

GUIDANCE ON APPLYING FOR A LATE HOURS CATERING LICENCE

A Late Hours Catering Licence is required for any premises (including mobile premises operated by Street Traders) within Falkirk Council area between the hours of 11.00pm and 5.00am the following morning for the sale to or consumption (either on or off the premises) by the public of food.

What exemptions apply?

A Late Hours Catering Licence is not required in respect of –

- Holds a Premises Licence in terms of the Licensing (Scotland) Act 2005: or
- Holds a Public Entertainment Licence in terms of the Civic Government (Scotland) Act 1982.

and meals or refreshments are offered within licensed operating hours.

The Council may, on application made to them, exempt the use of premises requiring a late hours catering licence from the requirement to have such a licence:-

- (a) in respect of any particular occasion: or
- (b) during a specified period not exceeding 2 months in any period of 12 months.

Who should apply?

The individual or company responsible for operating the premises should apply for a licence.

If a partnership applies for a licence they must provide a copy of the partnership agreement along with details of an individual who will be responsible for the day to day management of the premises.

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An individual applying for a licence who does not intend to be responsible for the day to day management of the premises can name another individual as their day to day manager.

Will I require any other permissions or consents?

The premises require to be registered with the Food Safety Unit.

Planning permission may be required. Although the premises may have planning permission to operate a food business there may be restrictions on the hours that can be operated.

If any alterations have been done to the premises a building warrant might be needed.

The Food Safety Unit, Environmental Health, Development Management and Building Standards can be contacted at Development Services, Falkirk Council, Abbotsford House, Bainsford, Falkirk, FK2 7YZ (telephone 01324 504950).

You are required to show us that you meet the legal requirement to separate glass, plastic, metals, paper, cardboard and food wastes for recycling. You need to complete the form Arrangements for Disposal and Presentation of Waste/Recycling and give us copies of contracts you have in place

Further information on trade waste is available at:

<https://www.sepa.org.uk/media/163084/guidance-on-separating-material-for-recycling.pdf>

How do I make an application?

Your application should be made on the form that is available to download from our website. There is also guidance on how to complete and submit the form. You will also need to send to us the following with the form:-

- The application fee. This can be paid in cash, by cheque made payable to “Falkirk Council”, debit/credit card or postal order.
- Location plan clearly indicating the full extent of the application site.
- Photographic Identification (new applications individuals only).
- Proof of address (new applications individuals only).
- Criminal Record Check if required.
- Trade Waste Certificate.
- Copy of Controlled Trade Waste Transfer Note.

If the application is for the **renewal** of a late hours catering licence you must submit the Trade Waste Certificate and Controlled Trade Waste Transfer Note with the application.

If the application is for a **new** late hours catering licence you can submit the Trade Waste Certificate and Controlled Trade Waste Transfer Note within a period of **six weeks** from when your licence is granted to allow you time to get contracts in place.

Site Notice

When you submit the application the Site Notice will require to be displayed at or near the premises for a period of 21 days where it can be conveniently read by the public. This allows for the public to object to or make representation to your application. Once the notice has been displayed for this period you are required to complete and submit the Certificate of Compliance. Please check with the licensing office to ensure we have your application before you display your notice. The notice will be checked by the licensing Enforcement Officer.

How much will it cost?

The application fees for late hours catering are:-

- New/Renewal application £276
- Variation £37.80

Generally you won't get your money back if we have started to process your application and change your mind or if your application is refused.

What happens if I have convictions or fixed penalties?

You need to tell us on the application form of **all** current convictions, conditional offers and/or fixed penalties recorded against any person(s) named on the application. If the application is for the renewal of an existing licence you are only required to tell us of convictions or fixed penalties since your licence was last granted. If you don't submit all information we will send your application form and fee back to you. If you have a current conviction the application will automatically be determined by the Civic Licensing Committee.

What if I have lived outside the UK for six months or more within the last 10 years?

If any persons named on the application has lived outside the UK for a period of six months or more within the last 10 years a Certificate of Good Conduct or Criminal Record Certificate from the country you resided in. The Criminal Record Certificate must have been obtained within the last 6 months of prior to submitting the application. This is so we can make sure we have the same information about your criminal record as we have for people who have lived in the UK for 10 years. You should contact your Embassy or Consulate to find out how to do this. If the information is not in English then you will need to arrange for it to be translated. You will have to meet the cost of getting this information, along with the costs of any translation.

What hours can I apply for?

Falkirk Council has a policy relating to residential and non residential areas. The hours you can stay open until will depend on the area of the premises. For further information please click on links for the Falkirk Council Late Hours Catering Policy and Maps detailing non-residential areas which are Falkirk, Denny, Bo'ness, Grangemouth and Stenhousemuir Town Centres.

How will my application be processed?

For new and renewal applications a 28 day consultation period begins on receipt of your application. This is when you display the Notice for a period of 21 days on or near the premises. You should check with the Licensing Unit that we have received your application before you display the notice. Thereafter, you complete the Certificate of Compliance and submit it to the Licensing Unit. Any person can object or make representation to your application at this stage.

During the consultation period your application will be sent to the following: Police Scotland, Scottish Fire and Rescue Service, Environmental Health, Building Standards, Development Control.

How long will it take to process my application?

We have nine months to make a final decision on your application. No decision can be made on any application until the consultation period of 28 days has passed. In practice most applications take approximately four to six weeks to process unless it has to be determined at a meeting of the Civic Licensing Committee.

The application will be determined at a meeting of the Civic Licensing Committee if:-

- any person named on the application has unspent conviction(s);
- objections are received; or
- hours sought are outwith policy; or
- the premises don't meet the required standards.

The Council can make an application to the Sheriff to extend the nine month determination period if required.

Once I submit my application, can I operate for the hours requested?

If the application is for a new licence you cannot sell meals or refreshments after 11.00pm. **until your application is granted.** If the application is for renewal of an existing licence you can continue to operate as per the last licence granted until we make a decision on your application.

What happens if my application is granted?

You will receive a letter and licence advising of this. Late Hours Catering Licences are normally granted for 1 year. If the licence is granted by officers the Standard Conditions will apply. If the licence is granted by the Civic Licensing Committee it will be granted with the Standard Conditions along with any additional conditions that the Committee may apply.

What happens if my application is refused?

If your application is refused, you are not allowed to make another application for this type of licence for 1 year from the date of the refusal unless you can show that there has been a material change in circumstances. You are entitled to ask us within 28 days of the application being refused by the Committee to give reasons for the refusal. Within 28 days of the Committee decision you may be entitled to a right of appeal to the Falkirk Sheriff on certain grounds.

What happens if I want to change my existing licence?

If you want to increase your hours or change the day to day manager you are required to submit an application to vary your licence. If the person who is the licenceholder changes, a new licence will have to be applied for. The variation does not come into force until we make a decision on the variation application. You should also tell us if anyone changes their address.