

PUNCH

Raise Awareness, Reduce Risk

LEGISLATION GUIDE



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INTRODUCTION

The purpose of this Guidance is to act as an easy reference document to assist you in dealing with key areas to ensure that your business is a safe, legal, and compliant business. The Guidance outlines the principal areas of legislation relevant to operating your business in a safe, legal, and compliant manner and details the impact that such legislation can have upon your business.

The information in this Guidance is general in its terms. You should not act (or refrain from acting) on the basis of the information given without specific advice, as the principles and laws concerned may change, and their application will vary according to the particular circumstances.



1. REGULATORY LAW

1.1. Health and Safety

Risk assessments

Punch Publicans have a general duty to ensure that their employees and third parties (e.g., customers or contractors) are not exposed to risk when on the premises and that it is a safe place to work. A competent person at the premises should be appointed to manage health and safety. In order to comply with this general duty Publicans must ensure that there is a suitable and sufficient health and safety risk assessment in place for the premises.

This risk assessment will identify the risks present at the premises and set out ways these risks can be eliminated completely or mitigated, and these recommendations should be followed. This risk assessment should be regularly reviewed, especially if there is a change to the premises or way of working which may give rise to new risks or increase already known risks. If an employee becomes an expectant mother, then the health and safety risk assessment should give particular regard to this, and Publicans must provide for suitable adjustments including working conditions and providing rest facilities.

If there are five or more employees at the premises, Publicans must ensure there is a written health and safety policy, and employees should receive adequate training on health and safety and the policy.

As part of the premises and the pub trade, various electrical items may be used. Publicans must ensure that any electrical equipment which has the potential to cause injury is maintained so that it is in a safe condition. As part of this, the mains wiring of the building should also be tested every 3-5 years dependant on the electrical certificate recommendations. A register should be kept that shows that the testing has been carried out.

Where there is manual handling required by employees, such as loading or carrying kegs or cases of product, any hazardous manual handling should be avoided as far as reasonably practical and mechanical assistance should be provided where possible such as a sack trolley.

As part of the running of the business, substances may be used which are hazardous for health. This includes substances such as cleaning fluids or the CO₂ used in the cellar. Where an alternative to a hazardous substance is available this should be used if possible and proper PPE should be provided to those employees using these hazardous substances. Publicans should also ensure there are products available for decontamination in the event an incident occurs involving these hazardous substances. If hazardous substances are to be used, then the health and safety risk assessment should cover their use and identify any actions which can be taken to reduce risk. Safety data sheets should also be provided by the suppliers of these hazardous substances, and these should be retained and consulted as needed.

Publican's employees also have a duty to ensure that they do not endanger the health and safety of their fellow employees around them, and this should be communicated during the health and safety training provided.

As a Publican you are the employer of those who work at the premises and therefore you will need to possess employer's liability insurance – this is compulsory, and it is a criminal offence to not have a policy in place.

Premises Structure, First Aid and Signs

Publicans are responsible for ensuring that adequate and appropriate equipment, facilities, and personnel (such as trained first aiders) must be available to ensure any employees receive immediate attention if they are injured or taken ill. This must also include a maintained first aid box which is replenished when items are used. The premises should have signs which indicate any health risks (such as any fall areas or low ceilings) and signs which are required under both the health and safety and fire safety risk assessments (such as fire escape signs). These signs should be in place and maintained in good working order. As part of the health and safety training provided to employees, the meaning, and measures to be taken in respect of these signs should be explained. Publicans must display a poster in a prominent place which outlines the relevant health and safety laws and also includes the name and address of the enforcing authority and the address of the office of HSE's Employment Medical Advisory Service.

If the premises contains asbestos an asbestos register will need to be maintained which records checks undertaken to ensure the asbestos containing material has not deteriorated.

Accidents

Publicans must report to the Health and Safety Executive all RIDDOR events within 10 days of the event and also record these in an accident book which is to be kept at the premises. A RIDDOR event includes fatalities, specified injuries, or injuries where a worker is incapacitated for more than seven consecutive days. Specifically:

- fractures, other than to fingers, thumbs, and toes
- amputations
- any injury likely to lead to permanent loss of sight or reduction in sight.
- any crush injury to the head or torso causing damage to the brain or internal organs.
- serious burns (including scalding) which:
 - o covers more than 10% of the body.
 - o causes significant damage to the eyes, respiratory system, or other vital organs.
- any scalping requiring hospital treatment.
- any loss of consciousness caused by head injury or asphyxia.
- any other injury arising from working in an enclosed space which:
 - o leads to hypothermia or heat-induced illness.
 - o requires resuscitation or admittance to hospital for more than 24 hours.

Further to the above, there are 27 categories of dangerous occurrences of 'near miss events' such as electrical incidents causing fires which must also be reported to the Health and Safety Executive. Further details of these near miss events can be found at [Dangerous occurrences - RIDDOR - HSE](#).

Injuries to members of the public on the premises must also be reported to the Health and Safety Executive unless the injured person is only taken to hospital as a precaution. Further guidance on RIDDOR events can be found at [Reportable incidents - RIDDOR - HSE](#).

Where there is an accident, there should be an appointed person and an appropriate number of deputies (and these people noted in the health and safety policy) who will coordinate the response.

Health and Safety Training

All employees should be trained on:

- Health and safety requirements in the workplace

An appropriate number of employees should also be trained on the administration of first aid as certified by a HSE approved first aid training organisation.

1.2. Fire Safety

As the Publican, you will likely be responsible for compliance with fire safety legislation. This means that similarly to health and safety you are required to identify fire risks and implement mitigations or eliminate risk entirely.

To comply with this duty, Publicans should ensure that the premises has an up-to-date suitable and sufficient fire risk assessment carried out by a competent person and the risks identified should be communicated to employees. The fire risk assessment must be in writing if there are five or more employees, and it should be regularly reviewed especially if there is a change to the premises or way of working which may give rise to new risks or increase already known risks. Risks identified in the fire risk assessment should be mitigated as far as reasonably practicable and fire measures suggested (such as provision of firefighting equipment ,e.g., fire blankets in the kitchen area) should be implemented. A fire emergency escape route and appropriate exits should also be identified.

Publicans must also ensure that there is a fire safety and evacuation plan for the premises which shows:

- a clear passageway to all escape routes.
- clearly marked escape routes that are as short and direct as possible.
- enough exits and routes for all people to escape.
- emergency doors that open easily
- emergency lighting where needed.
- training for all employees to know and use the escape routes.
- a safe meeting point for employees.

The fire safety and evacuation plan should have special arrangements for those with mobility needs, such as wheelchairs, to ensure that they can safely escape the premises.

Publicans must also ensure there is appropriate fire detection and firefighting measures taken as required and identified by the fire risk assessment in relation to equipment on the premises, such as fire detectors and fire extinguishers which should be maintained in good working order and tested.

All fire doors at the premises should be maintained in good working order and kept free from obstruction and similarly the fire escape route must be kept clear, so escape is not impeded.

Fire exit signs should be installed which conform by including text and a pictogram.

Publicans should also ensure the following fire alarm tests are carried out and written records of completion are maintained:

- Test the fire alarm on a weekly basis.
- Fire evacuation training of employees on a regular basis (twice a year).
- Practice fire drills (every 3 months until all employees are familiar with routines and thereafter every 6 months, records to be kept).
- Regular checks of firefighting equipment (monthly).
- Regular tests of emergency lighting (monthly).

Fire Safety Training

All employees should be trained on:

- Fire safety plan and evacuation plan
- Operation of firefighting equipment

1.3. Food Safety and Hygiene

Food and drink sold at the premises must not be damaging to the health of the consumers, and must be sold and served of the nature, substance, or quality which consumers would expect.

Food sold at the premises must be correctly labelled with the 14 major allergens and employees who serve, and handle food should check with customers as to the presence of any allergies when food orders are placed. If any pre-packed food for direct sale is sold at the premises, then this must also contain allergen labelling as above in writing.

Publicans must ensure that the premises is registered as a food outlet with the local authority before food is sold- it is your responsibility to obtain all, and any licenses required.

To comply with hygiene legislation, the premises should have suitable controls in place to ensure cleanliness, proper ventilation and to protect against pests such as mice or rats.

Kitchen Food Safety

The kitchen is a key part of food service delivery at the premises and requires further compliance to ensure that food served is safe for consumption.

Hazard Analysis Critical Control Point (HAACP) records must be kept, and a documented food safety management system based on HACCP principles must be kept and maintained which prevents the contamination of food with harmful bacteria, chemicals or foreign bodies.

Employees who work in the premises kitchen must possess a Level 2 Award In Food Safety In Catering or equivalent level of training. Employees working in the kitchen area should maintain a high standard of personal hygiene and wear protective clothing as appropriate. Any employee known or suspected to be carrying an illness or disease likely to be transmitted through food or bodily fluid should not be permitted to work in the kitchen area. In addition to this, any employees responsible for handling food should receive training in food hygiene best practice.

The storage of food items in the kitchen area is essential to ensure it does not become contaminated.

The food hygiene regulations require the following temperature requirements:

- Hot food items should be kept at a minimum temperature of 63 degrees centigrade.
- Chilled food items should be kept below 8 degrees centigrade.

1.4. Consumer Protection Requirements

There are various additional requirements which relate to how you market and sell products on the premises. This means that all products sold at the premises must be accurately described and not mislead customers.

Drinks must only be sold in the following measures and a notice showing this must be displayed:

- Still wine - 125ml, 175ml, multiples of 125ml and 175ml.
- Port, sherry, or other fortified wine - 50ml, 70ml, multiples of 50ml or 70ml.

Gin, rum, vodka, and whisky - Either 25ml and multiples of 25ml, or 35ml and multiples of 35ml (not both on the same premises).

- Draught beer and cider - Third, half, two-thirds of a pint and multiples of half a pint.

Alcohol must only be sold to those aged 18 and older in accordance with the license conditions.

All alcoholic products are to be purchased directly through Punch supply channels. The purchase of non-Punch authorised products can result in enforcement action by regulatory bodies if these products are counterfeit and potential trademark issues should those goods be counterfeit or smuggled. All spirits of 30% abv and above in bottles of 35cl or more must bear a duty stamp to show that tax has been paid. In addition to this, no branded spirit bottle should be refilled with another brand and no alternative brand of spirit should be sold in place of the brand requested by the customer unless this is communicated, and they accept this alternative.

Price lists for products sold at the premises must be clearly displayed where the prices can be seen and any additional charges such as VAT should be included. It is suitable to display these prices near the bar or the entrance to the premises.

If tobacco is sold at the premises, then a tobacco sales notice must be displayed.

1.5. Equality Act 2010

Publicans must ensure that they do not directly or indirectly discriminate, harass or victimise current and former staff, job applicants, customers, suppliers and visitors because they have or are perceived to have a 'protected characteristic' or are associated with someone who has a protected characteristic. The protected characteristics are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

The requirement extends to all aspects of employment and customer service. Breach of the duties may result in claims for discrimination and court proceedings.

A decision as to whether or not to serve a customer must not be because of, or in any way related to, a customer's protected characteristic but Publicans may still require standards of behaviour from their customers (such as to treat their staff with respect).

Publicans must ensure they make "reasonable adjustments" for disabled customers so that they can access the premises and enjoy the services offered. For example, providing a ramp for wheelchair access to the premises, ensuring there is an accessible toilet.



1.6. General Regulatory Requirements

Publicans must ensure that they do not allow the premises to generate any noise, light or smell which causes a nuisance to neighbouring occupiers or residents. If Publicans allow this, then it may lead to regulatory intervention and court proceedings.

Any notices served by a regulatory body (such as the local council) should be immediately provided to Punch and Publicans should seek advice from Punch.

Publicans must ensure that waste generated by the activities at the premises is safely stored in waste receptacles and not left on the public highway except as agreed for collection by the authorised waste collection company. Publicans must not leave any refuse sacks on the public highway outside of the agreed waste collection time periods and if any refuse sacks are not collected within the agreed waste collection time period, then they should be returned to the premises and must not be left on the public highway. Any waste in refuse sacks should be placed into the correctly coloured/identified waste sacks so that they are collected by the waste collection company.

Under a proposed new law, specified premises (of which pubs appear likely to be included) with a capacity of 100 or more will be required to register with a regulator (yet to be nominated), carry out a terrorism evaluation and provide employees of the premises with terrorism protection training. If a premises has capacity of 800 or more there are additional requirements.

Under another proposed new law, Publicans must allocate to their workers 100% of any tips or service charges (subject to tax or National Insurance deductions) received. Publicans must have a policy setting out how tips are allocated and keep records.



