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Tuesday, 7 January 2025

## Notice of Reports Received following Publication of Agenda.

### Licensing and Regulatory Sub Committee

Wednesday, 15th January, 2025 at 2.00 pm,  
Council Chamber, County Hall, The Rhadyr USK

Attached are reports that the committee will consider as part of the original agenda but were submitted to democratic services following publication of the agenda.

Item No	Item	Pages
3.	Temporary Event Notice : Field at Old Castle Court Farm	1 - 22

**Paul Matthews**  
Chief Executive

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# Agenda Item 3

## MONMOUTHSHIRE COUNTY COUNCIL REPORT

**SUBJECT:** Temporary Event Notice, Field at Old Castle Court Farm, Pandy, Abergavenny, NP7 7PH

**DIRECTORATE:** Social Care, Safeguarding & Health

**MEETING:** Licensing & Regulatory Sub-Committee

**Date to be considered:** 15<sup>th</sup> January 2025

**DIVISION/WARDS AFFECTED:** Crucorney, Abergavenny

### 1. PURPOSE:

- 1.1 To consider a Temporary Event Notice under the Licensing Act 2003 for a field at Old Castle Court Farm, Pandy, Abergavenny, NP7 7PH. This application has been made by Samuel Southan of 70 St Ina Road, Cardiff, CF14 4LT. Registered address is GemFestival Ltd, 78-78a Monnow Street, Monmouth, NP25 3EQ.

### 2. RECOMMENDATION(S):

- 2.1 It is recommended that members consider and determine the notice, on the basis of the information provided. Members are able to:-
- Approve the notice / or
  - Issue a counter notice which will refuse the notice

### 3. KEY ISSUES

- 3.1 A valid Temporary Event Notice has been submitted for a field at Old Castle Court Farm, Pandy, Abergavenny, NP7 7PH by Samuel Southan of 70 St Ina Road, Cardiff, CF14 4LT (registered address is GemFestival Ltd, 78-78a Monnow Street, Monmouth, NP25 3EQ) to Monmouthshire County Council on 24th December 2024.

The notice has been made for the event to start on the 13th June 2025 and end on the 16th June 2025 for the following activities:-

#### **Sale of Alcohol**

13/06/2025 – 14:00hrs – 04:00hrs  
14/06/2025 – 12:00hrs – 04:00hrs  
15/06/2025 – 12:00hrs – 00:00hrs

#### **Performance of Music**

13/06/2025 – 14:00hrs – 04:00hrs  
14/06/2025 – 12:00hrs – 04:00hrs  
15/06/2025 – 12:00hrs – 00:00hrs

#### **Provision of Late Night Refreshments**

13/06/2025 – 14:00hrs – 04:00hrs  
14/06/2025 – 12:00hrs – 04:00hrs

15/06/2025 – 12:00hrs – 00:00hrs

A copy of the notice is attached to this report as **Appendix A**.

- 3.2 The premises is an open field set in a rural location, Grid Reference: SO 33027 24709 Grid Reference (6 figure): SO330247  
GPS co-ordinates of entrance points:  
Entrance 1: 51.915116, -2.975994  
Entrance 2: 51.917130, -2.976786  
What3Words of entrance points:  
Entrance 1: ///cashiers.performs.wiggling  
Entrance 2: ///flickers.unionists.angel  
Address (near): Crucorney, Pandy, Monmouthshire, Wales, NP7 7PH.  
Google Maps Search: Type in 'Oldcastle Turn' which will draw a pin on the bus stop adjacent to entrance 2.
- 3.3 The event is an annual event organised by Samuel Southan, Samuel Morgan, John Lewis and Gemma Curtis, which has operated in 2023 under a Temporary Event Notice arrangement with zero issues reported to the Responsible Authorities and under a premises license in 2024, within the area of Herefordshire. The applicant states they maintained an excellent relationship with local authorities in Herefordshire for the past two years. This is the first time the applicant has applied for the event to take place within the Monmouthshire area. GemFest 2025 will be a three day, ticketed outdoor music and experience-led festival. In terms of licensable activities, this TEN will cover one small, pop-up stage for around 2-300 people, and a bar area, and two or three food traders. The field will also contain a campsite and a car park which will be separated from the licensable activities area by a Heras fence line.
- The aim of the event is to provide a safe and fun environment where the participants can enjoy music, food and drinks (alcoholic and non-alcoholic) on offer. Audience type is primarily "18-30" though many middle ages and above have attended in previous years as the festival caters for all music & food fans over the age of 18. Medical services and SIA security will be contracted for the event, and the event will be managed by the above-mentioned organisers, as well as a team of staff and volunteer stewards.
- 3.4 The applicant has a statutory duty to send copies of the Temporary Event Notice to Heddlu Gwent Police and Environmental Health 10 working days prior to the event. The Police and Environmental Health are able to object to the notice within 3 working days from the following day the notice was received. No other party is able to make a representation on a Temporary Event Notice. The notice was submitted online and as such the Licensing Section forwarded the notice to the statutory consultees.
- 3.5 An objection to the notice was received from Huw Owen, Principal Environmental Health Officer which states the event would undermine the prevention of public nuisance. The objection is as follows:

