

LICENSING ACT 2003 – GUIDANCE FACT SHEET

CHILDREN

The protection of children from harm is one of the four licensing objectives that underpin the Licensing Act 2003. The legal drinking age will still be 18 but the Licensing Act introduces mandatory conditions relating to children in licensed premises.

The new licensing regime aims to close the loopholes and inadequacies of current law in relation to children, while allowing under 18s to experience the atmosphere of licensed premises in a family friendly, safe environment. The Act requires that all licensed premises and clubs set out in their operating schedules the steps proposed to be taken to promote the licensing objectives, including the protection of children from harm.

The new regime will allow licensing authorities to attach conditions relating to children's access to reflect the individual nature of each establishment if relevant representations are made by a responsible authority or interested party. Where there is no risk of harm, there need be no conditions applied. Where there is a genuine danger, for example through under age drinking, drug dealing or entertainment of an adult nature the licensing authorities will be able to impose necessary conditions on the licence or certificate to provide the fullest possible safeguards for the protection of children.

Offences under the Licensing Act 2003 relating to children

- It will be an offence to allow an unaccompanied child under 16 on premises holding a premises licence or a club premises certificate or a temporary event notice that are used exclusively or primarily for the supply of alcohol. In effect, this would apply to most pubs and bars where restaurant and food facilities are not provided as a permanent feature or attraction
- It will be an offence to allow an unaccompanied child under 16 to be on premises holding a premises licence or a club premises certificate or a temporary event notice between the hours of midnight and 5.00am when the premises are open for the supply of alcohol
- It will be an offence for any person to sell alcohol to children anywhere, not just on licensed premises
- It will be an offence for a child to buy or attempt to buy alcohol
- It will be an offence for a child knowingly to consume alcohol on premises holding a premises licence or a club premises certificate or a temporary event notice

16 – 17 year olds

An exception to drinking alcohol is provided for an accompanied individual aged 16 or 17 where the alcohol is beer, wine or cider to be consumed at a table meal.

Do the prohibitions on unaccompanied children aged under 16 extend to beer gardens or outside terraces?

Yes. One of the major changes in the Act is for the first time the licensing laws will extend to the whole of the premises rather than just the 'bar area' as was previously the case. The sale or supply of alcohol anywhere on relevant premises to anyone aged under 18 years will be prohibited and will be a prosecutable offence; as will the consumption of alcohol by an individual under 18 anywhere on relevant premises.

Will children aged under 16 be allowed to buy and consume soft drinks in any premises?

The purchase and consumption of soft drinks are not licensable activities. However, the offence provisions relating to certain categories of premises may mean that unaccompanied children under 16 may not have access to those premises even to buy and consume soft drinks.

Will the legal drinking age still be 18?

Yes. This remains unchanged under the Act.

Will licencees or members of a club be liable for prosecution for selling or supplying alcohol to children if they have genuine reason to believe that a child is over 18?

The Act provides that where a person is charged with the offence of selling, or a club supplying, alcohol to a child under 18, it is a defence that he believed the individual was 18 or over and either he had taken all reasonable steps to establish the individual's age, or that nobody could reasonably have suspected that the individual was aged under 18.

The Act defines 'reasonable steps' as asking the individual for evidence of his age and that evidence would have convinced a reasonable person. However, if the steps taken are shown to be inadequate, for example the proof of age is obviously forged or belongs to someone else, this defence will not be applicable.

How will the changes to the law affect events such as under 18 discos held in nightclubs?

It will be unlawful under the Act to allow unaccompanied children aged under 16 years into relevant premises between midnight and 5.00am where alcohol is supplied for consumption on the premises. In effect, this will apply to many nightclubs as they operate longer hours and have alcohol for sale after midnight.

For licensees or clubs to stage under 18 discos, they will have to outline their intentions in their operating schedule, including descriptions of the measures they proposed to take to promote the protection of children from harm. In most instances, the presence of an organiser of the event should be satisfactory in ensuring that an adult accompanies the children attending the event. In addition, if the premises in question does not serve any alcohol on the night of the event and only sells soft drinks to the under 18s, the rule will not apply.

What does ‘accompanied by an adult’ mean?

Under the terms of the Act, a child is defined as being accompanied by an adult if they are in the company of an individual aged 18 or over. If it is discovered that unaccompanied children under 16 are on premises restricted to them, the licensee or club will be liable for prosecution.

What restrictions can be placed on a premises licence or club premises certificate relating to children’s access?

The restrictions placed on a licence or certificate will vary according to the individual circumstances of the premises or club and any representations made by responsible authorities and interested parties and in all cases will be subject to the test of being necessary for the promotion of any of the licensing objectives.

Every application for a premises licence or a club premises certificate will have to be accompanied by an operating schedule outlining the measures it is proposed to take to promote the protection of children from harm. Where representations are made by a responsible authority or interested party, the licensing authority may place conditions on the licence relating to times, ages of the children, and any other measures they deem to be necessary to protect children.

In the Secretary of State’s Guidance to licensing authorities, three tiers of suitability are outlined:

1. For premises that have known associations with activities that could be harmful to children, there will be a strong presumption against allowing children to have access at any time.
2. For premises that do not serve alcohol for consumption on the premises but are open later than 11.00pm, there will be a presumption that unaccompanied children under 12 should not be there after that time.
3. For all other premises, there will be the expectation that there will be unrestricted access for children.

For further information contact the Council’s Licensing Section

Personal visit to: North West Leicestershire District Council Council Offices Coalville Leics LE67 3FJ An appointment system is in operation. Please make an appointment prior to attending	Writing to us at: The Licensing Section North West Leicestershire District Council Council Offices Coalville Leics LE67 3FJ
Email: licensing@nwleicestershire.gov.uk	Phone: 01530 454775/844/838/528
Internet: www.nwleics.gov.uk	Fax: 01530 454506