2. LICENSING LAW

The Licensing Act 2003 came into force in November 2005 (England and Wales) and the Licensing (Scotland) Act 2005 came into force September 2009 (Scotland). The introduction of this legislation saw the replacement of previous licensing regimes ran through the Magistrates Courts and transferred licensing responsibility to Local Authority / Licensing Boards. The legislation governs the following areas:

- Licensing the sale and supply of alcohol
- Licensing regulated entertainment
- Licensing late night refreshment

The Acts do this whilst upholding the key principles. These principles are the foundations of the licensing legislation and referred to as the Licensing Objectives.

2.1. Licensing Objectives

The Licensing Objectives are the governing principles of the Licensing Law and the legislation centres on the promotion of these objectives. The four objectives in England and Wales under the Licensing Act 2003 are as follows:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The Licensing (Scotland) Act 2005 introduces an additional licensing objective applicable to licensed premises in Scotland:

- Protecting and improving public health

The Prevention of Crime and Disorder

Under the Government's Alcohol Harm Reduction Strategy and various legislation (e.g., Violent Crime Reduction Act 2006, Antisocial Behaviour Act 2003 etc) licence holders have a duty to do all that is reasonably possible in preventing crime and disorder.

The Immigration Act 2016 has given powers to immigration officers and police to review premises licences where they find workers employed without the proper right to work permissions. Likewise, immigration offences have been added to the list of prescribed offences police officers can rely on to object to a personal licence application.

This duty aims to regulate the behaviour of customers on, and in the vicinity of, the premises. There are numerous tools in helping to achieve this objective and the requirements for the premises will depend on the conditions detailed on the premises licence:

CCTV – These should be installed in accordance with the Code of Practice on CCTV (www.ico.org.uk). It is important to ensure that CCTV equipment is maintained and in good working order and that the images are available for inspection by Police or Local Authority Officer should they be requested.

CCTV also has additional benefits aside from deterring crime and providing evidence that it can be a reassuring factor for customers. However, the use of CCTV and similar surveillance equipment falls within the legislative influence of the Data Protection Act 2018 the principles of which state that data must be:

- Used fairly, lawfully, and transparently.
- Used for specified, explicit purposes.
- Adequate, relevant, and not excessive.
- Accurate and kept up to date.
- Handled in a way that ensures appropriate security including protection against unlawful or unauthorised processing, access, loss, destruction, or damage.

There is a stronger legal protection for more sensitive information, such as:

- Race
- Ethnic background
- Political opinions
- Religious beliefs
- Trade union memberships
- Genetics
- Biometrics
- Health
- Sex life or orientation

There are separate safeguards for personal data relating to criminal convictions and offences.

Before installing CCTV, it is important to establish who is to be the Data Controller, in many cases this is likely to be the Publican. The Data Controller is legally responsible for the data. Registration can be completed online, and full details are available from [Registration self-assessment / ICO](#).

How it Affects You...

- If CCTV is required at the premises, you will need to establish the exact purpose of installing and using CCTV in order to:

1. Site the equipment to monitor only certain areas.
2. Place signage warning the public that they are entering one of those areas.
3. Select the appropriate quality of the images.
4. Establish a time period for storage of the images e.g.,30 days.
5. Establish to which third parties' access to images may be disclosed.
6. Establish a system to enable subjects to gain access to images.
7. Establish a written policy to cover all of the above, which is available to all employees.

- You will also need to nominate and register a data controller in respect of the premises and ensure adequate signage is in place to inform customers that CCTV is in operation.

Pubwatch – these are schemes set up with the aim of achieving a safer social drinking environment in all licenced premises throughout the UK.

Door Staff – Only individuals who are registered with the Security Industry Authority (SIA) can be employed as door staff. Door staff can be a valuable asset during busy periods to help restrict access to the premises (drunks, known offenders or minors), search those entering the premises for weapons, drugs etc and monitor the premises to prevent overcrowding or incidents occurring.

How it Affects You...

- It is a mandatory condition that anyone employed as door staff be a valid member of the SIA (see 2.2). It is your responsibility to ensure this.

Drugs Policy/Awareness – Drugs misuse can cause significant issues for a business. Not only is it illegal but it acts as a deterrent to other customers from visiting the premises and is often a gateway for further criminal activity.

How it Affects You...

- Prevention is better than cure in relation to drug misuse occurring on your premises. Maintaining high standards and high-profile management acts as a deterrent to the drugs trade.

- High Standards: Maintain high levels of cleanliness in your pub, collect glasses regularly, ensure toilets are regularly cleaned and show that you take pride in your pub.

- High Profile Management: Ensure employees stand out from customers, making their presence felt and staying alert. Ensure all areas of your pub are visible or frequented by an employee regularly. Ensure all employees are trained in drug awareness and what to look for (see below).

- A standard drugs policy and awareness document is available upon request from your OM / OD.

Public Safety - The public safety objective concerns the physical safety of anyone on, and in the immediate vicinity, of the premises. Where there is legislation elsewhere to ensure certifications are in place to ensure the safety of the premises it is unnecessary for this requirement to be detailed on the premises licence.

Areas will include fire safety, health and safety, disability discrimination, food safety and food hygiene. These areas are detailed further in this guidance. However, some Premises Licences may have conditions on the Licence relating to public safety that will need to be complied with. Matters such as safeguarding vulnerable customers, whether drunk, taking drugs or concerned about having been 'spiked' are becoming increasingly important and should be considered as part of an overall strategy.

Prevention of public nuisance - Examples of nuisance within the remit of this objective include any of the statutory nuisances under Section 79 of the Environmental Protection Act 1990. These include nuisances relating to issues concerning noise, litter, odour, and lights.

Noise Nuisance - This is usually associated with events involving regulated entertainment. However, noise nuisance can emanate from other sources such as equipment, waiting taxis and customers leaving the premises. There are simple controls that can be put into place to help minimise noise nuisance. These include installing sound limiters, closing windows and doors, or having signage asking customers to respect neighbours and leave quietly. Excessive noise from customers outside in the garden can, where the noise is above what should be expected from a pub garden, constitute a nuisance.

Persistent noise nuisance can lead to a Noise Abatement Notice being served on an individual connected with the premises to ensure that the disturbance does not occur again. Residents affected by nuisance can also seek to review the licence.

Litter - This should be kept away from public access and consideration should be given to times when bins are emptied. Consideration is also required in respect of the litter caused by customers leaving the premises.

How it Affects You...

- As you are in day-to-day control of the premises, it is your responsibility to ensure that public nuisances are prevented.

The Protection of Children from harm - This objective aims to protect children from moral, physiological, and physical harm. This includes drinking alcohol, gambling, strong language, and adult entertainment. This objective may require restricted access for the premises in respect of where and when children are permitted. Consideration will also be required with regard to any entertainment being provided to ensure there is adequate protection for children should such entertainment be of an adult nature.

The other main focus for this objective centres on preventing the sale of alcohol to anyone under the age of 18. As of October 2011 in Scotland there is a requirement for a premises to operate a policy in that anyone who appears under the age of 25 is asked for a recognised form of identification for proof of age. In England and Wales, a mandatory condition requires that an age verification policy is put in place and the DPS must ensure that alcohol sales are made in compliance with the policy. This is usually a Challenge 21 or 25 policy.

It is also advisable to have a refusals book in use at the premises to document any refusal of sale.

**How it
Affects
You...**

- Ensure all employees are aware of any age-related sale scheme in place (challenge 21/25 etc) and are fully briefed and trained in underage sales.
- Ensure signage is in place for any age-related sales schemes being operated.
- A standard refusals policy and refusals log is available from your OM.

Protecting and Improving Public Health (Scotland Only) – The objective aims to ensure responsible retailing from licensed premises. The objective is a broad objective which can stretch from regulation of the purity and safety of the alcohol products being sold to reducing alcohol related disorder as such issues can all relate to public health. One of the main focus points for this objective is to tackle binge drinking.

**How it
Affects
You...**

- Ensure the premises are well maintained, good lighting, kept tidy etc.
- Ensure employees are trained to monitor and prevent problematic behaviour such as intoxication, rowdy customers etc.
- Prevent overcrowding in the premises.
- Consider polycarbonate/plastic glassware.

2.2. The Premises Licence

A premises licence authorises the premises to be used for one or more licensable activities. These are:

- Sale of alcohol by retail
- Supply of alcohol in a club premises
- The provision of regulated entertainment
- Late night refreshment

A premises licence is granted by the Local Authority / Licensing Board for the area which the premises is situated and will come in two parts.

Part A – This is the comprehensive premises licence and will detail the hours the premises can trade, the hours licensable activities can be conducted, the types of licensable activities permitted and the terms and conditions under which the premises can operate. Under Section 57 (2) of the Licensing Act 2003 (England and Wales) and Section 52 (1) of the Licensing (Scotland) Act 2005 there is a duty to ensure that the premises licence, or a certified copy, is kept at the premises and is available for inspection should it be requested by a Constable or an authorised person.

How it Affects You...

- Ensure you have a full certified copy of the latest premises licence kept at the premises at all times.
- Ensure you and all employees are familiar with the conditions of the premises licence and that the business is operated in compliance of these at all times.

Part B – This is the premises licence summary which summarises the hours, activities and conditions contained within the comprehensive premises licence. Under Section 57 (3) of the Licensing Act 2003 (England and Wales) and Section 52 (2) of the Licensing (Scotland) Act 2005 there is a duty to ensure the premises licence summary is displayed in a prominent position at the premises.

How it Affects You...

- Ensure a copy of the premises licence summary is displayed in a prominent position at all times.
- Ensure you have a copy of the A5 DPS poster on display at all times. See signage pack or ask your OM.

The premises licence details the following features in relation to carrying out licensable activities at the premises:

The name, address and contact details of the premises licence holder: In the majority of cases the premises licence holder will be Punch Taverns Ltd.

The name, address and contact details of the Designated Premises Supervisor (DPS) / Designated Premises Manager (DPM – Scotland): Please see the “Role of the Designated Premises Supervisor / Manager” (Section 2.4).

**How it
Affects You...**

- As it is an offence to sell alcohol without having a valid DPS/DPM it is vital to ensure that the DPS / DPM named on the premises licence is the correct individual.
- If the DPS / DPM resigns or loses their personal licence a DPS / DPM change is required immediately in order for the premises to continue selling alcohol. Until a new DPS / DPM has been nominated no sale of alcohol is authorised to take place (see 2.5 Changing the DPS / DPM).
- If there has been a recent DPS / DPM change, there will be a slight delay whilst a revised premises licence is issued. Once this has been done our nominated licensing solicitors will forward a certified copy of the updated licence to the pub address.

The Licensable Activities Permitted – This details the licensable activities permitted to be carried out at the premises.

Sale and supply of alcohol: both on and off-sales.

Regulated entertainment can include live music, recorded music, dance, films, indoor sports, boxing/wrestling, plays or via providing the facilities for a person to specifically take part in making music, dancing, or a similar activity (e.g., having a karaoke machine). Exact details as to which of these are allowed will be featured within the provisions for times that licensable activities are permitted.

Late night refreshment covers the supply of hot food or hot drinks to the public between the hours of 11:00 pm and 5:00 am. This applies for consumption both on and off the premises.

Operating hours: This section details the hours which the premises can operate. Hours will be specified for each licensable activity as well as the opening hours that the premises must adhere to.

This section may also include provisions for seasonal hours as well as non-standard timings (extended hours for key dates such as Christmas Eve, New Year's Eve, and Bank Holidays etc).

**How it
Affects You...**

- It is vital that you operate the premises in compliance with the hours detailed within the premises licence.
- Failure to adhere to the hours detailed on the premises licence can lead to a review of the premises licence and/or prosecution.
- If you would like to discuss the possibility of amending the trading hours for the premises through a premises licence variation (see 2.6) speak with your OM.

The Licensable Activities Permitted – This section details conditions which are applicable to all premises licences and must be adhered to by all licensed premises.

The mandatory conditions in England and Wales are as follows:

- No supply of alcohol may be made under a premises licence:
 - At a time when there is no designated premises supervisor in respect of the premises licence, or
 - At a time when the designated premises supervisor does not hold a personal licence or has had their licence suspended
- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- Where a premises licence contains a condition that Door Supervisors be used at the premises, it is mandatory that such door supervisors hold current licences issued by the Security Industry Authority (SIA).

**How it
Affects You...**

- Although no supply of alcohol may be made at a time when there is no DPS in respect of the premises licence this does not necessarily mean that the DPS must be present at the premises at all times.
- As long as the DPS is contactable and able to be present at the premises if required this should suffice.
- If the DPS intends to be away for a short period of time (i.e., holiday) they are able to delegate their responsibility to another personal licence holder. It is advisable to ensure there is written authority from the DPS.
- If the DPS intends to be away for a longer period of time consideration should be given to changing the DPS.

