

WARRINGTON
Borough Council



Application to Transfer a Premises Licence

GUIDANCE NOTES FOR APPLICANTS

Licensing Act 2003

Licensing Section
New Town House
Buttermarket Street
Warrington
WA1 2NH

Tel: 01925 442119

E-mail: cexlicensing@warrington.gov.uk
www.warrington.gov.uk

In offering this guidance Warrington Borough Council wishes to make it clear that:

The Licensing Authority's role in the Licensing System is primarily administrative and regulatory. The Licensing Authority is therefore only able to offer guidance as to the processes which need to be followed to make an application. The Licensing Service is not available to give advice as to what details should be contained in an application or which type of application may be most appropriate to an applicant's specific circumstances. Applicants are strongly advised to seek advice from a licensing specialist before submitting their applications.

Legislation may change over time and the advice given is based on the information available at the time the guidance was produced. Only the courts can interpret statutory legislation with any authority. This advice is not intended to be a definitive guide to, or substitute for, the relevant law. Independent legal advice should be sought where appropriate.

TRANSFER OF PREMISES LICENCE

If you wish to take over a premises licence, you must make an application to transfer it and also obtain consent from the existing licence holder.

A transfer of the licence changes the identity of the licence holder but does not alter the licence in any other way.

There are no provisions within the Licensing Act to transfer a club premises certificate. However the Licensing Authority must be notified of any name change or of any change to the club rules

The new premises licence holder will take responsibility for the conditions on the premises licence.

Who can apply for a transfer of Premises Licence and what for?

You can apply to transfer the licence if you are a person who carries on or proposes to carry on a business, which involves the use of the premises for licensable activities.

An application to transfer a premises licence may usually only be made with the consent of the existing licence holder, however, consent may not be required if the applicant can demonstrate that they have taken all reasonable steps to obtain the consent.

How do I apply to transfer a Premises Licence?

An application to transfer a premises licence must be made to the licensing authority for the area in which the premises is situated.

The completed and signed application must be accompanied by:

- The premises licence (both parts summary and full version) and plan or, if that is not practicable, a statement of the reasons for the failure to provide the licence
- Completed and signed transfer consent form from the current premises licence holder giving their consent to transfer the premises licence.
- Payment of the fee of £23.00. Cheques should be payable to “Warrington Borough Council”.
- The applicant must give notice of the application to the Chief Officer of Police for the police area in which the premises are situated at the same time that the application is served on the Licensing Authority. Please send a copy of your application to the Chief Officer of Police - Force Licensing Department, Cheshire Constabulary HQ, Clemonds Hey, Oakmere Road, Winsford, CW7 2UA or e-mail the completed and signed application together with the signed consent form for transfer to warrington.licensing@cheshire.pnn.police.uk,
- If the application is made online, the licensing authority will, within one working day, serve copies on all relevant responsible authorities on your behalf.

How much is the transfer application?

The application fee is £23. If you are sending the application by post please make the cheque payable to “Warrington Borough Council” and post it to the address detailed below. Cash must not be sent through the post.

How to submit your transfer application

You can submit your transfer of premises licence application in the following ways:-

Apply online

<https://www.gov.uk/apply-for-a-licence/premises-licence/warrington/change-3>

Please note if you are submitting your transfer application online you will need to pay for the application online.

By post:

Please send postal applications to:

- Licensing Authority - Licensing Section, Regulation & Protection, Warrington Borough Council, New Town House, Buttermarket Street, Warrington, WA1 2NH or e-mail cexlicensing@warrington.gov.uk.

You must also:

- give a copy of the application to the chief officer of police. Force Licensing Department, Cheshire Constabulary HQ, Clemonds Hey, Oakmere Road, Winsford, CW7 2UA or e-mail warrington.licensing@cheshire.pnn.police.uk,

How is the application to transfer a Premises Licence processed?

The Licensing Act 2003 provides a mechanism, which allows for the transfer application to have immediate effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This enables the new premises licence holder to use the premises during the 14-day consultation period for the licensable activity or activities authorised by the premises licence. This is to ensure that there is no interruption to normal business at the premises.

The Chief Officer of Police has 14 days, beginning with the day on which they are notified, to consider the application.

The Chief Officer of Police can either:

- Object to the transfer application where, in exceptional circumstances, they believe that the proposed new licensee would undermine the crime prevention objective as set out in the Licensing Act 2003, or
- Raise no objection to the application

What is the timescale for processing the application if no objection is received from the Police?

If we receive no objection, the total timescale for determining an application for transfer of premises licence is expected to be no more than 15 consecutive days. This commences with the correct receipt of the application paperwork (including the Chief Officer of Police) and the application fee of £23. In this situation, the licensing authority has to grant the application to transfer the premise licence.

