



**Licensing and COVID19 (Coronavirus)
Guidance and Frequently Asked Questions (FAQs)**

Effective Date: 24 November 2020

This guidance is for current licence holders and anyone planning to apply for a new Licence.

To make these FAQs useful to as many people as possible, the advice is general and may not cover your exact situation.

If the answer you want is not here, or you want more specific advice, email us at licensing@eastlothian.gov.uk

If you want advice about social distancing and other Coronavirus precautions you should contact the Council's Environmental Health Department (this is different from the Licensing Section). Their email address is ehs@eastlothian.gov.uk

You should also check the Scottish Government guidance - there is a lot of guidance for a wide range of activities. It is reviewed regularly and may change in line with developing Government guidance and legislation. The Scottish Government website is <https://www.gov.scot/coronavirus-covid-19>

How to use this document

These FAQs are in Parts. Part 1 applies to everyone who uses our Licensing services. Read Part 1 and then go to the Part which applies to you.

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- 1. Licensing changes because of Coronavirus**

1.1. "What is the 'Emergency Period'?"

We use this to mean the period which started on Thursday, 26 March 2020 and will continue until the special legislation passed by the Scottish Government expires. The special legislation is:

- The Coronavirus (Scotland) Act 2020, and
- The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 No. 344

Both of these expire on 31 March 2021 and are available to view on the Scottish Government website.

The 'lockdown' and 'social distancing' rules for businesses and the public during the Emergency are set by the Local Levels Regulations, which applied from 06.00 on Monday 2 November 2020. These divide Scotland into 5 Levels (numbered 0 to 4, with Level 4 having the most restrictions).

East Lothian is currently in Level 2. The Scottish Government might later:

- move any area in Scotland up to a higher level or down to a lower Level
- decide that one part of a Council area should have a different level from the rest

1.2. "Is the Licensing Office open?"

We are not currently offering appointments at any of our local offices. All the licensing staff are working from home.

If you would normally be giving us documents on paper (such as licence application forms, driving licenses, and 'right-to-work' documents like passports), you should scan these onto a computer and send them to us as email attachments. If this is not possible, our Customer Services are able to accept documents. The office in Haddington (John Muir House) is open between 9.00am and 1.00pm and the office in Musselburgh (Brunton Hall), 10.00am to 3.30.00pm, Monday to Friday.

You should send your applications by email and direct any general enquiries to licensing@eastlothian.gov.uk

1.3. "Are there any Committee and Board Meetings?"

When the lockdown started all planned meetings of the Licensing Sub-Committee and the Licensing Board were cancelled, although we have now re-started meetings using video conferencing.

Councils and Boards have special rules called "Schemes of Delegation" which mean that sometimes decisions can be taken by officers of the Sub-Committee or Board without the need for a meeting.

1.4. "How do I apply for a Licence?"

You can find electronic copies of our applications elsewhere on this website. Your application should be signed before it is scanned onto a computer. Send scans of any necessary documentation – images of documents must be clear and legible. Send your application form (and any associated documents) by email to licensing@eastlothian.gov.uk. Please be aware that it may take some time to review and process your application.

There are time-limits for us to process some (not all) types of Licence. The Council needs to make a decision to grant, renew or refuse the Licence within a time limit (often 12 months, but it can be longer depending on the kind of Licence). For example, the period for a Taxi Driver's Licence, and any other Licence under the Civic Government (Scotland) Act 1982 is now 12 months - it was 9 months before Coronavirus, and was extended by emergency legislation made by the Scottish Parliament. There is no time limits for alcohol licenses.

1.5 "How do I pay the Licence fee?"

You can make payment on the Pay for It facility on the Council's website or hand in a cheque to Customer Services at the Haddington or Musselburgh offices.

1.6. "What is the rule for RENEWAL of Licences under the Civic Government (Scotland) Act 1982 (Not Alcohol Licences)?"