Officers of this section consider such TENs applications primarily with regard to the key Licensing objective the 'prevention of public nuisance'. Furthermore, we have the responsibility for meeting the duties of the local authority with regard to the statutory nuisance provisions of Part III of the Environmental Protection Act 1990.

I have carefully considered the information you have provided, which includes:

- Event starts Friday 13<sup>th</sup> June and finishes Monday 16<sup>th</sup> June 2025.
- The intended licensable activities, including provision of regulated entertainment, finish 4am on the Friday and Saturday nights and midnight on Sunday (no licensable activities Monday 16<sup>th</sup> June).

Coordinates have been given for the privately owned field intended to be used and for the entrance points. The address has been provided as Crucorney, Pandy NP7 7PH.

No site plan has been provided of the intended event layout. There are a number of dwellings within 500m of the event field, potentially within 100/200m depending on the areas of the field used. There is no history of similar events being held in this field in recent years as far as I am aware.

Fundamentally the location is rural and background sound levels will potentially drop to very low levels during late night hours, particularly if there is no significant wind.

The most relevant guidance is the Code of Practice on Environmental Noise Control at Concerts 1995, which includes *'For events continuing or held between the hours 23.00 and 09.00 the music noise should not be audible within noise-sensitive premises with windows open in a typical manner for ventilation'*.

In my opinion on consideration of the quiet location, nearby dwellings, the very limited information provided in the application (no pertinent information on the intended music type / music noise levels / mitigation measures to ensure there is no significant noise impact on the residents in the area) there is clearly the potential for disturbance from music during late night hours and a breach of Licensing objective the 'prevention of public nuisance'.

In addition, this potential disturbance is exacerbated by the cumulative impact of noise on 3 consecutive days / nights.

I am therefore objecting to this TENs and I have emailed the Monmouthshire County Council Licensing section and Gwent Police Licensing team to inform them accordingly.

3.6 The applicant has responded to the objection with the following:

Thank you for your email and apologies for not picking up. I'm in Australia currently and my sims been playing up for UK calls so that will be why I missed it.

Totally understanding of your points here – we have not provided any of the necessary information to yourself and the council.

I can send over an assessment and more in depth detail of the licensable activities to take place, or we can set up an online meeting early next week to discuss if you'd prefer to have a meeting.

3.7 An objection to the notice was received from Gwent Police Licensing. The objection is as follows:

Our reasons concern the 4 licensing objectives of prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.

In your application, you have not provided sufficient detail to promote the licensing objectives, you have not provided any plans or risk assessments which would be expected for an event of this type over multiple days.

3.8 The applicant has responded to the objection with the following:

Thanks very much for this and understood. We'll return to you with our full Event Management Plan etc.

3.9 At the time of writing this report, no further supporting documentation requested by Huw Owen, Principal Environmental Health Officer and Gwent Police has been submitted by the applicant to support the Temporary Event Notice application.

#### **4. REASONS:**

4.1 In making its decision, the Sub Committee is obliged to have regard to:-

- The Licensing Act 2003
- National Guidance
- Council's own Licensing Policy and
- All representations made and evidence presented

4.2 The determination of an application for a Temporary Event Notice under Section 105 (1)-(3) of the Licensing Act 2003 states:-

(1) This section applies where an objection notice is given in respect of a temporary event notice.

(2) The relevant licensing authority must-

(a) hold a hearing to consider the objection notice, unless the premises user, the chief officer of police who gave the objection notice and the authority agree that a hearing is unnecessary, and

(b) having regard to the objection notice, give the premises user a counter notice under this section if it considers it necessary for the promotion of the crime prevention objective to do so.

(3) The relevant licensing authority must-

(a) In a case where it decides not to give a counter notice under this section, give the premises user and the relevant chief officer of police notice of the decision, and

(b) in any other case-

(i) give the premises user the counter notice and a notice stating the reasons for this decision, and

(ii) give the relevant chief officer of police a copy of both of those notices.