What is the timescale for processing the transfer application if the Police object?

If an objection is received from the Chief Officer of Police, then arrangements will be made for the council's licensing sub-committee to hear the application and objection

notice within 20 working days beginning the day after the period within which the Chief Officer of Police may give a notice.

The timescales for processing an application do not start until all the necessary information has been received in full.

Will tacit consent apply to transfer application?

Yes. This means that you be able to act as though your application is granted if you have not heard from the licensing authority by the end of the target completion period of 60 calendar days.

However, if an objection is received from the Chief Officer of Police, then arrangements will be made for the council's licensing sub-committee to hear the application and objection notice within 20 working days beginning the day after the period within which the Chief Officer of Police may give a notice.

The timescales for processing an application do not start until all the necessary information has been received in full.

What happens if the police object a transfer application?

If we receive an objection from the Chief Officer of Police, we will make arrangements for the council's licensing sub-committee to hear the application and objection notice within 20 working days beginning the day after the period within which the Chief Officer of Police may give a notice.

At least 10 working days before the day of the hearing we will send the applicant and the Chief of Police details of the date and time of the hearing together with details of the procedures to be followed.

The applicant and Chief Officer of Police must give notice to Warrington Borough Council's Committee Section at least two working days before the start of the hearing stating:

- Whether they will attend the hearing in person
- Whether they will be represented by someone else (for example a lawyer)
- Whether they think a hearing is unnecessary (if, for example an agreement has been reached before a formal hearing)
- Any request for another person to attend the hearing, including how they may be able to assist the licensing authority in relation to the application.

Hearing - What action is available to the Licensing Sub-Committee?

A hearing will go ahead, unless the licensing authority, the applicant and the Chief Officer of Police (giver of notice) agree through mediation that a hearing is unnecessary.

Licensing Act Sub-Committee will hear and determine the application having regard to all submissions. The committee must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Then Sub-Committee would reject the application if it felt sufficient grounds existed; otherwise, the application would be approved.

Determination (hearing)

Where the application is either granted or rejected, the licensing authority will give a notice to that effect to the applicant and the Chief Officer of Police.

Where there is a hearing, the committee must give clear and comprehensive reasons for its eventual determination of the application.

Where the application is granted, the notice must state the time when the transfer of premises licence takes effect.

Can I appeal?

Both the applicant and Chief Officer of Police have the right of appeal exists to the Magistrates' Court. You must lodge it with the court within 21 consecutive days of the date of the objection notice.

What if I no longer wish to be a Premises Licence Holder?

If you are the holder of a premises licence and the business closes down you may wish to give up the licence.

If you no longer wish to be the licence holder at a premises because, for example, you have left the premises, you can surrender your premises licence. Please note that even if you have left the premises you remain responsible for any licensable activities that occur, as well as being liable for the annual licence fee, until the premises licence is surrendered.

A Premises Licence has no expiry date, unless it is issued for a limited time e.g. for an event. You can surrender your premises licence at any time if you no longer want to use the premises for any of the licensable activities authorised.

How to surrender the Premises Licence

You must put your request to surrender your licence in writing. Download and complete the **surrender request form**, from our licensing webpage which can be found at:

https://www.warrington.gov.uk/info/201093/licences_and_permits/1991/alcohol_food_and_entertainment/3 ensuring it is signed by all licence holders if the premises licence is held by more than one person.

Return the form to us with the original licence and summary or indicate on the form why it cannot be returned.

Surrender of Premises Licence

Apply online

https://www.warrington.gov.uk/info/201093/licences_and_permits/1991/alcohol_food_and_entertainment/3

By post:

Please post your notice to surrender the premises licence to the address below:

- Licensing Authority - Licensing Section, Regulation & Protection, Warrington Borough Council, New Town House, Buttermarket Street, Warrington, WA1 2NH or e-mail cexlicensing@warrington.gov.uk

By email:

- Please e-mail your notice Licensing Section at cexlicensing@warrington.gov.uk.

What happens next?

The Premises Licence will lapse with immediate effect on receipt of a valid notification under Section 28 Licensing Act 2003 by the Licensing Authority.

In some circumstances, a Premises Licence that has been surrendered can be reinstated under Section 50 Licensing Act 2003.

Restrictions

Only the premises licence holder or an agent of the licence holder can surrender the licence.

What about Alcohol Licensed Premises Gaming Machines Permits?

If the premises hold a gaming machine permit this must also be transferred into the name of the new licence holder.

Contact information

Licensing Section

Regulation & Protection
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Disclaimer

Nothing in this guidance document can be considered as legal advice. Independent legal advice should be sought in the event of queries, advice and information can also be obtained from the Home Website: www.gov.uk/homeoffice