The Civic Government (Scotland) Act 1982 is the law that covers Taxis, Private Hire Cars, Street Traders, Market Operators and Public Entertainment. At the start of the "Emergency Period" the Council extended all Licences under the 1982 Act to 31 July 2020. This has now been replaced by the following:

Licences due to expire between 30th March and 31st July 2020 have been granted for a 6-month extension period. The extension is modelled on the extension scheme currently in place for MOTs. This means that your licence expiry date will be extended by 6 months from the date it was due for renewal. For example, a licence due for renewal on 30th March 2020 will now be due for renewal by 30th September and a licence due for renewal on 30th April 2020 should be renewed by 30th October 2020.

Licences due for renewal from August 2020 onwards are not subject to the 6-month extension period and applications for renewal should be lodged well before the expiry date.

When applying for renewal of your licence, please don't leave it to the last few days left on your licence.

The renewal rules are different depending on what legislation applies to your licence:

- In some cases, as long as we received your renewal application before the current licence expired, the current licence stays in force until the Council determines the new application, but
- In other cases, you cannot operate beyond expiry, even if you have applied before the expiry date. You will have to stop your operation, and you cannot re-start until the Council grants the renewal.

1.7. "Which Licences stay in force if I apply for renewal in time?"

- Licences under the Civic Government (Scotland) Act 1982. Examples are Taxi Driver's Licences, Taxi Licences ("Operator's Licences") and many other things: as soon as you apply for renewal, and you applied before the current Licence expired, the existing licence is continued, so you can keep driving your taxi or doing what your licence covers; (there is a special rule for "Temporary Licences": these expire after 6 weeks, but if you apply in that time for a 'full' licence then the temporary licence stays in force)
- Licences for Houses in Multiple Occupation.

1.8. "Which Licences DON'T stay in force if I apply for renewal?"

Licences under other legislation, for example Pet Animals Act 1951 (pet shops), Caravan Sites and Control of Development Act 1960, Animal Boarding Establishments Act 1963 (cats and dogs) and Riding Establishments Acts 1964 and 1970 (horses). The usual rule is 'there is no automatic continuation'. This means that you should aim to apply for renewal at least 2 months before your licence expires, leaving enough time to let the Council both:

- process your application, and
- grant the renewed licence.

before the existing Licence expires.

If you don't apply for renewal in good time to allow us to process and grant the renewed licence, it is very likely that you will have to apply for a new licence, and you will not have a licence (and not be able to work on it) for months.

1.9. "I cannot operate because of the Coronavirus rules. Can I get a refund, reduction or credit of the Licence Fee?"

No. If you have a Licence but you cannot operate your business, you cannot:

- get a refund of the fee, or
- ask for a partial refund of the fee
- ask for it to be held in credit towards a fee for a later application.

This because the fee covered the work to deal with your application, and you would have had to pay that even if the application had been refused altogether or the licence was for less than you asked for (such as shorter hours or a smaller area).

1.10. "What should I do to keep the public safe?"

You should follow Scottish Government Guidance about 'social distancing' and other precautions.

Contact the Council's Environmental Health Department for advice ehs@eastlothian.gov.uk

1.11. "Can I have outdoor events?"

Contact the Council's Environmental Health Department for advice ehs@eastlothian.gov.uk

1.12. "What is a 'Listed Business?'"

Contact the Council's Environmental Health Department for advice ehs@eastlothian.gov.uk

2. Drivers of Taxi and Private Hire Cars (Taxi Drivers Licence)

2.1 "What should I do to keep myself and my passengers safe?"

Drivers should follow the health advice on the Transport Scotland website

<https://www.transport.gov.scot/coronavirus-covid-19/transport-transition-plan/advice-on-how-to-travel-safely/#section-63887>

- Passengers should be advised to wear a face covering (but you can't enforce this - see the FAQ below: "Can I refuse to carry a passenger who is not wearing a face covering?")
- People with a new persistent cough or high temperature should stay at home
- Do not drive your vehicle if you have the symptoms
- Where possible, ask all passengers to sit in the back of your vehicle
- Keep your vehicle clean to reduce the impact of the virus
- Regularly clean surfaces, such as card payment devices, steering wheels, handbrake, and door handles, with normal cleaning products. (As a minimum: at the beginning, middle and end of a shift)
- Carry a box of tissues and use tissues to catch coughs and sneezes
- Dispose of used tissues in a bin as soon as possible
- Wash hands frequently with soap and water (you can keep a bottle of water and a bar of soap in your vehicle) or use a sanitiser gel - do this for at least 20 seconds. Sanitiser gel should

be a minimum 60% alcohol.