4.3 In section 7.28 – 7.40 of the **Page 4** Guidance issued under section 182 of the Licensing

Act 2003, the Secretary of State regarding how the Licensing Authority should deal with objections is attached as **Appendix B**.

- 4.4 Section 7.28 of the Guidance states that Section 105 of the 2003 Act is clear that a licensing authority must hold a hearing to consider any objections from the police or Environmental Health unless all parties agree that a hearing is not necessary. The applicant and objector have not come to an agreement and therefore the hearing will go ahead.
- 4.5 Should members determine that the Temporary Event Notice be refused, the applicant has a right of appeal against this decision to the Magistrates. However, should members determine that the notice be allowed to proceed, disregarding the Environmental Health Officer (EHO) objection, then the right of appeal is afforded to the EHO.
- 4.6 Section 14.4 of Monmouthshire County Council's (MCC's) Licensing Policy states relevant representations will be taken as those that relate to the fundamental principles of the Licensing Act, any organisation or individual wishing to objection to any application will therefore need to state whether they are doing so on the grounds of:
- The prevention of crime and disorder
  - Public Safety;
  - The prevention of public nuisance
  - The protection of children from harm
- 4.7 Section 21.9 of MCC's policy also states that the Licensing Authority recommends that anyone wishing to submit a Temporary Event Notice, particularly where this involves the provision of regulated entertainment, gives as much notice to the Authority as possible, to ensure that proper advice can be given and any anticipated issues resolved in a planned and timely manner. A period of at least 10 weeks is recommended for this process, and a longer consultation period should be considered for larger events. Whilst notice can legally be submitted with 10 working days or a late notice in 5 working days prior to the event taking place, a period of 10 weeks is recommended for larger events.

However, the policy is a guidance document and is not statutory function. Monmouthshire County Council's Policy further stipulates that each application has to be treated on it's own merit and that the licensing authority should support licensees on a wide range of entertainment activities to promote the cultural benefit of the community.

## **5. RESOURCE IMPLICATIONS:**

5.1 Nil

## **6. CONSULTEES:**

Heddlu Gwent Police  
Local Authority Environmental Health

## **7. BACKGROUND PAPERS:**

**8. AUTHOR:**

Emma Watkins  
Licensing Officer

**CONTACT DETAILS:**

Tel: 01633 644100  
Email: [emmawatkins2@monmouthshire.gov.uk](mailto:emmawatkins2@monmouthshire.gov.uk)



## Section 1 of 9

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

- System reference  This is the unique reference for this application generated by the system.
- Your reference  You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.
- Are you an agent acting on behalf of the applicant? Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.
- Yes  No

### Applicant Details

- \* First name
- \* Family name
- \* E-mail

### You must enter a telephone number

- Main telephone number  Include country code.
- Other telephone number

Indicate here if you would prefer not to be contacted by telephone

- Are you:
- Applying as a business or organisation, including as a sole trader
- Applying as an individual
- A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

### Applicant Business

- Is your business registered in the UK with Companies House?  Yes  No
- Registration number
- Business name  If your business is registered, use its registered name.
- VAT number   Put "none" if you are not registered for VAT.
- Legal status

*Continued from previous page...*

Your position in the business

Home country

The country where the headquarters of your business is located.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Section 2 of 9**

**APPLICATION DETAILS** ([See also guidance on completing the form, general notes and note 1](#))

Have you had any previous or maiden names?

- Yes  No

\* Your date of birth  /  /   
dd mm yyyy

Applicant must be 18 years of age or older

National Insurance number

This box need not be completed if you are an individual not liable to pay UK national insurance.

Place of birth

**Correspondence Address**

Is the address the same as (or similar to) the address given in section one?

- Yes  No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Continued from previous page...

### Additional Contact Details

Are the contact details the same as (or similar to) those given in section one?

- Yes  No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

E-mail

Telephone number

Other telephone number

### Section 3 of 9

#### THE PREMISES

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

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). [\(See also guidance on completing the form, note 2\)](#)

\* Does the premises have an address?

- Yes  No

\* Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)?

- Neither  Premises licence  Club premises certificate

#### Location Details

Give an Ordnance Survey (OS) map reference (if a full address has not been given)

Give an Ordnance Survey (National Grid) reference e.g. TL683365

\* Provide further details about the location of the event

Private farmer field.