Under the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 additional mandatory licensing conditions will be applicable to all licensed premises in England and Wales. The first of these came into force in April 2010 and the remainder in October 2010.

Mandatory Conditions introduced in April 2010 (England and Wales) –

- The responsible person shall take all reasonable steps to ensure that employees on relevant premises do not carry out, arrange, or participate in any irresponsible promotions in relation to the premises.
- The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available

**How it
Affects
You...**

- As of April 2010, you will need to ensure any promotions run at the premises are not classed as irresponsible. Guidance on this is available via your OM or you can speak to your local licensing officer.
- You will also need to adhere to the prohibition of dispensing alcohol directly into the mouth of another individual as well as ensuring that free tap water is available where reasonable to customers.

The Licensable Activities Permitted –

- Licenced premises must have a policy in place requiring individuals who appear to the responsible person to be under 18 years of age (or such older as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
- The responsible person shall ensure that where the following alcoholic drinks are sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - Beer or cider: ½ pint;
 - Gin, rum, vodka or whiskey: 25ml or 35ml; and
 - Still wine in a glass: 125ml; and
- o Customers are made aware of the availability of these measures.

How it Affects You...

- In Scotland, as of October 2010 you will need to ensure that a policy is in place to ensure that anyone who appears under the age of 25 is asked to produce a recognised form of identification for age verification. You will need to ensure that all employees are aware of the policy and adhere to rules.
- In England & Wales an age verification policy must be created and implemented at the premises. This is likely to be a Challenge 21 or Challenge 25 policy.
- A standard alcohol refusals policy is available and can be found in the Responsible Retailing guidance booklet enclosed.
- You will also need to ensure that the above-mentioned drinks are available in measures detailed above and that signage to this effect is displayed in a prominent position (e.g., weights and measures signage or an updated price list).

Mandatory Licensing Conditions (Scotland) –

This section details conditions which are applicable to all premises licences and must be adhered to by all licensed premises.

The mandatory conditions applicable in Scotland are as follows:

- Alcohol to be sold on the premises only in accordance with the premises licence.
- No alcohol is to be sold on the premises at any time when:
 - o There is no Premises Manager in respect of the premises.
 - o The Premises Manager does not hold a personal licence.
 - o The personal licence held by a Premises Manager is suspended.
 - o The licensing qualification held by a Premises Manager is not the appropriate licensing qualification in relation to the premises.
 - o Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by the Premises Manager or any other person who holds a personal licence.
- No person is to work on the premises which involves them making sales of alcohol or serving alcohol unless they have received the necessary training.

- Irresponsible drinks promotions must not be carried on in the premises.
- Tap water fit for drinking must be provided free of charge on request.
- An A4 sign must be displayed on the premises stating either:
 - o Persons under the age of 18 are not permitted on the premises; or
 - o Under 18s are permitted on the premises and detailing the parts of the premises they are permitted to be on.
- If children under the age of 5 are to be permitted to be on the premises, then baby changing facilities accessible by both men and women must be provided.
- If the premises intends to open after 1am, then the following conditions will also be imposed on the premises licence:
 - o A person trained in administering first aid must be on the premises from 1am until the premises closes or 5am, whichever is the earlier.
- If the premises opens beyond 1 am and has a capacity of at least 250 people and regularly provides, between 1am and 5am, live or recorded music with a decibel level above 85dB; Facilities for dancing; Adult entertainment; or when fully occupied, are likely to have more customers standing than seated, then the following additional conditions apply:
 - o A personal licence holder must be present on the premises from 1am until the premises closes or 5am, whichever is the earlier.
 - o There must be a written policy in respect of the evacuation of the premises and the prevention of the misuse of drugs on the premises.
 - o A CCTV system must be installed on the premises to the satisfaction of the Chief of Police (and kept in good working order).
 - o There must be persons responsible for checking on the safety and wellbeing of persons using toilets on the premises.
 - o Door staff (who are licensed under the Private Security Industry Act 2001) must be positioned at every entrance to the premises from 1am until the premises closes or at 5am, whichever is the earlier.

**How it
Affects You...**

- Ensure the DPM named on the premises licence is the current DPM.
- Ensure you are fully aware of the conditions attached to the premises licence and operate the premises in compliance with these.
- Ensure all employees have received their mandatory training and this has been documented; a standard training booklet is available upon request from your OM.
- Ensure the correct signage in relation to children is displayed at the premises.
- Ensure awareness of the late-night provision where applicable.

Remaining Licensing Conditions –

This section details conditions (other than mandatory conditions) that the premises must operate compliance with.

These conditions are specific to the premises the licence relates to and will vary from premises to premises. Conditions can include anything relating to the operation of the premises from CCTV requirements to conducting noise surveys or toilet rotas.

Any condition detailed will relate to one of the licensing objectives.

How it Affects You...	<ul style="list-style-type: none">• Ensure that you and all employees are fully aware of the conditions detailed on the premises licence and that the premises is operated in compliance with such conditions at all the times.
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2.3. Personal Licence

A personal licence allows a person to sell alcohol or authorise the sale of alcohol. Any sale or authorisation of the sale of alcohol made by a personal licence holder must be made in compliance with the terms and conditions of the premises licence for the premises where the sale occurs.

A personal licence issued by a Local Authority in England and Wales or Licensing Board in Scotland permits the holder to sell alcohol, or authorise the sale of alcohol, in any premises in England and Wales or Scotland (respectively) that holds a premises licence.

How it Affects You...	<ul style="list-style-type: none">• A personal licence issued by a Local Authority in England and Wales is not valid for use in licensed premises in Scotland and vice versa.
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In Scotland, a personal licence is valid for a period of 10 years and can be renewed for further periods of 10 years. You must make an application to renew your licence in the 9-month period (the renewal period) starting a year before your licence expires and ending 3 months before the expiry date. It is recommended that you apply as early as possible to ensure your application can be processed in time before your licence expires.

In England & Wales, a personal licence does not require renewal. Unless it is surrendered or revoked, it will last forever. You must notify the council of any changes in details, such as change of name or address.

How it Affects You...	<ul style="list-style-type: none">• In Scotland, it is your responsibility to ensure that your personal licence is renewed when necessary. The application must be made to the Local Authority that originally issued the licence irrespective of your current area of residence.• It is your responsibility to ensure that you notify the issuing local authority of any change in your personal details (i.e., name or address).
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A personal licence must be applied for via the local authority/licensing board which holds responsibility for the area in which the applicant resides. To be eligible for a personal licence the applicant must:

- Be aged 18 years or over;
- Possess an accredited licensing qualification.
- Not have forfeited a personal licence in the previous 5 years.
- Not have any unspent convictions for any relevant offences (England and Wales - see list) or for any “foreign offences”.
- Have the legal right to work in the UK.

Relevant offences include offences involving theft, violence, drugs, firearms, and drink driving.

Any personal licence holder who is charged with a relevant offence is required to notify the court dealing with the offence that they hold a personal licence at their first Court appearance. Alternatively, if the personal licence holder fails to notify the court that they hold a personal licence, they must inform the licensing authority of any conviction as soon as reasonably practicable. Failure to do this is a criminal offence and can lead to the personal licence being forfeited, suspended, or revoked.

How it Affects You...

- Should you be charged with a relevant offence you must disclose the fact that you are a personal licence holder to the Court/ Local Authority.

As a personal licence holder there are also duties to inform the licensing authority of any change of details such as name or address. Failure to do so is, again, an offence and is subject to a Level 2 penalty fine (see ‘Licensing Offences and Penalties’).

2.4. Pavement Licences

Since 2020 the Government has introduced a national pavement licensing scheme to cover putting tables and chairs, barriers, a-boards, and other ‘furniture’ on the public highway. This legislation (the Business and Planning Act 2020) was brought in as a temporary Covid measure, but it has been extended to September 2023 and is likely to be introduced permanently, albeit with some changes. In essence:

- You are required to obtain a licence from your local council to put any furniture, barriers, etc. on the public highway.
- You will be required to pay a fee (currently up to £100 but expected to rise to up to £350 in the future).
- You will have to provide plans of the layout of any street furniture and the “passing distance” from the edge of your outside area to any other obstacle (lampposts/bus stops or the kerb line for example), public liability insurance documentation and other details as required by the council as part of the application process.

- Any application granted will be subject to conditions, including, potentially, restrictions on times, size, numbers of tables and chairs)
- Applications will need to be renewed periodically, usually annually, but it can be every 6 months or up to every 2 years.
- Pavement licences can be reviewed if complaints about noise or other nuisance are received, and the conditions amended, or the licence revoked.

2.5. Selling Tobacco

The law prohibits the sale of tobacco products via vending machines, single cigarettes, small packets of cigarettes, and tobacco for oral use. The sale of tobacco or vaping products is prohibited to persons under the age of 18. In addition, tobacco products must be stored out of public sight. It is illegal to show, as well as to sell, tobacco products to a customer under the age of 18 years who asks to see or to buy tobacco. You are also required to register with HMRC to be able to legally sell tobacco to the public.

2.6. The Role of the Designated Premises Supervisor / Manager (DPS / DPM)

Wherever a premises licence authorises the sale or supply of alcohol as a licensable activity the premises licence holder must nominate a specified individual to hold the position of Designated Premises Supervisor (DPS - England and Wales) or Designated Premises Manager (DPM - Scotland) in respect of that premises. The DPS/DPM is the person who is in day-to-day control of the premises and provides a single point of accountability in respect of any problems occurring at that premises.

The DPS/DPM must hold a valid personal licence and although there can be more than one personal licence holder working at anyone premises there can only be one DPS/DPM at any one time for such premises.

It is a mandatory licensing condition that no supply of alcohol may be made under a premises licence at a time when there is no designated premises supervisor in respect of the premises licence.

How it Affects You...

- If for any reason, there is not a valid DPS / DPM in respect of the premises licence for the premises you must cease with the sale of alcohol until a new DPS / DPM has been appointed .
- For this reason, it is advisable that there are least two personal licence holders working at the premises to ensure that another individual is available to be nominated as the DPS / DPM if the situation arises.

2.7. Changing the DPS / DPM

If the situation arises where a change of the DPS/DPM is required or a new DPS/DPM needs to be nominated the new DPS/DPM must hold a personal licence. Due to the additional responsibility associated with holding the role of DPS/DPM for a premises, the nominated individual must provide their consent (in writing) to be appointed as the DPS/DPM and a copy of this must be submitted to the licensing authority together with the application.

The Police can object to an application to change the DPS/DPM within 14 days if they are satisfied that, in granting the application, the crime prevention licensing objective would be undermined.

If the existing DPS/DPM has already left the premises, or resigned their position, the application to change the DPS/DPM can be served with a request to be given immediate effect. This allowance is vital due to the fact that it is illegal for alcohol to be supplied from licensed premises that do not have a current DPS/DPM.

How it Affects You...

- If you require a DPS /DPM change for the premises, you should speak with your OM at the earliest opportunity. As Punch is the premises licence holder all applications affecting the premises licence need to be made with the consent of Punch and via our nominated licensing solicitors.
- The proposed DPS / DPM will need to complete a DPS / DPM nomination form which will then be required to be sent to the nominated licensing solicitors for the full application to be submitted.
- Once granted an updated premises licence will be issued by the local authority and a certified copy will be posted to the premises.

2.8. Premises Licence Variations

Premises Licence variations are applications to permanently alter either the hours a premises can trade, the conditions which the premises must operate in compliance with and/or the addition or removal of licensable activities permitted under the premises licence.

England and Wales:

Premises licence variation applications such as these are required to be advertised for a period of 28 days, during this period a notice is required to be displayed on or outside the premises detailing the proposed changes to the premises licence as well as an advertisement being featured in the local newspaper.

If, during the consultation period, representations are received and are not resolved then the application will be determined at a hearing before the Licensing Sub Committee.

How it Affects You...

- If you require a variation of the premises licence, you should speak with your OM at the earliest opportunity as Punch is the premises licence holder all applications affecting the premises licence need to be made with the consent of Punch and via our nominated licensing solicitors.
- A premises licence variation instruction sheet will need completing by yourself and your OM. This will detail the proposed changes and any agreement on the allocation of costs involved in making the application.
- If representations are received, you will need to liaise with your OM and if necessary, provide additional information.
- Once granted an updated premises licence will be issued by the local authority and a certified copy will be posted to the premises.

Scotland:

Substantial premises licence variations have a consultation period of up to six months. There is a requirement to display notification of the intended changes for a period of at least 21 days.