2.2 “Can I refuse to carry a passenger who is not wearing a face covering?”

No. Some medical conditions allow people to not wear a face covering, and the legislation allows other excuses (such as children under 5 do not need a face covering - the age is 5 in Scotland, in other parts of the UK it might be different).

Even if a person has no good excuse for not wearing a face covering, that is a breach of the criminal law, so it will be enforced by Police Scotland, not by drivers.

If a passenger gets in your car without a face covering, all you should do is say that the law says he/she need a face covering unless there is a good excuse, like a medical condition. It's the same as if the passenger didn't follow the driver's advice to wear a seat-belt - the passenger might be breaking the criminal Law (which also allows for good reasons for not wearing a seat-belt) but the driver is not expected to enforce the Law.

If the passenger says that he/she does have a good excuse, you must accept that. You must not ask the passenger to say what it is or to prove it.

3. Operators of Taxi and Private Hire Cars (Taxi Licence or Private Hire Car Licence)

3.1 “Do I need to get my car inspected at the Council’s garage?”

This depends on why you want the test. You might want a test because

- a) you don't have a licence
- b) you have a licence, but you want to substitute your current car for a new car
- c) you have a licence, and the car is due its inspection because of the Licence Conditions - Taxis and Private Hire Cars need to be inspected at the Council garage every 12 months

3.2 “I have fitted a screen to my car, or plan to do so. What do I need to do?”

You should do two things:

- Contact your Insurer
Say what you have done or plan to do. Ask your insurer to say they agree. The reason you want this is that your insurance policy probably says that you cannot make unauthorised changes to the car, so you need the insurer’s agreement, otherwise the policy may be cancelled. You should request your insurer to confirm their agreement in writing.
- Email the Council

If your insurers agree, notify the Council using the template below:

Licence Holders name
Licence Number
Registration number of vehicle
I have fitted a screen to the above vehicle and confirm that: The screen has been properly and securely fitted so that it is not a danger to any occupants in the vehicle I have informed my insurer The insurance for the vehicle remains in place

When we have this email we will record this as an authorised 'material change' to your licence.

4. Alcohol: Premises Licenses

4.1 "Where can I get more guidance?"

The Scottish Governments Coronavirus (Covid19): Tourism and Hospitality Sector guidance, published 20 November 2020 can be found at <https://www.gov.scot/publications/coronavirus-covid-19-tourism-and-hospitality-sector-guidance/>

Guidance will change depending on which Tier level is applicable at the time. You can also receive guidance from Environmental Services, who can be emailed at ehs@eastlothian.gov.uk

4.2 "Is my 'Premises Licence' affected by Covid19?"

No, the Premises Licence is not affected.

4.3 "What is the exception for Marriages, Civil Partnerships and Funerals?"

If services are provided in connection with a marriage ceremony, civil partnership registration or a funeral, the premises can still sell, supply and allow the consumption of alcohol until 22:00 hours.

4.4 "What Contact-Tracing records do I need?"

To help protect people, you need to keep records of your customers so that they can be contacted/traced by the NHS, if there is a risk that the virus has been passed on.

The owner, proprietor and manager of all premises in which food or drink is sold for consumption on the premises must:

- Obtain and record 'visitor information'
- Keep it for a period of 21 days
- If requested by a Public Health officer, supply it within 24 hours (you can only use the information you have collected for health reasons)

'Visitor Information' means:

- The name and telephone number of one member of each household visiting the premises
- The date and arrival time of their visit
- A note of the number of any members of that person's household visiting the premises at the same time

4.5 On Sales Premises – "I don't have 'off-sales' in my Premises Licence. Can I sell alcohol to take-away?"

You will need to apply for a variation of your Operating Plan or an Occasional Licence to enable you to do this.

4.6 "I have 'off-sales' in my Premises Licence. Can I sell alcohol to take-away?"