Grid Reference: SO 33027 24709

Grid Reference (6 figure): SO330247

GPS co-ordinates of entrance points:

Entrance 1: 51.915116, -2.975994

Entrance 2: 51.917130, -2.976786

What3Words of entrance points:

Entrance 1: ///cashiers.performs.wiggling

Entrance 2: ///flickers.unionists.angel

Address (near): Crucorney, Pandy, Monmouthshire, Wales, NP7 7PH, United Kingdom

Postcode (nearest): NP7 7PH

Google Maps Search: Type in 'Oldcastle Turn' which will draw a pin on the bus stop adjacent to entrance 2.

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, give a description and details below [\(see also guidance on completing the form, note 3\)](#)

Continued from previous page...

Describe the nature of the premises below ([see also guidance on completing the form, note 4](#))

An private farming site, owned by William Probert that is situated in Monmouthshire adjacent to the River Monmouth.

The entrance to the field is adjacent to the Oldcastle Turn bus stop in Abergavenny.

Describe the nature of the event below ([see also guidance on completing the form, note 5](#))

'GemFest' is an Annual Event organised by Samuel Southan, Samuel Morgan, John Lewis and Gemma Curtis, which has operated in 2023 under a Temporary Event Notice arrangement with zero issues reported to the Responsible Authorities and under a premises license in 2024, both in Herefordshire. We have maintained an excellent relationship with local authorities in Herefordshire for the past two years.

GemFest 2025 will be a three day, ticketed outdoor music and experience-led festival. In terms of licensable activities, this TEN will cover one small, pop-up stage for around 2-300 people, and a bar area, and two or three food traders. The field will also contain a campsite and a car park which will be separated from the licensable activities area by a heras fence line.

The aim of the event is to provide a safe and fun environment where the participants can enjoy music and food and drinks (alcoholic and non-alcoholic) on offer. Audience type is primarily "18-30" though many middle ages and above have attended in previous years as the festival caters for all music & food fans over the age of 18.

Medical services and SIA security will be contracted for the event, and the event will be managed by the above mentioned organisers aswell as a team of staff and volunteer stewards.

## Section 4 of 9

### LICENSABLE ACTIVITIES

State the licensable activities that you intend to carry on at the premises

([see also guidance on completing the form, note 6](#)):

- 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
- The giving of a late temporary event notice

([See also guidance on completing the form, note 7](#)).

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event.

([See also guidance on completing the form, note 8](#)).

### Event Dates

There must be a period of at least 10 working days between the date you submit this form and the date of the earliest event when you will be using these premises for licensable activities.

State the dates on which you intend to use these premises for licensable activities

([see also guidance on completing the form, note 9](#))

Continued from previous page...

Event start date  /  /   
dd mm yyyy

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

Event end date  /  /   
dd mm yyyy

State the times during the event period that you propose to carry on licensable activities (give times in 24 hour clock)

[\(see also guidance on completing the form, note 10\)](#)

Friday 13th June  
Licensable Activities 14:00 - 04:00  
Saturday 14th June  
Licensable Activities 12:00 - 04:00  
Sunday 15th June  
Licensable Activities 12:00 - 00:00  
Monday 16th June  
No Licensable Activities

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

Note that the maximum number of people cannot exceed 499.

[\(see also guidance on completing the form, note 11\)](#)

If the licensable activities will include the supply of alcohol, state whether the supplies will be for consumption on or off the premises, or both

[\(see also guidance on completing the form, note 12\):](#)

- On the premises only
- Off the premises only
- Both

**Section 5 of 9**

**RELEVANT ENTERTAINMENT** [\(See also guidance on completing the form, note 13\)](#)

State if the licensable activities will include the provision of relevant entertainment. If so, state the times during the event period that you propose to provide relevant entertainment

N/A

[\(See also guidance on completing the form, note 14\)](#)

Do you currently hold a valid personal licence?  Yes  No

**Section 7 of 9**

**PREVIOUS TEMPORARY EVENT NOTICES** [\(See also guidance on completing the form, note 15\)](#)

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?  Yes  No

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  Yes  No

b) Begins 24 hours or less after the event period proposed in this notice?

**Section 8 of 9**

**ASSOCIATES AND BUSINESS COLLEAGUES** [\(See also guidance on completing the form, note 16\)](#)

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?  Yes  No

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  Yes  No

b) Begins 24 hours or less after the event period proposed in this notice?

