

# Guidance Notes: Death or Insolvency of a Premises Licence Holder

## **Important:**

***When the holder of a Premises Licence dies, or becomes bankrupt or mentally incapable, the Premises Licence will lapse from that day.***

***It is unlawful to use the premises for licensable activity unless and until the licence is reinstated. This affects anyone with an interest in the continued operation of the business, including employees, partners, customers, and suppliers.***

***Action needs to be taken urgently, within 28 days of the death, or bankruptcy etc to reinstate the licence.***

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## **Introduction**

This guidance is for anyone who may be affected by licensed premises becoming unlicensed due to the death, insolvency, or incapacity of the Holder of a Premises Licence (who may be a person or a company) issued in East Herts. It gives information about reinstating a premises licence.

**These Guidance Notes are not comprehensive, or a substitute for reading the legislation. For more detailed, technical, or legal advice, you should consult professional advisors.**

The East Herts Council Statement of Licensing Policy describes how the Council administers its functions under the Licensing Act.

The Statement of Licensing Policy for East Herts District Council is available on the Council's website;

[www.eastherts.gov.uk](http://www.eastherts.gov.uk),

or by contacting

Community Safety and Licensing  
Wallfields, Pegs Lane, Hertford SG13 8EQ,

or by telephone

01992 531467

or by email

[community.protection@eastherts.gov.uk](mailto:community.protection@eastherts.gov.uk)

## **Reinstating a lapsed premises licence.**

When a premises licence holder dies, becomes insolvent, or is declared mentally incapable there are formalities to complete **urgently, within the first 28 days.**

There must either be;

- An interim authority notice, or
- An application to transfer the licence.

## **Interim authority notices**

A licence can be reinstated for a period of two months if an interim authority notice is served by someone with a 'prescribed interest', or who is 'connected' to the former holder.

### **Who can serve an Interim authority notices**

A person connected to the former licence holder;

- the personal representative of a former holder who has died,
- the person acting under a power of attorney created by an instrument registered under section 6 of the Enduring Powers of Attorney Act 1985 (c. 29) for a former holder who has become mentally incapable, or
- the insolvency practitioner for a former holder who has become insolvent.

A person with a prescribed interest in the premises

- A freeholder or leaseholder of the premises.

### **Time limit**

The notice must be served within 28 days.

No licensable activities can take place until the notice has been served. If the notice is not served within 28 days, then the lapse is permanent, and no licensable activities can take place on the premises (except under a TEN), until a new premises licence is obtained. This takes a minimum of 28 days from application, and may take longer (see separate guidance notes Guidance Notes to Applicants for Premises Licences).

### **Effect of service and length of interim period**

Where an interim authority notice is given;

- the premises licence is reinstated from the time we receive the notice, and
- the person who gives the notice becomes the holder of the licence.

The premises licence lapses again—

After the first seven days, unless a copy of the notice is served on the chief officer of police, or;

After 2 months from the time we receive the notice (the interim authority period), unless a full transfer application is made.

### **Police objections**

The Police may object to an interim authority notice in the same way that they can object to any other transfer application.

### **On re-issue of the licence.**

You must notify the DPS (if any) forthwith of the interim authority notice. It is an offence not to.

### **Transfer application**

Where a licence has lapsed due to death, incapacity or insolvency, or has been surrendered, and no interim authority notice has effect, a transfer can be applied for.

To be valid, the transfer must be applied for within seven full days after the licence lapses, and must be accompanied by a request for it to take immediate effect. The premises licence will be reinstated from the time the application is received by the licensing authority but will lapse again if the application for transfer is rejected or withdrawn.

### **Fees**

The fee is £23 in each case.

### **What happens next?**

Applications to transfer a premises licence take interim effect for 14 days from the date of receipt. Only the Police can object to these applications, and only on the grounds that the crime prevention objective in the Licensing Act would be undermined. If there are no representations from the Police within the 14 days, the changes will take full effect on day 15.

Interim authority notices take immediate effect for 2 months from receipt. Only the Police can object to these notices, and only on the grounds that the crime prevention objective in the Licensing Act would be undermined. If there are no representations from the Police within 48 hours of them receiving their copy, the interim authority will take effect for the remainder of the 2 months from service.

If the Police make a relevant representation the objections will be considered by a hearing of the licensing sub-committee, where you can attend and speak in support of your notice or application. All relevant parties will be notified. The licensing sub-committee will make a decision, and the details of that decision will be circulated to the parties concerned.

The applicant and 'interested parties' have a right to appeal the decision of the licensing sub-committee, which is made to Watford Magistrates Court. The hearing will usually take place at Hertford Magistrates Court.

## **Need Help?**

Community Protection Section staff are available to check applications prior to submission and offer help and guidance, if you have difficulty making a licence application. Alternatively, you may wish to pay a reputable licensing professional such as a solicitor or consultant to make your application.

## **Contact Details**

### **COUNCIL**

EAST HERTFORDSHIRE DISTRICT COUNCIL  
Community Safety and Licensing  
Wallfields, Pegs Lane  
Hertford SG13 8 EQ  
Tel No. – 01992 531467  
Email – [community.protection@eastherts.gov.uk](mailto:community.protection@eastherts.gov.uk)

### **POLICE**

Broxbourne & East Herts Licensing CSU  
Hertford Police Station  
Hale Road  
Hertford  
SG13 8FL  
E-mail: [licensingeasthertsarea@herts.pnn.police.uk](mailto:licensingeasthertsarea@herts.pnn.police.uk)