All non-minor variation applications will be brought before the licensing board to be determined. If there are no issues with the proposed applications, the licensing board may not request attendance at the application hearing and the application will be granted. However, if there are issues or representations to the application the licensing board will request attendance at a hearing to determine the application.

2.9. Minor Variations

England and Wales:

The Legislative Reform (Minor Variations to Premises Licences and Club Certificates) Order 2009 came into force 29th July 2009 (England and Wales) and has introduced provisions entitling certain applications to vary the premises licence to be classified as minor variations. These minor variations enjoy shorter consultation periods than normal premises licence variations as well as the reduced costs for making an application. However, the minor variation process is only applicable for certain types of variation application. These generally include the following:

- Minor changes to the structural layout of the premises.
- Minor amends to the licensing hours in the case of alcohol, to reduce hours only.
- The removal or amendment of outdated or irrelevant premises licence conditions.
- The addition of volunteered conditions to the premises licence.

However, should a local authority feel that the granting of a minor variation application would be detrimental to the four licensing objectives, the application will be refused. Unlike standard premises licence variations, minor variations applications do not require advertising in the local newspaper, only that a 'White Notice' is displayed at the site containing the details of the application for the duration of the 10 working days consultation period.

A minor variation means:

- Any change of the layout, so long as it is consistent with the operating plan.
- Any change restricting the terms in which children are allowed entry to the premises.
- Any change of information contained in the premises licence relating to the premises manager.

A licensing board must grant minor variations although there is no consultation period as these are dealt with as soon as reasonably practicable.

How it Affects You...	<ul style="list-style-type: none">• If you require a minor variation of the premises licence it follows the same process as a full premises licence variation as above.
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2.10. Temporary Event Notices / Occasional Licenses

England and Wales:

Temporary Event Notices (TENs) allow for licensable activities to take place where they would not normally be authorised to do so for a one-off special event to be held. This could be the case if an event including licensable activities was intended to take place at an unlicensed venue or if a licensed premises wished to carry out licensable activities outside of the hours permitted by the premises licence.

In such circumstances copies of the TEN must be submitted to the local licensing authority (two copies) and Police (one copy) at least 10 working days before the event is scheduled to begin. The application fee of £21 must also be submitted alongside the applications to the local authority.

The Police and environmental protection team only are entitled to object to the application on the grounds that it would undermine the licensing objective to prevent crime and disorder or prevention of public nuisance. However, this objection must be made no later than 3 working days after a copy of the application has been given to the Chief Officer of Police.

In order to ensure a TEN is valid there are strict guidelines which need to be adhered to when holding an event that is operated under a TEN. Should the local authority be satisfied that any of these guidelines are to be breached a counter notice can be issued to prevent the event taking place. The guidelines are as follows:

- Non-personal licence holders can give up to 5 TENs per calendar year (provided they are 18 years of age).
- Personal licence holders can give up to 50 TENs per calendar year.
- No more than 20 TENs can be given in respect of any particular premises in any calendar year and no more than 26 days in total over the course of the year.

- Total number of people attending the event must not exceed 500 at any one time (including employees).
- An event can last for a maximum of 168 hours (7 days).
- There must be at least 24 hours between events at anyone premises given by the same user or associate (spouse, child, parent, grandparent, sibling, employee, agent).

Once granted, the holder of the event must ensure that a copy of the TEN is displayed in a prominent position on the premises for the duration of the event and that such documentation is available to produce upon request by the local authority or Police. Failure to do so amounts to a criminal offence subject to a fine up to Level 2.

How it Affects You...	<ul style="list-style-type: none"> • If you wish to hold an event using a TEN, you must apply directly to the local authority and police yourself. • A guidance document and standard application form are available from your OM if required.
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Scotland:

Occasional licence allows for the licensing hours of a premises to be extended in connection with a special event of local or national significance. Licensing Boards can make a determination to grant the occasional licence for the whole of their area or specified parts and to extend licensed hours generally or for specific descriptions.

Individual premises can apply for an occasional licence if they feel it is appropriate to do so in connection with a special event taking place at the premises or if an event is of local or national significance.

A copy of the application is submitted to the local Chief Constable and Licensing Standards Officer who each have a period of 21 days to object.

This is usually granted within 6 weeks of receipt of the application. If you have not had a decision by the date of your event (6+ weeks after application), tacit consent applies, and you can go ahead as if it has been granted.

How it Affects You...	<ul style="list-style-type: none"> • Although it is the premises licence holders who may make these applications, Punch have given authority to DPM's to make applications for occasional licence direct to the Licensing Boards. • However, this is the only type of application that can be submitted direct to the Licensing Board. All other applications (DPM change, Variation etc) have to be submitted via our nominated licensing solicitors.
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2.11. Reviews and Prosecutions

If a premises is deemed to be operating in breach of the conditions of the premises licence or operating contrary to one of the licensing objectives a review of the premises licence can be called for under Section 51 of the Licensing Act 2003 (England and Wales) or Section 36 of the Licensing (Scotland) Act 2005.

In England and Wales this application can be made by any of the responsible authorities such as Police, Fire, EHO, Trading Standards, by the licensing authority themselves, or by an interested party such as a local resident or person running a business in the near vicinity.

In Scotland, a review application can be made by any person.

On receipt of a review there is a consultation period before the review hearing is held. During this consultation period, notification of the review hearing must be displayed at the premises and any relevant representations or objections must be made to the local authority/licensing board dealing with the review application.

A hearing will be held following the consultation period to consider the application and any representations received. Once consideration has taken place the Licensing panel will decide which of the following steps (if any) should be taken in order to promote the licensing objectives:

- To take no action or issue a warning letter.
- To modify the premises licence conditions.
- To remove a licensable activity from the premises licence.
- To remove the DPS / DPM.
- To suspend the premises licence for up to 3 months.
- To revoke the premises licence.

Modification of the premises licence conditions includes the addition of new conditions as well as amendments to any existing conditions. Modifications can be permanent or temporary for up to 3 months.

In England and Wales, situations where there has been an incident of serious crime and disorder, a senior police officer can apply for a summary review of the premises licence under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006).

If this occurs, the local authority has a duty to consider the application and the need for any interim measures within 48 hours of the application being made. Interim measures can include suspension of the licence until the full hearing.

The review must then take place within 28 days of the application being received by the local authority. Any interim measures imposed at the first hearing can be carried forward until any appeal has been determined. So, for instance, if the licence was suspended as an interim step and then revoked at the final hearing, the suspension can continue throughout any appeal process.

How it Affects You...

- It is vital to ensure that you operate the premises in compliance with the conditions of the premises licence.
- Ensure you and all employees are fully aware of the conditions detailed on the premises licence and adhere to them at all times.
- It is advisable to build a good relationship with the responsible authority's local officers. This way any issues that arise can be flagged and resolved informally before the problem escalates.

If a premises is deemed to be continually operating in breach of legislation (including operating in breach of the premises licence conditions or contrary to the licensing objectives) prosecution can be sought by the relevant authority.

2.12. Powers of Closure

A senior police officer can make an order for closure of the premises if there is a reasonable belief of the following:

- There is likely to be disorder on, or in the vicinity of and related to, the premises and the closure of the premises is necessary in the interests of public safety.
- There is disorder on, or in the vicinity of and related to, the premises and the closure of the premises is necessary in the interests of public safety; or
- A disturbance is being caused to the public by excessive noise emitted from the premises and the closure of the premises is necessary to prevent the disturbance.
- It is necessary in the interests of public safety, and the risk to public safety is such that it is necessary to do so immediately and without making an application (known as an emergency closure order).

This closure order can be made for a period of up to 24 hours, however, this period can be extended. In England and Wales this is done through application to the Magistrates Court (usually within 24 hours of the closure order being served).

In Scotland, an emergency closure order can be extended by a senior police officer for a further period of up to 24 hours if there is a reasonable belief that there continues to be, or is likely to continue to be, disorder and that it is in the interests of public safety to extend the emergency closure order.

A closure order being served automatically triggers a licensing review to take place within 28 days. It is a criminal offence to allow a premises to remain open in contravention of a closure order.

A Police Constable or local authority also has the power to issue a closure notice where a premises is or has been used for the unlicensed sale of alcohol. This would include any sale of alcohol when the premises is operating in breach of its premises licence conditions. In this instance the closure notice will detail the steps which may be taken to ensure that the alleged use of the premises ceases or does not recur.

Examples of this could include where there is no valid DPS/DPM for the premises, the closure notice will state that the premises must remain closed until this has been remedied and a valid DPS/DPM has been appointed.

How it Affects You...

- If the premises are issued a closure order or closure notice you must inform your OM / OD as soon as possible.

2.13. Interview Under Caution

An Interview under Caution can be requested by a responsible authority where there has been evidence of non-compliance with legislation. The interview will take place in accordance with the Police and Criminal Evidence Act 1984 (PACE). Should further evidence that an offence has taken place occur during the interview there is a possibility of prosecution.

How it Affects You...

- If you are invited for an interview under caution / PACE interview in a personal capacity, you have the right to be accompanied by a solicitor or legal advisor
- If you are unsure as to how to arrange this, you should speak your local citizens Advice Bureau.

2.14. Summary of Licensing Costs

Below is a table of licensing applications, a brief explanation, their respective approximate costs, and the method in which they are billed:

Licensing Application	Explanation	Approximate Costs	Billing Method
DPS / DPM Change	Nomination of a new DPS	£100 + VAT Solicitors fee £23 Local Authority fee (England and Wales) / £31 Licensing Board fee (Scotland)	Separate invoice
Emergency DPS / DPM Change	Nomination of a new DPS that requires submitting the same day	£125 + VAT solicitor's fee £23 Local Authority Fee (England and Wales) / £31 Licensing Board fee (Scotland)	Separate invoice
Minor Variation	Minor amendments to the premises licence	£250 + VAT solicitor's fee £89 Local Authority fee (England and Wales) / £20 Licensing Board fee (Scotland)	Separate invoice

Licensing Application	Explanation	Approximate Costs	Billing Method
Premises Licence Variation (Full)	Substantial variation of the premises licence or a variation deemed outside of the remit for the minor variations process	£350 + VAT solicitors fee (drafting and submission) £190 / £315 Local Authority fee (dependant on rateable value) + advertisement fee / £160 Licensing Board fee (Scotland)	Separate invoice
Licensing Review	Review of the premises licence following breach of licensing conditions or the licensing objectives	Approximately £3-4,000	Separate invoice
Annual Licensing Renewal Fee	Annual fee payable to the local authority for maintenance of the premises licence	Dependant on the non-domestic rateable value (see table below)	Billed via 26 weekly payments in line with rental invoices
Licensing Service Fee	Licensing fee payable for TAW's (Tenancy at Will) as part of the agreement	£6 per week	Billed in line with rental invoices

Please note that the above costs are subject to change and are for illustrative purposes only. Costs will vary on a case-by-case basis.

Licensing renewal fees breakdown (England and Wales):

Banding	A	B	C	D	E
Non-domestic rateable value	£0 - £4,300	£4,301 to £33,000	£33,001 to £87,000	£87,001 to £125,000	£125,001 plus
Annual Fee Payable	£70	£180	£295	£320 (up to £640)	£350 (up to £1050)
Weekly fee billed over 26 weeks (Sept-Feb)	£2.70 Approx.	£6.92 Approx.	£11.35 Approx.	£12.31 (up to £24.62) Approx.	£13.46 (up to £40.39) Approx.

If the premises falls under band D or E the local authority can apply a discretionary multiplier to the fee payable up to the amounts shown bracketed above.

Licensing renewal fees breakdown (Scotland):

Category	1	2	3	4	5	6
Non-domestic rateable value	£0 or no valuation	£1 to £11.500	£11,501 to £70,000	£35,001 to £70,000	£70,001 to £140,000	£140,000 plus
Maximum Annual Fee Payable	£180	£220	£280	£500	£700	£900

Please note that the above fees are the maximum, the actual values will vary dependant on each Licensing Board

How it Affects You...

- As Punch is the premises licence holder, Punch will pay the fee direct to the local authority. This fee is then broken down into 26 weekly payments and charged to your trade account as part of the rental invoices rather than having to pay the amount in one lump sum.
- If you receive any invoices or final demand letters you should forward these on to Punch's head office address for the attention of the Legal and Compliance team.

2.15. Licensing Offences and Penalties

Please note the below offences and penalties are subject to change - for an updated version you should consult your local licensing officer.