*Continued from previous page...*

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?  Yes  No

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?  Yes  No

## Section 9 of 9

### CONDITION [\(See also guidance on completing the form, note 18\)](#)

It is a condition of this temporary event notice that where the relevant licensable activities described in Sections 4 and 5 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

### PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £21

### DECLARATION [\(See also guidance on completing the form, note 19\)](#)

\* 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

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

\* Full name

\* Capacity

\* Date  /  /   
dd mm yyyy

*Continued from previous page...*

Add another signatory

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/temporary-event-notice/monmouthshire/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

**OFFICE USE ONLY**

Applicant reference number	<input type="text" value="GF25_TEN"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

[1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [Next >](#)



## 7. Temporary Event Notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

### General

- 7.2 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”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing). Under the 2003 Act ‘premises’ can mean any place. Events authorised under a TEN will therefore not always be in a building with a formal address and can take place, for example, in public parks and plots within larger areas of land. In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises are, for example, an open field or a beer tent. Local authorities and “relevant persons” (see below) may wish to make enquiries where appropriate to satisfy themselves of the exact location for where a TEN is being given.
- 7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and “local authority exercising environmental health functions” (“EHA”) at least ten working days before the event. A premises user may also give a limited number of “late TENs” to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). “Working day” under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a “day” as a period of 24 hours beginning at midnight.
- 7.5 If a TEN is sent electronically via GOV.UK or the licensing authority’s own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.
- 7.6 The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may

result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).

- 7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

## **Standard and late temporary event notices**

- 7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

### **Standard temporary event notices**

- 7.9 "Ten working days" (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.
- 7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.
- 7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

### **Late temporary event notices**

- 7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.
- 7.13 Late TENs can be given up to five clear working days but no earlier than nine clear working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing licence conditions.

## **Limitations**

- 7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:
- the number of times a premises user may give a TEN is 50 times in a calendar year

for a personal licence holder and five times in a calendar year for other people;

- the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENS count towards the total number of permitted TENS (i.e. the limit of five TENS a year for non-personal licence holders and 50 TENS for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENS in that calendar year, will be returned as void and the activities described in it will not be authorised.
- the number of times a TEN may be given for any particular premises is 15 times in a calendar year;
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENS in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499 (including any staff and any other persons); and
- the minimum period between events authorised under separate TENS in relation to the same premises (not including withdrawn TENS) by the same premises user is 24 hours.

7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:

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

7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.

7.18 A TEN that is given may be subsequently withdrawn by the TEN user by giving the licensing authority a notice to that effect no later than 24 hours before the beginning of the event period specified in the TEN. Otherwise, the TEN will be included within the limits of TENS allowed in a given calendar year, even if the event does not go ahead.

7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.

7.20 TENS may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.

7.21 In determining whether the maximum total duration of the periods covered by TENS at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21 day limitation.

- 7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

## **Who can give a temporary event notice?**

### **Personal licence holders**

- 7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs (subject to a maximum of 10) given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 15 TENs in respect of each premises in a calendar year.

### **Non-personal licence holders**

- 7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs – subject to a maximum of 2 - in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

## **Role of the licensing authority**

- 7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN 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 seven day (or 168 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 TEN is treated as being from the same premises user if it is given by an associate.
- 7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.
- 7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received

on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).

- 7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is unnecessary. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence or certificate conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a "notice (statement of conditions)") and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.
- 7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.
- 7.30 In the case of an event authorised by a TEN, 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.
- 7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. Under Schedule 3 of the 2003 Act, the licensing authority must also keep a record of such matters including any notice of withdrawal of a TEN, any counter notice to a TEN given following an objection by a relevant person and any TEN received following modification. If requested to do so, a licensing authority must supply a person with a copy of the information contained in any entry in its register. Each licensing authority must also provide facilities for making the information contained in the entries in its register available for inspection by any person during office hours and without payment. Licensing authorities may wish to consider bringing TENs to the attention of local councillors and residents by making their register available online or including relevant details of a TEN when it is received, along with notice of licence applications on the authority's website. There is no requirement to record all the personal information given on a TEN.

## **Police and environmental health intervention**

- 7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and

the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.

- 7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings (or appeals) in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.
- 7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.
- 7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

## Modification

- 7.37 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

## Applying conditions to a TEN

- 7.38 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:
- if the police or the EHA have objected to the TEN;
  - if that objection has not been withdrawn;
  - if there is a licence or certificate in relation to at least a part of the premises in respect

of which the TEN is given;

- and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

7.39 This decision is one for the licensing authority alone, regardless of the premises user's views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

### **Duty of premises users to keep and produce TENs**

7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014<sup>3</sup>.

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<sup>3</sup> For further guidance on the closure power under the 2014 Act, please refer to:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/352562/ASB\\_Guidance\\_v8\\_July2014\\_final\\_\\_2\\_.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final__2_.pdf)

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