Yes, but only where this is sold for consumption off the premises.

4.7 "Can I sell food to take-away?"

Yes but only if you have a Food Safety Certificate from the Council's Environmental Health department. This is different from the Licensing Board which granted your Premises Licence.

4.8 All Premises – "Can I do home-delivery of alcohol?"

If you have an off-sales in your Premises Licence, you can home-deliver alcohol. You don't need to

offer the sale of food. This applies to public houses, cafes, restaurants and shops.

Clubs have special rules and are called Section 125 clubs. They should only supply alcohol to their members so they can't do home-delivery for the general public.

If you don't have off-sales in your Premises Licence then you need to either apply for a variation of your Operating Plan or an Occasional Licence.

It is important that the person who makes the delivery is able to see the customer to check that the customer is aged 18 years or over. If there is any doubt that the customer is at least 18 years, the alcohol must be kept by the delivery person.

4.9 "What are the rules for home-delivery?"

Where alcohol (whether with or without food or any other goods or services) is supplied by delivery away from the Licensed Premises then:

- a) Alcohol can only be sold within licensed hours
- b) Alcohol can be delivered outside those hours but cannot be delivered between midnight and 06:00 hours
- c) The Board is likely to regard a delivery operation as being inconsistent with both the 'crime and disorder' and 'protecting children and young people from harm' licensing objectives if alcohol is supplied unless:
 - i. The supplier on arrival at the delivery address first carries out the same checks about the recipient's age as would be appropriate to a sale
 - ii. The supplier refuses delivery unless and until such evidence of age is produced
- d) Two records must be made before the alcohol leaves the Premises:
 - i. In a Day Book kept on the Premises, and
 - ii. In a Delivery Book or Invoice carried by the person delivery the alcohol
- e) The information to be recorded in both cases is
 - i. The quantity, description and price of the alcohol, and
 - ii. The name and address of the person to who it is to be delivered
- f) It is illegal to deliver alcohol to an address which is not recorded in both records

The records must be shown to a Police Constable or Licensing Standards Officer on request.

5. Alcohol: Personal Licenses

5.1 "My personal licence will expire soon. What do I do?"

You should apply for renewal now. If you do this before your licence expires, the emergency rules mean that your licence continues for an extra 6 months past its expiry date. The emergency rules mean that you can apply for renewal right up to the last day of your licence, and if you apply before the expiry date your existing licence lasts an extra 6 months.

5.2 "I don't have a training certificate. What do I do?"

You should still apply for renewal before your existing licence expires. If you do that then the emergency rules mean that your existing licence stays in for 6 months after its expiry date. We can't grant the renewal application until we see one of these qualifications:

- Scottish Certificate for Personal Licence holders
- The Scottish Certificate for Personal Licence Holders (Refresher)

If you book a training course, check the course leads to one of these.

6. Alcohol: Occasional Licenses

6.1 “I have an Occasional Licence for an event. Can it still take place?”

No. The law was changed on 26 March 2020 because of the Emergency Period. There are a few exceptions, but none of these are likely to cover the event you wanted an Occasional Licence for. If none of the exceptions apply, anyone involved can be prosecuted and face fines of up to £10,000. Police Scotland can issue on-the-spot fines of £60.

6.2 “I had a licence for an event but had to cancel it because of Covid19. I plan to re-schedule the event for later. Can I get a refund of the licence fee or can I credit the fee I’ve already paid against the fee for my next licence?”

No. If you want to operate on a different date you will have to apply for a second licence, and you will have to pay a second fee.

6.3 “Can I use a series of Occasional Licenses to run a business?”

By law an Occasional Licence has a maximum duration of 14 days, so businesses have to apply for a sequence of 14-day Occasional Licences. Each Licence costs £10. You must be a Premises or Personal licence holder or a Voluntary Organisation to apply for an Occasional Licence.

While businesses can apply for a sequence of 14-day Occasional Licences, they should note:

- that the use of Occasional Licences is not a long-term solution for them;
- to maintain a licence long-term, businesses will need to apply for and have granted a Premises Licence if it is planned to continue the sale of alcohol, rather than using a series of OLs;

7. Tattooing, Skin Piercing or other Close Contact Services

7.1 “What is a Close Contact Service?”