England and Wales

Licensing Act	Summary of Offence	Maximum Penalty
Offences committed by a premises license holder		
Section 33	Failing to notify change of name or address of the premises licence holder	Level 2
Section 33	Failing to notify Change of name or address of the Designated Premises Supervisor	Level 2
Section 40	Failing to notify the designated premises supervisor that he has been replaced or that an application to replace him has been made and refused	Level 3
Section 41	Failing to send the premises licence to the licensing authority within 14 days where the Designated Premises Supervisor has given notice that he wishes to give up the role	Level 3
Section 46	Failing to notify the Designated Premises Supervisor of an application to transfer the premises licence	Level 3
Section 49	Failing to notify the Designated Premises Supervisor of the existence of an interim authority notice for those premises	Level 3
Section 56	Failing to produce the premises licence to the licensing authority for updating within 14 days of a requirement to do so	Level 2
Section 57	Failing to keep the premises licence or a certified copy at the premises	Level 2
Section 57	Failing to ensure that a summary of the licence or a certified copy is prominently displayed at the premises	Level 2
Section 57	Failing to produce the premises licence for inspection by a constable or authorised person	Level 2

Licensing Act	Summary of Offence	Maximum Penalty
Offences committed by a personal license holder		
Section 123	Failing to notify licensing authority of convictions for relevant or foreign offences during the application period for grant or renewal of the licence	Level 4
Section 127	Failing to notify the licensing authority of change of name or address as soon as reasonably practicable	Level 2
Section 128	Failing to notify a court of the existence of a personal licence when dealt with for a relevant offence	Level 2
Section 132	Failing to notify the licensing authority of a conviction for a relevant offence or foreign offence	Level 2
Section 134	Failing to produce the personal licence to the licensing authority within 14 days of being required to do so for amendment	Level 2
Section 135	Failing to produce personal licence to a constable or authorised officer for examination	Level 2
Offences in connection with children and alcohol		
Section 145	Allowing an unaccompanied child to be on premises in which they are not allowed	Level 3
Section 146	Sale of alcohol, or supply of alcohol by or on behalf of a club, to a person aged under 18	Level 5
Section 147	Allowing the sale of alcohol, or the supply on behalf of a club, to a person aged under 18	Level 5
Section 148	Selling liqueur confectionery to a person aged under 16	Level 2
Section 149	A person aged under 18 who buys or attempts to buy alcohol, or attempts to have alcohol supplied by or on behalf of a club	Level 2
Section 149	A person who buys or attempts to buy alcohol on behalf of a person aged under 18, or attempts to have alcohol supplied by or on behalf of a club for such a person	Level 5
Section 149	A person who buys or attempts to buy alcohol, or is supplied with or attempts to have supplied alcohol on behalf of a club, for consumption by a person aged under 18	Level 5
Section 150	A person under 18 who consumes alcohol on licensed premises	Level 3
Section 150	A person who knowingly allows the consumption of alcohol on licensed premises by a person aged under 18	Level 5
Section 151	Delivering, or knowingly allowing the delivery of, alcohol sold on licensed premises to a person aged under 18	Level 5

Licensing Act	Summary of Offence	Maximum Penalty
Offences in connection with children and alcohol		
Section 152	Sending a person aged under 18 to obtain alcohol	Level 5
Section 153	Allowing an individual aged under 18 to sell or supply alcohol on licensed premises unless the sale has been authorised	Level 1
Offences in relation to the conduct of premises		
Section 136	Unauthorised licensable activities – carrying on a licensable activity from any premises otherwise than as authorised	6 months' imprisonment and / or £20,000
Section 137	Exposing alcohol for unauthorised sale	6 months' imprisonment and / or £20,000
Section 138	Keeping alcohol on premises for unauthorised sale	Level 2
Section 140	Allowing disorderly conduct on licensed premises	Level 3
Section 141	Sale of alcohol, or allowing the sale of alcohol, to a person who is drunk	Level 3
Section 142	To obtain or attempt to obtain alcohol for consumption on those premises by a person who is drunk	Level 3
Section 143	A person who is drunk or disorderly and who fails to leave licensed premises when requested to do so, or attempts to enter having been requested to leave	Level 1
Section 144	Keeps or allows to be kept good which have been imported unlawfully or without payment of duty	Level 3
Offences relating to temporary event notices		
Section 108	Obstruction of a constable or authorised officer entering premises to which a Temporary Event Notice refers	Level 2
Section 109	Failing to ensure that a copy of the temporary event notice is prominently displayed at the premises	Level 2
Section 109	Failing to produce the Temporary Event Notice for inspection by a constable or authorised officer	Level 2
Miscellaneous Offences		
Section 156	To sell by retail alcohol from a vehicle whilst it is in motion	3 months' imprisonment and/or £20,000

Licensing Act	Summary of Offence	Maximum Penalty
Miscellaneous Offences		
Section 157	Sale of alcohol from trains or stations in breach of an order prohibiting such sales	3 months' imprisonment and/or £20,000
Section 158	Making a false statement in connection with any application or notice under the Act	Level 5
Section 160	Allowing premises to be open in breach of a Magistrate's closure order	Level 3
Section 161	Permitting premises to be open in breach of a police closure order	3 months' imprisonment and / or £20,000
Section 165	Allowing premises to be open in contravention of an order made by Magistrates that the premises should remain closed following a police closure order	3 months' imprisonment and / or £20,000
Section 168	Allowing premises to be open following a licensing authority's decision to revoke the premises licence after a review following a closure order	3 months' imprisonment and / or £20,000
Section 179	Obstruction of a constable or authorised person from entering premises to investigate whether licensable activities are taking place as authorised	Level 3
Section 59	Obstruction of a constable or authorised person exercising a power to inspect premises upon application for the grant, variation or review of a premises licence	Level 2
Schedule 6 Para 50	Allowing a person aged under 18 to take part in gaming on licensed premises	Level 5
Offences in connection with club premises		
Section 82	Failing to notify change of name or alteration of rules of the club within 28 days	Level 2
Section 83	Failing to notify the licensing authority as soon as practicable of ceasing to use its registered address	Level 2
Section 93	Failing to produce the club premises certificate to the licensing authority within 14 days of being required to do so	Level 2
Section 94	Failing to ensure that the club premises certificate or a certified copy is kept at the premises	Level 2
Section 94	Failing to ensure that a summary of the club premises certificate, or a copy thereof, is prominently displayed at the premises	Level 2
Section 94	Failing to produce a club premises certificate on request to a constable or authorised person	Level 2

Licensing Act	Summary of Offence	Maximum Penalty
Offences in connection with club premises		
Section 96	Obstruction of a constable or authorised person exercising powers to inspect the premises prior to the grant, variation, or review of a club premises certificate	Level 2

Scotland

Section of Licensing (Scotland) Act 2005	Summary of Offence	Maximum Penalty
Section 1	Unlicensed sale of alcohol	6 months' imprisonment and/or £20,000
Section 8	Applicants attempting to influence Board members	Level 3
Section 15	A person who intentionally obstructs a Licensing Standards Officer entry to inspect the premises	Level 3
Section 24	Premises licence applicants failing to notify Licensing Board of convictions	Level 2
Section 41	Failure to notify the court of premises licence when charged with relevant offence	Level 2
Section 43	Premises licence holder failing to notify the Licensing Board no later than 1 month of the conviction	Level 4
Section 48	Failure to notify the Licensing Board of the name or address of the premises licence holder	Level 2
Section 49	Failure to produce the premises licence to the Licensing Board for updating within 14 days of a requirement to do so	Level 2
Section 52	Failure to produce premises licence for inspection by a Licensing Standards Officer or Constable	Level 3
Section 63	A person knowingly allowing the sale, consumption, taking away of alcohol outside licensed hours	Level 3
Section 75	Personal licence holders failing to notify the Licensing Board of convictions	Level 3
Section 80	Failure to notify the court of personal licence when convicted of relevant offence	Level 2
Section 82	Personal licence holders failing to notify the Licensing Board of convictions	Level 4
Section 88	Personal licence holders failing to notify the Licensing Board of change of name or address	Level 2
Section 89	Failure to produce personal licence to the Licensing Board for updating within 14 days of a requirement to do so	Level 2

Section of Licensing (Scotland) Act 2005	Summary of Offence	Maximum Penalty
Section 93	Failure to produce personal licence for examination by a Licensing Standards Officer or Constable	Level 2
Section 95	A person who enters a licensed premises in breach of an Exclusion Order	1 month imprisonment and / or Level 4
Section 97	Allowing any licensed premises to remain open in breach of a closure order	3 months imprisonment and / or £20,000
Section 102	A person who sells alcohol to children or young person	3 months imprisonment and / or Level 5
Section 103	Allowing the sale of alcohol to children or young person	3 months imprisonment and / or Level 5
Section 104	A person who sells liquor confectionery to a child	Level 2
Section 105	A child or young person who buys or attempts to buy alcohol	Level 1
Section 105	A person other than a child or young person who knowingly buys or attempts to buy alcohol on behalf of a child or young person	3 months imprisonment and / or Level 5
Section 105	A person other than a child or young person who knowingly buys or attempts to buy alcohol for consumption on relevant premises by a child or young person	3 months imprisonment and / or Level 5
Section 106	A child or young person who knowingly consumes alcohol on any relevant premises	Level 3
Section 106	Any responsible person who knowingly allows a child or young person to consume alcohol on any relevant premises	3 months imprisonment and / or Level 5
Section 107	Any responsible person who knowingly allows alcohol to be sold, supplied or served by a child or young person on any relevant premises	Level 1
Section 108	Any responsible person who knowingly allows alcohol to be delivered by a child or young person	Level 3
Section 109	Any person who knowingly sends a child or young person to obtain alcohol or to be sold alcohol on any relevant premises for consumption	3 months imprisonment and / or Level 5
Section 110	Failure to display notice	Level 3
Section 111	Allowing a drunk person to enter or in premises on which alcohol is sold	Level 1
Section 112	Obtaining of alcohol by or for a drunk person	Level 3
Section 113	Sale of alcohol to a drunk person	Level 3
Section 114	Premises manager, employees etc not to be drunk on licensed premises	Level 3

Section of Licensing (Scotland) Act 2005	Summary of Offence	Maximum Penalty
Section 115	Allowing disorderly conduct on licensed premises	60 days imprisonment and / or Level 3
Section 116	Any person refusing to leave licensed premises	Level 3
Section 117	Offences relating to the sale of alcohol to trade	Level 5
Section 118	Allowing unauthorised sale of alcohol on moving vehicles	3 months imprisonment and / or £20,000
Section 119	Allowing delivery of alcohol from vehicles	Level 3
Section 120	Allowing late-night deliveries of alcohol (off the premises)	Level 3
Section 121	Allowing smuggled goods kept on premises	Level 3
Section 127	Allowing the sale of alcohol from trains and stations in breach of an order prohibiting such sales	3 months imprisonment and / or £20,000
Section 137	A person who intentionally obstructs a Licensing Standards Officer or constable to inspect premises before grant of licence	Level 3

Standard Scale of Fines

Fine Level	Maximum Fine
1	£200
2	£500
3	£1,000
4	£2,500
5	Unlimited



3. GAMBLING

3.1. The Gambling Act 2005

The Gambling Act 2005 came into force on 1 September 2007 and governs the provision of gaming machines (quiz machines etc) and all other forms of gambling in alcohol licensed premises (Poker, bingo etc).

How it Affects You...

- If you have any quiz machines, fruit machines or operate any form of gambling in your premises then this legislation will impact on you and your business.

3.2. Gaming (Category C) Machines

As of September 2010, there are two types of permits available to cover the use of fruit machines.

Where there are no more than two Category C machines – Automatic Notification.

- One off fee of £50 to Local Authority.
- No legal requirement to keep on site or display.

Where there are more than two category C machines – LPGMP (Annually renewed)

- Before expiration apply for licensed premises gaming machine permit
- Application fee of £150
- Annual fee of £50
- Permit must be kept on site but not displayed.

How it Affects You...

- Ensure that you are not providing more gaming machines in your premises than are permitted by your permit.
- Depending on the terms of your agreement it may be the machine supplier's responsibility to maintain the permit or yours. Speak with your supplier's Account Manager or OM if you have any questions in this area.
- Any pub that offers fruit machines has to comply with the Code of Practice for machines. These are basic rules to ensure you comply with the law when offering fruit machines, such as not allowing under-18's to play, locating machines in a place within the premises so that they can be easily supervised; that the machines area located away from any ATM/cash machine; and that written procedures for disputes and complaints.
- A copy of the code can be downloaded from the Gambling Commission's website ([www.gamblingcommssion.gov.uk](http://www.gamblingcommission.gov.uk)) or requested from your machine supplier

3.3. Gaming Code of Practice - Exempt Gaming

“Exempt gaming” may be carried out without a gambling licence or permit. Such games must be equal chance i.e., players against each other NOT a banker and not played for high stakes. Children and those U18 are not permitted to take part. Some games, such as poker and bingo, are governed by specific rules (see below).

