

Here comes the sun!

Suzanne Davies, director of **Clifton Davies Consultancy Limited**, puts on her sunglasses and advises you what to bear in mind this summer when allowing customers into your outside areas

It certainly seems like years since the sun has been here, but with forecasts of a “three-month heatwave scorcher”, it’s hopefully going to be a long hot summer.

To ensure that, as The Beatles said, “it’s alright”, I thought I would just summarise what you need to bear in mind when planning activities in your pub’s beer garden or on the outside terrace of your bar.

I suggest your starting point is to establish if your external area is covered by your premises licence. You certainly need to tread carefully if you want to have a temporary bar outside. That is because the sale of alcohol is a licensable activity, meaning that each of your bar counters need to be located within an area specifically licensed for that activity and shown on the plan attached to your licence. You may therefore need to vary your licence if you are not going to deal with it by way of Temporary Event Notices (TENs).

The position is far more straightforward as far as the consumption of alcohol is concerned, because unless there is a condition on your licence restricting where alcohol can be consumed or the plan attached to your licence identifies a specific area or areas within which such consumption can take place, you should be able to proceed on the basis that your customers can take their drinks outside to enjoy them in the sunshine.

However, remember too that if you want your customers to enjoy hot barbecued food both during the day and after 11pm, you will need to vary your licence to permit late-night refreshment outside, if you do not already have that permission.

By reason of the changes introduced by the Live Music Act, the provision of amplified live music between 8am and 11pm with an audience of no more than 200 will not be regarded

as a licensable activity (and any live music-related conditions on your premises licence will not apply) as long as, and only if, it is taking place within an area where the sale of alcohol is permitted. So, once again, it depends on what the plan attached to your licence shows. If the garden is shown on the plan but you don’t have permission to sell alcohol there, strictly speaking you would need to apply for variation or rely instead on a TEN.

The above said, an argument exists that your beer garden is nevertheless a workplace, meaning that you could still provide amplified live music there, but if that’s what you are going to rely on, I suggest you get in touch with me or another experienced licensing law advisor first. As an alternative, just ditch the microphones and amplifiers because you can provide unamplified music anywhere until 11pm at night, with no limit on audience numbers. If all else fails, get the Morris Dancers in as, in its wisdom, the government decided to exempt them from any licensing requirements regardless of whether they are dancing to live or recorded music.

Finally, you should undertake specific risk assessments associated with all such outside activities covering, for example, noise abatement concerns and health

and safety issues arising from glassware and barbecues in an area likely to attract large numbers of young children, as well as additional food safety precautions.

Also, if you don’t have a garden or terrace that’s within your ownership, you’ll need to bear in mind that if you allow your customers to consume their drinks on the pavement, not only could planning law obstacles be encountered, but you’ll also need to consider obtaining a pavement licence from your local authority.



Clifton Davies Consultancy Ltd



Clifton Davies Consultancy Limited is a consultancy business (not a law firm) which specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. David Clifton and Suzanne Davies are also consultants to Joelson Wilson LLP. The views expressed are given without any assumption of responsibility on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct.

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Questions & Answers



Q: My husband and I have run our own pub for the last 23 years. My husband was the licence holder, but passed away recently. I have been told that as a result of my husband’s recent death the premises licence has expired. Is this correct?

A: A premises licence lapses if the holder of the licence dies, but applications can be made to restore the licence. You do not mention when your husband passed away, but you have 28 days from the date of his death to make an application, either an interim authority application by his personal representatives or a transfer application, as appropriate. I would urge you to seek advice from a licensing expert as a matter of urgency to establish whether you are in time to reinstate the licence, as otherwise you will have to apply for a new premises licence.

Q: I refer to a question in a previous issue regarding the requirement for personal licences in both England and Scotland. If a person works in licensed premises in both Scotland and England, would one form of licensing training cover both?

A: No. There are sufficient differences between the two licensing regimes to necessitate separate training for each, to ensure compliance in each country.

Q: Do I need to display both my premises licence and the summary of the licence?

A: No. The licence summary (or certified copy of the summary) and a notice specifying the name and position of the person having custody of the full premises licence must be prominently displayed at the premises. The premises licence must be kept at the premises in the custody or under the control of either the licence holder or a nominated person. The licence holder commits an offence if he fails, without reasonable excuse, to comply with these requirements.