

Terms and conditions for licensing pre-application advice, application assistance, check and send services

1. The 'Pre-Application Advice' Service

1.1 The Licensing Service will:

- (a) provide advice in order that the customer can determine which licence application(s), if any, are required;
- (b) provide advice to ensure the customer applies for the correct level of licensing tailored to the needs of their business;
- (c) where applicable, provide advice on drawing up plans to accompany the application in accordance with relevant regulations.

2. The 'Application Assistance' Service

2.1 The Council will:

- (a) assist the applicant with completion of the statutory application forms;
- (b) where applicable, assist the applicant with drawing up plans which meet the relevant regulations;
- (c) where applicable, assist the applicant with completion of the statutory public and press notices.

2.2 The Applicant:

- (a) is responsible, where applicable, for ensuring the statutory notice is displayed on the premises in accordance with the regulations;
- (b) is responsible, where applicable, for ensuring the press notice is published in a local newspaper within 10 working days of the application being accepted;

- (c) is responsible for providing copies of any documentation requested by the Council Officer within a reasonable time to facilitate the completion of the application;
- (d) is responsible for keeping copies of any documents provided to the Council Officer.

3. The 'Check & Send' Service

3.1 The Council will:

- (a) check the application to ensure it is valid and has been correctly completed;
- (b) provide the applicant with an acceptance date so that, where applicable, the statutory consultation period commences immediately from that date;
- (c) where applicable, assist the applicant with completion of the statutory public and press notices and provide you with the required:
 - i. public notice(s) for display on the premises
 - ii. press notice for the applicant to arrange to publish in a local newspaper
- (d) Where applicable, facilitate the electronic submission of the application on behalf of the applicant to the relevant Responsible Authorities as defined in the Licensing 2003

3.2 The Applicant:

- (a) is responsible, where applicable, for ensuring the statutory notice is displayed on the business premises in accordance with the regulations;
- (b) is responsible, where applicable, for ensuring the press notice is published in a local newspaper within 10 working days of the application being accepted;
- (c) is responsible for providing copies of any documentation requested by the Council Officer within a reasonable time to facilitate the completion of the application.

4. All services

- 4.1 The applicant will, where requested, prove their identity by providing the Council Officer with the relevant requested ID. This may also include proof of a position held within a company or organisation and/or authority to submit the application.

- 4.2 The applicant is responsible for co-operating with the Council, providing documentation requested within a reasonable time and ensuring that all information provided to the Council Officer is accurate and true to the best of their knowledge and belief. The Council provides the services on the basis of the information provided. Any false declarations made by the applicant may result in prosecution.
 - 4.3 The applicant is responsible for keeping copies of any documents provided to the Council officer.
 - 4.4 Approval of any licence application(s) cannot be guaranteed. Any Responsible Authority and/or member of the public, a business, etc. ("Other Person") may make representations in respect of certain applications and the application may be referred to Herefordshire Council's Licensing Sub-Committee for a decision.
 - 4.5 The Council shall not be responsible for any delay incurred after the application has been submitted to the Responsible Authorities.
 - 4.6 The applicant should not rely on any information received as legal advice. Where the applicant has any concerns or questions in respect of their application they should consider obtaining their own independent legal advice.
 - 4.7 Using any of these services will not prejudice any future statutory inspection.
 - 4.8 Herefordshire Council is empowered to enforce a variety of civil and criminal statutes. It has a duty to investigate any allegations of breaches of such legislation and the provision of this service does not affect this duty in any way whatsoever.
- 5. The fee**
- 5.1 The applicant shall pay the fee (inclusive of VAT) ("the Fee") for each service provided
 - 5.2 Payment of the fee shall be made in advance of any service being undertaken.
 - 5.3 Payment of the fee can be made by cheque, credit/debit card or cash (to Blueschool House). The fees are non-refundable.
 - 5.4 The applicant will be required to pay any statutory licensing application fee in addition to the fee for any of the additional services.
 - 5.5 Card payment are acceptable and can be made by phoning 01432 261761 or by sending the address for Herefordshire Council Licensing Support Service.

6. Data protection

The Council will not keep information longer than is necessary and whilst in our possession we will safeguard your personal information according to the requirements of the Data Protection Act 1998 or any equivalent legislation as amended from time to time.

7. Freedom of Information Act 2000

7.1 Please note that pre-application advice is subject to Freedom of Information Act 2000 which means that a member of the public can make requests to see recorded information we hold on pre-application licensing matters.

7.2 Although there are various exceptions within the legislation that might prevent release of information, all these have to be seen against the “public interest” test. This means that the Council may refuse to disclose information only if in all circumstances of the case the public interest test in maintaining the exception outweighs the public interest in releasing the information.

7.3 If there are any reasons why you consider that the information should not be made public in accordance with the exception set out in the legislation for instance there are issues of commercial sensitivity, please outline them to us. We will usually consult you further if a request is made involving information given to you as pre-application advice, as the situation may have changed by the time a request is received. Herefordshire Council reserves the right to release the information where appropriate in accordance with the requirements of the legislation.

8. Limitation of liability

The Council's total aggregate liability to the applicant and the business obtaining the benefit of the services, whether in contract, tort (including negligence), for breach of statutory duty or otherwise, arising under or in connection with this agreement shall be limited to 125% of the fee for the service provided.

9. Intellectual property rights

All intellectual property rights in any materials created or developed by the Council pursuant to this agreement or arising as a result of the provision of the services shall vest in the Council. The Council licenses all such rights to the applicant free of charge and on a non-exclusive basis to such extent as is necessary to enable the applicant to make reasonable use of the services.

10. Disclaimer

The services are provided by experienced officers of the Herefordshire Council Licensing Support Service. The officers providing the advice are not legally qualified and the advice will be solely based on the individual officer's experience of dealing with the Licensing legislation. The applicant is not obliged to follow the advice provided and the form of the submission of the application remains the sole responsibility of the applicant. The use of the services does not prevent or limit any of the Responsible Authorities and Other Persons submitting a Relevant Representation to the application. The use of this service carries no weight in the determination of

application under Licensing legislation and use of the service in no way fetters Herefordshire Council's decision making. The advice given will not include views from other Responsible Authorities such as the Police, Fire Authority, etc. Determination of any application that is subject to Relevant Representations will be the function of the Licensing Sub Committee who will consider the application and the Relevant Representations on each application's merits. Determination of applications will be on the basis of whether it promotes the licensing objectives.

11 Dispute resolution

If you or your business have any complaints or are not satisfied with the quality of the services provided please refer to the Council's Compliment, Comment & Complaint page: https://www.herefordshire.gov.uk/info/200148/your_council/61/get_involved/7