Gaming in pubs should be ancillary to the main purpose of the premises – i.e., the gaming should not be the main reason to go to the premises. The statutory limits on stakes and prizes are set out in the attached table.

3.4. Gaming Code of Practice - The Gaming Supervisor

Compliance with the Gaming Code of Practice should be the responsibility of a designated person “the Gaming Supervisor”. In pubs this should be the Designated Premises Supervisor (in Scotland the Designated Premises Manager) . The Gaming Supervisor will be expected to demonstrate knowledge of the code of practice if questioned by an enforcement officer.

The Gaming Supervisor should put into effect procedures designed to prevent underage gambling. This should include:

- Holding the gaming in premises or parts of premises which are restricted to adults.
- Ensuring fruit machines are in locations where they can be easily supervised e.g., in sight of the bar.
- Checking the age of potentially underage players; and
- Refusing access to the gaming to anyone apparently underage who cannot produce an acceptable form of age verification and identification.

The Gaming Supervisor should take reasonable steps to ensure that all employee’s understand their responsibilities under this code.

Gaming supervisors should also ensure a pleasant atmosphere and deny participation to customers who cheat or collude with other players or employees, threaten other players or employees, create a disturbance or damage equipment.

How it Affects You...	•The Gaming Supervisor should ensure that they are aware of their responsibilities under such role.
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3.5. Gaming Code of Practice - Payments and Fees

The regulations place certain limits on stakes and prizes for equal chance gaming. All exempt gaming is expected to be at 'low level' stakes and the gaming supervisor is expected to take all reasonable steps to ensure that this remains the case. This includes monitoring any gaming taking place on the premises to ensure it is not for high stakes; no under 18s are playing with measures in place to ban individuals from the premises if they regularly breach the rules.

Pubs may not charge participation fees. All gaming in pubs (other than dominoes and cribbage) has a stakes limit of £5 per person per game. Pubs may not impose levies or deductions on stakes or prizes.

All payments in respect of the gaming covered by this code should be paid for in cash before the start of the game. No credit may be offered to customers by the gaming supervisor. All players should be notified of any stakes limits that apply.

How it Affects You...

- The gaming supervisor should take all reasonable steps to ensure that individual stakes limits are not exceeded through side bets, additional raises, re-buys, or other ways of increasing the pot. Where this is discovered to be the case, the game should be stopped immediately, and stakes returned to the individual players.
- A summary of the limits for stakes and prizes can be found below.

3.6. Gaming Code of Practice - Premises and Equipment

All gaming carried out on the premises must be located so that it can be supervised by employees whose duties include supervision of gaming (including bar or floor employees).

Procedures should be in place for dealing with cases where an underage person repeatedly attempts to gamble including verbal warnings and reporting the offence to the Gambling Commission and the police.

All equipment used in the gaming should be supplied by the premises and the equipment should be secured when not in use. The equipment should be replaced when damaged or marked. No player should supply his/her own equipment.

For all organised games, the rules of the game being played should be displayed or otherwise made available to all players before and during the game, for example by providing the rules on a laminated card.

3.7. Specific Provisions for Bingo

Bingo can be offered in your pub without a gaming subject to certain rules.

- Must be adults only i.e., no under 18s can participate.
- The games cannot be linked with games played in other premises.
- No participation fee is charged.
- a maximum of £5 per person, per game.
- total stakes and prizes for the game do not exceed £2,000 in a 7-day period. Otherwise, this will be classed as 'high turnover' bingo. If this happens, you will need to notify the Gambling Commission. If this happens more than once, then you will need to apply for an operator's licence from the Gambling Commission.

You cannot

- Make a profit from the game of bingo (even if you intend to donate the profits to charity or good causes)
- Play Bingo virtually or online in any way.

How it Affects You...	<ul style="list-style-type: none">• The gaming supervisor should take all reasonable steps to ensure that individual stakes limits are not exceeded.• Ensure that Under 18s do not participate in games of bingo.
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3.8. Specific Provisions for Poker

To ensure that the stake and prize limits are not breached, it is strongly advised that cash games should not be permitted. Where cash games are allowed, the pot should be kept in sight so that it can be viewed by the gaming supervisor at all times.

In any event, all games organised by, or on behalf of, the management of the premises should not be cash games, but tournament poker played in chips supplied by the premises.

The maximum stakes and prizes set out in the regulations are for a game and not a hand of poker. In the context of the code, a game is what is generally considered to be an established and conventional game.

NB: To ensure that the individual, daily and weekly stake, and prize limits are not exceeded, the Gaming Supervisor is to keep a record of:

- The number of games played;
- The number of players; and
- The amount staked.

Poker run as private gaming can potentially take place in your pub where a group of friends or a members' club hire a room in a pub for a private function.

However, you need to be very careful that the particular area of the premises in which the gaming takes place is not, for the purposes of the private function, accessible by members of the public.

Those participating must not be selected by a process which means that, in fact, they are members of the public rather than members of the club.

It is a condition of private gaming that no charge is made for participation.

How it Affects You...	<ul style="list-style-type: none"> • The gaming supervisor should take all reasonable steps to ensure that individual stakes limits are not exceeded. • Ensure that Under 18s do not participate in games of poker. • If private gaming is taking place in your premises, make sure that it is genuinely private gaming and not open to wider members of the public
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3.9. Specific Provisions for Limits on Equal Chance Gaming

Equal Chance Gaming	Permitted
Limits on Stakes	<p>Cribbage and Dominoes No limit</p> <p>All other gaming £5 per person per game</p> <p>Poker £100 per premises per day</p>
Limits on prizes	<p>Poker £100</p> <p>All other gaming No limit</p>
Maximum Participation Fees – per person per day	None permitted
Banker or Unequal Chance Gaming	None permitted
Limits on Bingo	Maximum of £2,000 per week in stakes / prizes. If more then will need an operating licence

How it Affects You...	<ul style="list-style-type: none"> • Poker and Bingo can be excellent at driving trade on quiet weeknights and can bring new customers into your pub. Joining a poker league will encourage players to come back every week; these are often free to play with prizes being provided by the league’s organisers. • Whilst you cannot charge people to play (all stakes must go back to the winnings) you can provide food / drinks and charge a fee to cover your costs.
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3.10. Betting

Betting cannot take place on licensed premises. While customers may write betting slips or fill in football coupons on licensed premises, it is illegal to pass such slips or coupons to bookmakers or their agents, or to receive winnings on the premises. Such activities can only take place on the premises of a licensed bookmaker.

Permitting the unauthorised use of premises for betting can attract, on conviction, a fine of up to £5,000 and on a second conviction up to 3 months' imprisonment or both fine and imprisonment. If the conviction is on indictment the fine is unlimited and the term of imprisonment may be up to one year. The premises licence may be reviewed.

How it Affects You...

- Ensure nobody is allowed to run a Bookmakers on your premises. If you are aware of this happening, you must evict them immediately and make a note of this in your incident book.

3.11. Lotteries

The law in relation to lotteries (raffles) is complex and strictly controlled by law and it is not possible to promote a lottery in order to make a personal profit. Seek professional advice before running or participating in any lottery.

It is permissible to allow or conduct certain types of lotteries (including raffles and prize draws) in public houses and these can include:

- Customer lottery or raffle where the prize is no more than £50 (tickets only sold on the premises; tickets must not be sold to children under the age of 16; a draw cannot take place within 7 days of the previous draw; no rollover prize from one lottery to another is permitted). A customer lottery cannot make a profit and so is not suitable for fundraising.
- Local club or society lotteries, registered with the local authority, the promoter of which must be authorised by the club.
- Scratch-off tickets with instant prizes (which must also be registered).
- Private lotteries run by a house team or club (which do not require registration).

Before allowing any lottery tickets to be sold on the premises, the premises licence holder or designated premises supervisor should ensure that they comply with the law.

How it Affects You...

- If you are in any doubt as to the legality of a particular scheme it is best to take professional legal advice or contact the local licensing authority.

National Lottery (Lotto) tickets and National Lottery Instant (scratch cards) cannot be sold on licensed premises which are primarily for the sale of alcohol.

3.12. Gaming and Machines Income

Products

Licensed premises have always been associated with the playing of games. Today there is a wide variety of traditional and technology driven products that offer businesses a profitable third stream of income and, as with all customer facilities, the provision of machines and games needs to reflect the business strategy.

Machine income can include:

- Category C Machines (Amusement with Prizes) sometimes called Fruit Machines
- Pool Tables
- SWP Machines (Skill with Prizes) – Quiz games, etc Juke Boxes
- Video Game Machines
- Game Tables – Bar Billiards, Football, etc Kiddies Rides
- Public Telephones
- Ladies and Gents Vending Machines

In most premises, the greatest income generators are Category C machines and Pool tables. However, the remainder are equally important to the customer, so should receive the same level of attention from you and your team.

Non-cash operated facilities/games

Whilst there is often no immediate visible income from the more traditional games and facilities, the amenities below may retain customers in your premises - benefiting you with additional sales of drinks, nuts, crisps, etc.

- Darts
- Dominoes
- Cribbage
- Skittles
- Television
- Background music

How it Affects You...

- These can all help boost your sales as they increase customer dwell time and encourage their friends / family to be brought along too.

Teams/Clubs

In many premises teams and clubs provide important additional income and it is essential that new employees are aware of their existence and some key information, such as:

- Types and names of teams/clubs that use the premises.

Presentation of Equipment

The presentation of equipment can go a long way in driving usage. It is important to ensure that equipment is well maintained and that key messages such as the price of play are clearly visible.

How it Affects You...

- Make sure your all equipment is cleaned on a daily basis and ensure that promotions and price of play are clearly displayed.
- Make sure that gaming machines display machine category, in the case of Category C machines a “No Under 18” sticker; GamCare/problem gambling resource signage; stake and prize limits.
- If the premises provide cash machines/ATMs, ensure all gaming machines are located away from these so that anyone wishing to obtain cash must stop gambling in order to do so.
- Particular attention should be paid to pool tables.
- Ensure that tables are valeted prior to opening, i.e., sprayed and brushed daily, balls cleaned, checks on chalk, cues, and tips.
- Check lighting.
- Set up the table prior to opening and after a big match.

Employee Awareness

Employees should be aware of the importance of machine income to the profitability to the business and the amenity value to your customers. employees should particularly be made aware of the following:

- Machines are switched on prior to opening and off after closing.
- Service calls are made immediately if there is a problem.
- Report any customer requests or complaints to you.
- Understand the importance to your business of regular machine players.
- Inform players of new games that have been installed.

Customer comfort and service

Think ‘customer first’ by:

- Checking if there is anywhere for players to put their drink down.
- Providing a stool to sit on (some players spend a whole session playing machines).
- Considering providing a drinks service to regular customers.
- Having plenty of change available.
- Offering to get change for players.

Gambling Offences

The presentation of equipment can go a long way in driving usage. It is important to ensure that equipment is well maintained and that key messages such as the price of play are clearly visible.

Gambling Act 2005	Summary of Offence	Maximum Penalty
Section 33	Unauthorised provision of facilities for gambling	Imprisonment for a term not exceeding 51 weeks; a fine not exceeding level 5; or both
Section 37	Permitting premises to be used as a casino; providing facilities for playing of bingo; making gaming machines available for use; providing other facilities for gambling; providing facilities for betting other than in accordance with an authorised permission or where an exception(see above) applies)	Imprisonment for a term not exceeding 51 weeks; a fine not exceeding level 5; or both
Section 46	Inviting, causing, or permitting a child or young person to gamble	Imprisonment for a term not exceeding 51 weeks; a fine not exceeding level 5; or both
Section 56	Inviting, causing, or permitting a child or young person to participate in a lottery	Imprisonment for a term not exceeding 51 weeks; a fine not exceeding level 5; or both



4. EMPLOYMENT LAW

4.1. Terms of Employment

Although the contract itself need not be in writing, employees who have been employed for one month or more are entitled to a written statement of certain particulars of employment within two months of starting employment. Employees must be notified in writing of any changes in these particulars as soon as possible and, in any event, within one month.

If an employer fails to provide a section 1 statement, provides an inaccurate or incomplete statement or does not provide an employee with a statement of changes, the employee may make a claim to an employment tribunal while the employment continues or, if it has terminated, within three months of the date of termination. Compensation of between two to four weeks' pay (subject to the statutory cap) may be available if the employee has made another successful substantive claim.

Notice periods

The employment contract should state the period of notice that each party must give to the other party to terminate the employment.

