clear working days notice, then the TEN is not valid and cannot be relied upon to authorise licensable activities.

How are Temporary Event Notices served and acknowledged?

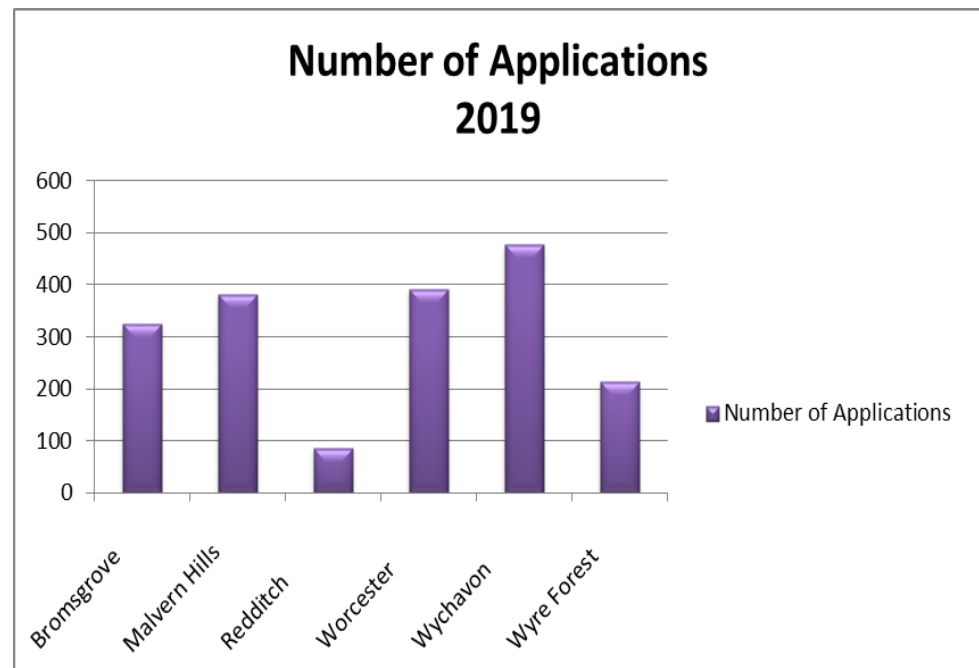
TENs can be served by post or online. If the TEN is served by post, the premises user must also serve a copy on the Chief Officer of Police and environmental health. If the application is made online, the licensing authority is responsible for forwarding a copy on to these two bodies.

The licensing authority must give written acknowledgment of the receipt of a TEN by the end of the first working day following the day that the TEN was received.

Number of Applications

According to the last set of published Government statistics, around 147,200 TENs were served across England and Wales in the year to 31 March 2018.

In 2019 the following numbers of TENs were served on the district Councils across Worcestershire: In total there were 1873 applications across all districts.



The 2003 Act puts in place a number of limitations on the use of TENs. These are:

- A maximum of 15 TENs can be served in respect of any particular premises in a calendar year.
- Licensable activities can only be authorised at any particular premises by a TEN on 21 days per calendar year.
- A single TEN can only authorise licensing activities for a maximum period of 168 hours.
- No more than 499 people (including staff and performers) can be present on the relevant premises during the event.

Every effort is made by WRS officers to ensure these limits are not exceeded.

Objections

The 2003 Act does not allow for residents to be consulted on the serving of TENs and there is no provision for them to object to the serving of a TEN. However the Chief Officer of Police and environmental health are both able to serve an objection notice if they believe that allowing the licensable activities described in the TEN to go ahead would undermine the licensing objectives.

Both bodies have three working days following the service of the TEN to submit an objection notice in respect of it.

How are Temporary Event Notices considered by Environmental Health at WRS?

TENs are initially considered by the Environmental Health Duty Officer. In the vast majority of cases no further action is required.

Where a TEN gives rise to concern, the Environmental Health Duty Officer will consider whether there is a risk of the licensing objectives not being upheld. Where that is the case, officers will speak to the premises user in order to assess whether any action is necessary, such as arranging noise monitoring equipment

If Environmental Health are not satisfied that the concerns about a TEN can be addressed and that allowing the licensable activities to take place would undermine the licensing objectives, they will serve an objection notice.

A decision to serve an objection notice would have to be based on strong evidence of previous undermining of the relevant licensing objectives by the same premises user, the same event, or a similar event at the same location. The evidence could include previous noise abatement notices.

What happens if an objection notice is served?

If an objection notice is served in relation to a "standard" TEN, a Licensing Sub-Committee hearing will be arranged at the relevant licensing authority at which Members will decide whether to allow the licensable activities to take place or to serve a counter notice in respect of the TEN, which will mean the licensable activities are not authorised to take place.

If an objection notice is served in relation to a "late" TEN, a counter notice is

automatically issued to the premises user by officers as there is insufficient time to hold a hearing to determine the matter.

Dealing with controversial events and communicating to interested parties

The service will endeavour to contact ward members where it is possible to identify in advance that an event may be controversial or problematic following conversations with the relevant senior officer at the partner authority.

Generally, feedback will also be provided via the same senior officers or directly after the event if necessary.

During events – Enforcement and Proactivity

Licensing officers have rights of entry to premises to which a TEN relates to assess the likely effect on the licensing objectives and can require the premises user to produce the TEN for examination.

As well as the power to serve an objection notice, Environmental Health Officers also have relevant powers of entry via the

- Environmental Protection Act 1990
- Health & Safety at Work Act 1974

These powers would be used in relation to concerns about the licensing objectives.

A Noise Abatement Notice can be served in advance of an event, should the EHO be satisfied of the likelihood of a statutory nuisance. Due to TEN events being of short duration this would be an unlikely action, unless intelligence and records indicated that a previous event operated by the same entity, or at the same address, proved to be the cause of significant public nuisance or statutory nuisance.

WRS do not routinely monitor events covered by a TEN. However, where we have intelligence that there may be an issue at an event that is subject to a TEN, we will seek to visit the premises to monitor noise levels and the numbers of people on the premises at any one time.

During such visits we will also ask the premises user to demonstrate how they are controlling both noise arising from the event and the numbers of people on the premises at any one time.

Contact Points

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