A “Close Contact Service” means:

- (i) beauty and nail services (including make-up services),
- (ii) hair removal services,
- (iii) tattoo, piercing and body modification services,
- (iv) fashion design, dress-fitting and tailoring services,
- (v) indoor portrait photography and art services,
- (vi) massage therapies,
- (vii) complementary and alternative medicine services requiring physical contact or close physical proximity between persons, but not osteopathy and chiropractic services,
- (viii) spa and wellness services,
- (ix) other services or procedures which require physical contact or close physical proximity between a provider and a customer and are not ancillary to medical, health, or social care services.

The rules fall under The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 No. 344.

8. Fairgrounds and Public Entertainment

8.1 “I have a public entertainment licence. Can I open?”

Advice on which types of entertainment can open at this time can be received from the Council’s Environmental Health department at ehs@eastlothian.gov.uk

8.2 “I had a licence for an event but had to cancel it because of Covid19. I plan to re-schedule the event for later. Can I get a refund of the licence fee or can I credit the fee I’ve already paid against the fee for my next licence?”

No. If you want to operate on a different date you will have to apply for a second licence, and you will have to pay a second fee.

9. Markets

9.1 “I have a Market Operator’s licence. Can I open?”

Yes. Outdoor markets are permitted subject to the rules on maintaining social distancing and hygiene.

9.2 “I had a licence for an event but had to cancel it because of Covid19. I plan to re-schedule the event for later. Can I get a refund of the licence fee or can I credit the fee I’ve already paid against the fee for my next licence?”

No. If you want to operate on a different date you will have to apply for a second licence, and you will have to pay a second fee.

10. Street Traders

10.1 “I have a Market Operator’s licence. Can I open?”

Yes. Outdoor markets are permitted subject to the rules on maintaining social distancing and hygiene.

11. Window Cleaners

11.1 “I have a Window Cleaners licence. Can I work?”

Yes, if you follow this guidance:

- You have no coronavirus symptoms
- You keep at least 2 metres from anyone on the Premises you are working on
- You only work outside

12. Caravans

12.1 “Can I allow people who live in caravans as their usual homes, stay on site?”

Yes

12.2 “Can I allow people who live in caravans but not as their usual homes stay on the site?”

This is permitted as long as the caravans are self-contained, with their own facilities.

12.3 “Does the rule about caravan sites only being used at some times of the year apply?”

Yes. Some caravan site licences have a condition restricting the use of the site to particular time of

the year – a common example is a six-week closure period after the New Year public holidays. If you want to remove this condition for 2021, you are required to submit a request, in writing, to the Council at licensing@eastlothian.gov.uk

13. Landlords and Houses in Multiple Occupation (HMOs)

13.1 “Can I still let tenants stay in my house?”

Yes

13.2 “Can I evict tenants who have Coronavirus?”

No. Even before the Covid19 emergency, a landlord could only evict a tenant with an order from the Housing and Property Chamber of the First Tier Tribunal.

13.3 “Can tenants stay in my house even if the tenants are not paying the full rent?”

Yes. Even before the Covid19 emergency, a landlord could only evict a tenant with an order from the Housing and Property Chamber of the First Tier Tribunal. This still applies. The rules about this have been changed by the Coronavirus (Scotland) Act 2020.

13.4 “When does my HMO licence expire?”

All current expiry dates remain the same.

14. Gambling

14.1 “I have a licence for a bingo premises or amusement arcade. Can I open?”

Whilst in Level 2, yes. You must operate in line with guidance, physical distancing, face coverings and other hygiene measures.

14.2 “I have a licence for a Betting Shop. Can I open?”

Yes

14.3 Has the timetable for paying Gambling annual fees changed?

No

15. Animals

15.1 I have a licence for Animals such as a Riding Establishment or Animal Boarding. Can I open to the public?

Yes. You must operate in line with guidance, physical distancing, face coverings and other hygiene measures.

15.2 I have a Pet Shop? Can I open?

Yes. You must operate in line with guidance, physical distancing, face coverings and other hygiene measures.