Statutory minimum notice periods will be implied into the contract and will override any express terms providing for a shorter period of notice. Employees have a statutory right to receive a minimum period of notice from employers once they have been employed for one month, as follows:

- One week's notice for those with between one month's and two years' service.
- Thereafter, an additional week's notice for each continuous year of service, up to a maximum of 12 weeks for 12 complete years' service.

Wages

A national minimum wage (NMW) applies for all workers over compulsory school leaving age. The NMW rates differ depending on the age of the worker and whether or not they are in training. They include the rate for those over the age of 23, which is called the National Living Wage (NLW).

Employees who are not paid the NMW or NLW can bring a claim in an employment tribunal. It is a criminal offence for employers wilfully to refuse to pay the NMW or NLW.

Employers can only make deductions from wages if the deduction is required by statute (for example, PAYE deductions for income tax); the employee has expressly authorised the deduction; or the deduction is provided for by a term of the employment contract and the employee has confirmed the term in writing. Unlawful deductions that have been recovered by the employee in an employment tribunal cannot subsequently be reclaimed by the employer as a debt.

Employers must give employees itemised pay slips at or before the time at which wages are paid. They must, among other things, give details of the gross and net wages and the amount and purpose of any deductions from those sums.

Hours of work

Workers' hours are regulated by the Working Time Regulations 1998 (WTR). Workers may not work, on average, for more than 48 hours a week (normally calculated over a 17-week reference period). Employers can ask workers to consent, in writing, to opt-out of the 48-hour weekly working limit. However, workers must have the right to cancel their opt-out by up to three months' notice at any time.

There are restrictions on the amount of night work that workers can perform. They cannot work more than an average of eight hours a night and must be offered compensatory rest, meaning that employees take their rest later or in a different way, and free health assessments.

The WTR also provides workers with rights to daily, weekly, and in-work rest periods.

There are exemptions for certain industries (for example, where continuity of production is required) and for workers who determine their own working time (for example, senior managers who can decide when to do work and for how long).

Holidays

Workers are entitled to a minimum of 5.6 weeks' paid holiday a year under the WTR. This can include public holidays, of which there are normally eight a year in England and Wales.

Changes to terms

Most changes to an employment contract require the consent of the employer and the employee. It is important that, where possible, changes are discussed and agreed with the job holder.

Disagreement over the changes may lead to the ending of the contract and employers facing claims for unfair dismissal and wrongful dismissal.

Pensions

Auto-enrolment requires UK employers to automatically enrol their eligible jobholders into a qualifying pension scheme and contribute at least the legal minimum to the scheme. The legal minimum is currently 8% of an eligible jobholder's qualifying earnings, 3% of which must be paid by the employer. Employers must also provide information to employees regarding auto-enrolment, keep records, and every three years re-enrol eligible jobholders who have opted out. Non-compliance can lead to financial penalties.

Benefits

Some employers may also offer employees benefits such as life assurance, permanent health insurance, private medical insurance and company cars.

Employees may also be eligible to participate in bonus schemes. Where the employer reserves a discretion as to whether or not to pay any bonus or as to the amount of the bonus for a particular year, this discretion must not be exercised perversely or irrationally.

Sickness and sick pay

Employers are required to pay statutory sick pay (SSP) to employees who are off work due to illness or injury, after the third day of absence (subject to certain qualifications). Employers sometimes supplement SSP with contractual sick pay for a specified period.

Confidentiality

Broadly, during employment employees are bound by an implied duty of fidelity and good faith, which encompasses a duty not to disclose the employer's confidential information. After termination of employment this implied duty is limited to information which is sufficiently confidential to amount to a trade secret.

Given this limited duty, it is sensible for employers to protect their business interests by adding an express contractual term restricting the employee's right to use or disclose the employer's confidential information after the employment relationship has terminated.

Employees cannot be prevented from making a disclosure of confidential information to the extent that such disclosure amounts to a protected disclosure which qualifies for protection under the Public Interest Disclosure Act 1998 (often referred to as whistleblowing).

4.2. Termination of Employment

There are several ways in which a contract may be terminated at common law. These include:

- Notice being given by either the employer or the employee.
- Mutual agreement.
- Frustration.
- Expiry of a fixed-term contract- a fixed-term contract automatically terminates at the end of the fixed-term without the need for notice.
- Dismissal by the employer.
- Termination by the employee.

Some possible claims that an employee may bring on termination of employment are set out below.

Contractual rights and wrongful dismissal

An employee is entitled to bring a claim for wrongful dismissal if the employer terminates the contract in breach of its terms. This is generally where the employer has terminated the contract without giving the employee the necessary period of notice (or making a PILON, if permitted by the contract). However, if the employer commits a repudiatory breach of an employee's contract (for example, varying the employee's job title and duties without consent), the employee may be able to resign and claim constructive dismissal.

The measure of damages for a wrongful dismissal claim is the salary and benefits that the employee would have received had they worked out their notice period, reduced by any income that the employee has earned (or could have earned) during the period equivalent

to the notice period (known as mitigation) and by an appropriate percentage to reflect the fact that the money is received in one lump sum rather than monthly over the equivalent to the notice period (known as accelerated receipt).

Claims for wrongful dismissal may be brought in the county court or the high court, or before an employment tribunal. An employment tribunal can award a maximum of £25,000 for a successful claim for wrongful dismissal. There is no limit on the compensation that can be awarded by the courts.

Unfair dismissal

Eligibility

An employee who has been continuously employed for the requisite period has a statutory right not to be unfairly dismissed. However, there is no requirement for qualifying service where the dismissal is for certain grounds, including trade union membership or activities.

An employee may have a claim for both unfair dismissal and wrongful dismissal.

Potentially fair and automatically unfair reasons

An eligible employee who is dismissed will have a successful claim for unfair dismissal unless the employer can prove that the principal reason for the dismissal was one of the following:

- The employee's capability or qualifications for performing work of the kind which that employee was employed to do;
- The employee's conduct;
- That the employee was redundant;
- That the employee could not continue to work in the position which they held without contravention of a duty or restriction imposed by or under an enactment; or
- Was some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

Certain dismissals are automatically unfair. For example, dismissals relating to the employee's pregnancy, certain health and safety matters, trade union membership and trade union activities.

Reasonableness

Once the employer has established a potentially fair reason for dismissal, the tribunal must then decide if the employer acted reasonably in dismissing the employee for that reason.

Remedies

An employee who has been unfairly dismissed must generally bring a complaint before an employment tribunal within three months of the dismissal.

A tribunal can order:

- Reinstatement (into the employee's previous role with their previous employer) or re-engagement (with the previous employer but into a new role). These, which generally involve payment of salary and benefits between dismissal and the date of re-employment, are rarely made. If a reinstatement order or a re-engagement order is not complied with, the tribunal will award an additional award.
- An award of compensation that comprises two elements:
 - a. A basic award based on the employee's age, weekly pay (subject to the statutory maximum and length of service). The tribunal may reduce the amount of the basic award in certain circumstances (for example, where it considers that the employee's conduct renders a reduction in the basic award to be just and equitable).
 - b. A compensatory award of such amount as the tribunal considers just and equitable, subject to the current statutory maximum. The aim of the compensatory award is to compensate for financial loss sustained by the employee in consequence of the dismissal. Heads of loss include loss of pay and benefits to the date of the hearing and future loss of pay and benefits. To assess future loss, the employment tribunal must make a judgement as to how long it will take the employee to obtain future employment. The employee is under a duty to mitigate their loss by attempting to find suitable alternative employment. Any contributory fault on the part of the employee will reduce the award.

Redundancy

Definition

An employee's dismissal will be because of redundancy if it is wholly or mainly due to the fact that:

- The business in which they work has ceased or will cease to exist;
- The business has ceased or will cease to exist in the place in which they work; or
- The requirements of the business for employees to carry out work of the particular kind have ceased or diminished or are expected to cease or diminish.

Eligibility

An employee who has been continuously employed for at least two years has the right to receive a statutory redundancy payment if they are made redundant. Claims must generally be made within six months of the dismissal. An employee will forfeit the right to a statutory redundancy payment if they have unreasonably refused an offer of suitable alternative employment by the employer.

Fair procedure

A redundancy is a potentially fair reason for the purposes of unfair dismissal. However, the procedure must also be fair in order for an employer to avoid a successful claim for unfair dismissal. Broadly, a fair redundancy procedure involves:

- Fair selection of the employees to be made redundant.
- Consultation with selected employees before making a final decision.
- Considering alternatives to dismissal.
- Considering whether there are any suitable jobs elsewhere in the organisation for the redundant employees and offering any such positions to them.

Collective redundancies

If an employer proposes to make 20 or more employees at one establishment redundant in a period of 90 days or less, it must consult with appropriate representatives of the affected employees. The representatives must be trade union representatives (if a union is recognised) or elected employee representatives. Consultation must begin in good time and no later than 30 days before the first dismissal, or no later than 45 days before if 100 or more redundancies are planned.

There is also an obligation to notify the Secretary of State where the employer is proposing to dismiss as redundant 20 or more employees at the same establishment within a period of 90 days or less.

Retirement

Since the abolition of the default retirement age in April 2011, compulsory retirement of employees will be age discrimination unless it can be justified as a proportionate means of achieving a legitimate aim. Employers must therefore decide whether to have a fixed retirement age, either for the whole business or for certain roles.

4.3. Disciplinary and Grievance Procedures

A worker has the right to be accompanied by a colleague or trade union official at a disciplinary or grievance hearing. Disciplinary hearings are those hearings which could result in a formal warning, or some other action taken in relation to the individual.

In addition, the ACAS Code of Practice on Disciplinary and Grievance Procedures must be followed where the procedure may lead to dismissal for misconduct or poor performance. Failure to follow the Code may affect the amount of compensation awarded in any subsequent claim.

4.4. Family Friendly Rights

A summary of statutory rights is detailed below. It is important to note that enhanced rights may be included in an employee's contract of employment. The rates for statutory payments increase from year to year- see the GOV.UK website for up-to-date rates.

	Arrangement to cover	Payments / Other Issues	Service to Qualify
Statutory Maternity Pay (SMP)	Employees taking maternity leave	<p>90% of average earnings for 6 weeks; followed by prescribed rate set each year by the Government (“Prescribed Rate”) or 90% of average weekly earnings (whichever is lower) for 33 weeks.</p> <p>Payable for 39 weeks</p> <p>Pregnant employees are entitled to paid time off to keep appointments for antenatal care made on the advice of a registered medical practitioner, midwife, or health visitor.</p> <p>A woman may work during her maternity leave for up to ten days without losing entitlement to SMP (“keeping in touch” (KIT) days)</p>	<p>Employees must have been continuously employed by their employer for at least 26 weeks up to any day in the 15th week before the baby is due (“qualifying week”); and must have average earnings at or above the Lower Earnings Limited set each year by the Government (“LEL”)</p>
Statutory Adoption Pay (SAP)	Employees taking time off to adopt a child or have a child through a surrogacy arrangement	<p>90% of average earnings for 6 weeks; followed by the Prescribed Rate or 90% of average weekly earnings (whichever is lower) for 33 weeks.</p> <p>Payable for 39 weeks</p>	<p>Employees must have been continuously employed by their employer for 26 weeks ending with the week in which they are notified of being matched with a child</p>
Ordinary Statutory Paternity Pay (OSPP)	Employees having a baby, adopting a child, or having a baby through a surrogacy arrangement	<p>Up to two consecutive weeks at Prescribed Rate or 90% of average weekly earnings if lower</p> <p>Leave must end within 56 days of the birth (or due date if the baby is early)</p>	<p>Employees must have been continuously employed for at least 26 weeks ending with the week immediately prior to the expected birth week or ending with the week in which a match is found in the case of adoption; and average earnings at LEL.</p>

	Arrangement to cover	Payments / Other Issues	Service to Qualify
Shared Parental Leave	For employees having a baby, using a surrogate to have a baby, adopting a child, or fostering a child who they are planning to adopt	Prescribed Rate or 90% of average weekly earnings if lower Payable for 39 weeks less any weeks spent by the child's mother or adopter in receipt of SMP, SAP or maternity allowance	Employees must have been continuously employed by their employer for 26 weeks by the end of the 15th week before expected week of childbirth; and average earnings at or above LEL.
Parental Leave	To look after their child's welfare	Up to 18 weeks' unpaid leave in respect of children under the age of 18	Employees must have been continuously employed for more than a year
Parental Bereavement Pay	If a child dies before they turn 18, or if an employee has a stillbirth or miscarriage after 24 weeks of pregnancy	One or two consecutive or separate weeks only, starting on any day of the week but not payable during a week in which the employee does any work for the employer	Employees must have been continuously employed by their employer for at least 26 weeks up to the week (ending with a Saturday) immediately before the week of the death or stillbirth
Parental Bereavement Leave	If a child dies before they turn 18, or if an employee has a stillbirth or miscarriage after 24 weeks of pregnancy	Unpaid A minimum of one week and maximum of two consecutive or separate weeks in a 56-week period beginning with the date of death, but not necessarily starting on a particular day of the week	No service required
Time off for dependants	To deal with an emergency involving a dependant A dependant could be a spouse, partner, child, grandchild, parent, or someone who depends on the employee for care	Unpaid	No service required

4.5. Discrimination

Protected Characteristics

Employees and applicants for employment have statutory protection against discrimination on a number of grounds:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Types of Discrimination

The main types of discrimination are:

- Direct discrimination. For example, where an employer decides not to offer a qualified applicant a position because it believes they are gay.
- Indirect discrimination. For example, an employer's dress code which does not allow employees to wear hats or scarves in the office would indirectly discriminate against Sikh men or Muslim women who wear turbans or hijabs.
- Harassment. For example, teasing an employee about his partner's religious convictions.
- Victimisation. For example, failing to promote an employee because she has made allegations of disability discrimination.

There are also types of discrimination specific to particular protected characteristics. For example, employers will discriminate against disabled employees if they fail to make reasonable adjustments to working practices that place the employees at a substantial disadvantage because of disability.

4.6. Whistleblowing

Employees that “blow the whistle” have protection under the law. The dismissal of an employee will be automatically unfair if the reason, or principal reason, for their dismissal is that they have made a “protected disclosure”. In addition, workers are protected from being subjected to any detriment on the ground that they have made a protected disclosure.

4.7. Part-time workers and fixed-term employees

It is unlawful for employers to treat part-time workers less favourably than comparable full-time workers in their terms and conditions of employment, unless different treatment can be objectively justified.

It is also unlawful for employers to treat fixed-term employees less favourably than similar permanent employees, unless different treatment can be objectively justified. Further, if fixed-term employees have their contracts renewed, or if they are re-engaged on a new fixed-term contract, when they already have a period of four or more years of continuous employment, the renewal or new contract takes effect as a permanent contract unless employment on a fixed-term contract was objectively justified or the period of four years has been lengthened under a collective agreement or workforce agreement.

4.8. Flexible Working

Employees with at least 26 weeks' continuous service have the right to make a statutory request for flexible working for any reason. The employee triggers the procedure by making a written request. The employer then has the three-month decision period (which can be extended by agreement) within which to consider the request, discuss it with the employee (if appropriate) and notify the employee of the outcome. The employer must deal with the application in a reasonable manner and may only refuse a request for one (or more) of eight specified reasons.

4.9. Immigration

Permission to work in the UK

It is an offence for an employer to employ an individual who does not have permission to work in the UK and there are serious implications for employers that breach this.

Sanctions include, but are not limited to, civil penalties of up to £20,000 per illegal worker, criminal convictions, and loss of premises licence / closure of the business. Individuals who work illegally may also be subject to prosecution or fines.

For these reasons it is vital that employers are carrying out compliant right to work checks.

Right to work checks

An employer should conduct compliant right to work checks for all employees, regardless of nationality. The right to work check should be carried out before employment commences and if the individual is on a time limited visa, a further compliant check will need to be carried out before this visa expires.

Conducting compliant right to work checks will provide an employer with a statutory excuse, which is a defence against a civil penalty. There are 3 types of right to work checks: manual; online; and through an Identity Service Provider. The employee's circumstances will dictate the check that should be used.

Further information regarding carrying out a compliant right to work check can be found here: <https://www.gov.uk/government/publications/right-to-work-checks-employers-guide> and we recommend that you familiarise yourself with this document.

If someone you wish to employ is not automatically eligible to work in the UK, it may be possible for the company to sponsor that worker if in possession of a sponsor licence, and the migrant worker qualifies for a sponsored visa.

4.10. TUPE

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) provide that employees have the right to be transferred automatically, on the same terms without loss of service-related employment rights from one employer to another when the business in which the employee is then employed is transferred to a new employer. Effectively the employees automatically become the employees of the new employer as if their contract was made with the original employer. If either the old or the new employers dismiss an employee because of the transfer of undertakings, or part of it, the dismissal may be considered unfair.

Under these regulations the outgoing employer will be required to supply the incoming employer with certain information about transferring employees.

This information should be provided at least 28 days prior to the business transfer.



5. DATA PROTECTION LAW

5.1. Data Protection Fee

Any business that collects, stores, and uses information that relates to individuals, known as personal data, will be considered a data controller. In a typical Publican context, individuals could be customers, employees, suppliers (to name a few categories).

Most data controllers need to pay a data protection fee to the Information Commissioners Office (ICO), which is the independent regulatory authority responsible for data protection. It is likely that Publicans will need to pay the fee if they use personal data as part of their business, for example, if CCTV is used on the premises or if they carry out any marketing. The fee varies depending on the size of the data controller (the lowest tier is £50). A Publican can follow the ICO's [easy-to-use self-assessment](#) on its website to check if it needs to pay the fee and, if so, how much. The fee can also be paid via the ICO's website. Failure to pay the fee could result in a monetary fine from the ICO.

5.2. Being Transparent with Individuals

Publicans, as data controllers, need to provide individuals with certain information regarding how they use their personal data, for example, the categories of personal data being used, the purposes it is used for and who it is shared with. Common practice to achieve this is by producing a Privacy Notice and displaying this document where the Publican is confident the relevant individuals will see it, for example, on its website or pinned up in the Publican's premises.

Publicans should also provide a copy of relevant Privacy Notices (or a link to them) when communicating with individuals, for example, at the bottom of an email that contains marketing content.

It is important to note that there is no one-size-fits all Privacy Notice even if two data controllers run similar businesses and use personal data in similar ways as there may be small differences that mean the content needs to change. So, we strongly recommend that Publicans seek professional advice to help produce these documents.

5.3. Lawful Basis for Using Personal Data

As a data controller, each Publican needs to establish one of six available lawful bases for any use of personal data. For example, if the Publican is under a legal obligation (like a court order) to use personal data in a certain way then it may rely on the "legal obligation" lawful basis. Alternatively, it is lawful to use personal data where the applicable individual's consent has been obtained to use it in a certain way. Data controllers should record the applicable lawful basis for all processing of personal data in its record of processing activities (please see paragraph 7 below for more information about this). In addition, informing individuals about the legal bases being relied upon is one of the headings that needs to be included in a Privacy Notice.

5.4. Individuals' Rights

UK data protection legislation gives individuals a set of rights that they can use to control the way their personal data is used by businesses to a certain extent. Some of these rights are absolute (they always apply) and some are conditional (they only apply in certain circumstances). The table below sets out the various available rights and when those apply, by reference to the different available lawful bases described above at paragraph 3.

The ICO has historically only brought serious enforcement action against controllers that fail to engage with individuals' rights requests completely (i.e., ignoring them or simply refusing to respond without justification). Generally, if there is an effort to engage with the data subject and respond then the ICO will seek to use more constructive enforcement powers (for example, requiring the data controller to provide more information). If a Publican receives a request from an individual, then it should seek to engage with the individual. If a Publican is uncertain of how to respond or what documents to disclose then it should seek professional advice.

When do individuals' rights apply?

		Lawful Basis Relied Upon					
		Consent	Contractual Necessity	Legal Obligation	Vital Interests	Public Interest / Functions	Legitimate Interests
Individuals Rights To	Access	Yes	Yes	Yes	Yes	Yes	Yes
	Rectification	Yes	Yes	Yes	Yes	Yes	Yes
	Erasure (right to be forgotten)	Yes					Yes
	Restriction	Yes	Yes	Yes	Yes	Yes	Yes
	Data Portability	Yes	Yes				
	Object					Yes	Yes
	Automated Decision Making				Yes	Yes	Yes

5.5. Marketing

Consent

If a Publican intends to send any form of marketing material to its customers, then it should consider whether it needs to obtain consent from the recipient. As a general rule in the UK, before sending electronic marketing material (which would include sending emails and texts or making telephone calls about upcoming offers or competitions) to individuals (B2C), a Publican should ensure it has obtained the individual's consent to send those communications. Consent is not required prior to sending electronic marketing material to a corporate customer (B2B); however, Publicans should respect any responses from corporate customers to be removed from marketing databases.

For the consent obtained to be valid, it must be freely given, specific, informed, affirmative and unambiguous. This means that consent wording presented to potential marketing recipients must not involve any undue influence or make the individual feel they must consent. It must also be clear what is being consented to. There should be a tick box or some kind of affirmative action that the individual needs to take in order to record their consent.

Soft-opt in rule

There is one exception to the requirement to obtain consent in the B2C marketing context – that is where an individual has recently purchased goods or services from a business and did not opt out of marketing messages. In such circumstances, the business may send marketing messages about similar products or services even if the individual has not specifically consented. However, the individual must be given a clear chance to opt out, both when their contact details are initially collected and, in every message, sent subsequently.

Regulatory risk

Unlawful electronic marketing practices attract by far the most attention from the ICO in the context of their enforcement action when compared with other data protection issues. With this in mind, any Publicans using electronic marketing should consider their approach to marketing carefully and may wish to take professional advice to ensure it is compliant with UK law.

5.6. Special Categories of Personal Data

UK data protection legislation carves out some types of personal data as likely to be more sensitive, and gives them extra protection:

- personal data revealing racial or ethnic origin;
- personal data revealing political opinions;
- personal data revealing religious or philosophical beliefs;
- personal data revealing trade union membership;
- genetic data;
- biometric data (where used for identification purposes);
- data concerning health;
- data concerning a person's sex life; and
- data concerning a person's sexual orientation.

A typical Publican is most likely to encounter special categories of personal data in the employment context. Generally, employers must collect and use some special categories about their employees in the course of the employment relationship (for example details about sick leave or pay will likely be classed as health data). A common misunderstanding is that consent is always required for using special category data but there are other legal bases that can be relied upon in certain contexts. However, if a Publican finds themselves collecting and using special categories of personal data about customers or individuals and is unsure of the lawful basis for holding that data, then it should seek professional advice as to the lawfulness of doing so.

5.7. Accountability

Data Protection Officer

A Publican must appoint a data protection officer (DPO) if its:

- core activities require large scale, regular and systematic monitoring of individuals (for example, online behaviour tracking); or
- core activities consist of large-scale processing of special categories of data or data relating to criminal convictions and offences.

Publicans that run multiple premises and deploy CCTV systems at those premises should consider whether it is necessary to appoint a DPO as doing so can be considered large scale, systematic monitoring of individuals. If they are unsure whether the threshold to appoint a DPO has been met, it is recommended Publicans seek professional advice.

Record keeping

Most organisations must keep internal records as to how they use personal data. This is usually done in the form of a document (often a spreadsheet) that details all the personal data being processed and, amongst other things, the purposes, how it is shared and how it is protected. If you employ fewer than 250 people, you need only document processing activities that:

- are not occasional (e.g., are more than just a one-off occurrence or something you do rarely); or
- are likely to result in a risk to the rights and freedoms of individuals (e.g., something that might be intrusive or adversely affect individuals); or
- involve special category personal data or criminal conviction and offence data.

Policies and procedures

Although it is not a legal requirement to produce and maintain internal policies setting out how data protection compliance is maintained, many organisations do so as a vehicle to achieving compliance with the law. By implementing a policy, it gives employees a standardised set of behaviours to follow, and this breeds a consistent approach to processes. For example, a policy setting out how a Publican responds to individuals' rights requests will enable any employee dealing with that request to respond to it in a controlled way and reduce the possibility of a subsequent complaint or investigation by the ICO.

5.8. CCTV

CCTV systems should be installed in accordance with the ICO's [Code of Practice on CCTV](#). It is important to ensure that CCTV equipment is maintained and in good working order and that the images are available for inspection by Police or Local Authority Officer should they be requested.

Aside from the benefits of deterring crime and providing evidence, CCTV systems can be a reassuring presence for customers. However, CCTV involves the collection of images and videos of individuals which classify as personal data and as such all of the compliance issues set out above would apply to its use. For example, CCTV footage may fall within the scope of an access request from an individual who was on a Publican's premises.

As a starting point, if CCTV is required at the premises, Publicans will need to establish the exact purpose of installing and using CCTV in order to:

1. Site the equipment to monitor only certain areas
2. Place signage warning the public that they are entering one of those areas
3. Select the appropriate quality of the images
4. Establish a time period for storage of the images e.g., 7 days
5. Establish to which third parties' access to images may be disclosed
6. Establish a system to enable subjects to gain access to images
7. Establish a written policy to cover all of the above, which is available to all employees.

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