

Guidance on Tier 2 for pubs and bars wanting to operate as restaurants



Cumbria has been placed into [Tier 2](#) which means pubs and bars must close unless they are operating as a restaurant.

The full guidance in relation to Tier 2 can be viewed [here](#).

The information does not constitute legal advice nor does it override existing legislation or guidance. It is your responsibility to ensure you comply with the law.

The Council has collated some frequently asked questions in response to queries that have been received:

What do I need to do to start serving/selling food?

Businesses selling/serving food must be registered with the Council. A copy of the food registration form can be found [here](#).

Businesses must meet food hygiene, health and safety and Covid regulations when selling/serving food. The premises and facilities must be suitable to sell/serve food. This includes having in place a food safety management system. Consider the need to inform customers of allergens present in any food you sell/serve.

What is a substantial meal?

The Governments COVID winter plan defines a substantial meal as a full breakfast, main lunchtime or evening meal.

Schedule 2, Part 3, 14(1) of the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 states:

(1) A person responsible for carrying on a business of a public house, bar or other business involving the provision of alcohol for consumption on the premises must cease to carry on that business, unless sub-paragraph (2) applies.

(2) This sub-paragraph applies if alcohol is only served for consumption on the premises as part of a table meal, and the meal is such as might be expected to be served as breakfast, the main midday or main evening meal, or as a main course at such a meal.

(3) For the purposes of sub-paragraph (1)—

(a) alcohol provided by a hotel or other accommodation as part of room service is not to be treated as being provided for consumption on its premises;

(b) an area adjacent to the premises of the business where seating is made available for customers of the business (whether or not by the business), or which customers habitually use for consumption of food or drink served by the business, is to be treated as part of the premises of that business.

Paragraph (4) states:

a “table meal” is a meal eaten by a person seated at a table, or at a counter or other structure which serves the purposes of a table and is not used for the service of refreshments for consumption by persons not seated at a table or structure serving the purposes of a table.

It would be difficult to argue that a single sausage roll or a snack pork pie constitutes a main meal, whereas if it was served plated with accompaniments such as vegetables, salad, potatoes it could be considered substantial.

There is also a need to consider the issue of sharing meals. Whereas a platter or dishes designed to be shared could constitute a meal for a couple of people, sharing a single meal or plate of food between a group would be unlikely to be deemed a substantial meal.

As the legislation states that the alcohol is to be served ‘as part of’ the meal it is clear that the main purpose of frequenting the premises should be to have a main table meal and this should be a plated meal, served at a table. The alcohol is only ‘part of it’ and therefore secondary to the meal.

When should alcohol be served?

Legislation and guidance do not set requirements about when alcohol can be served alongside a substantial table meal or how long it can be served for.

It therefore appears that there are no restrictions on when a substantial table meal could be ordered, for example a meal equivalent to lunch or dinner could be ordered in mid-afternoon. However, the length of time a person or household can order drinks alongside their meal needs to be proportionate to the meal they are eating. The regulations are clearly not intended to allow a person to sit and drink multiple alcohol drinks for a much longer period either side of a meal being ordered and consumed.

It may be pragmatic to take a different approach depending on the type of setting where a meal is being consumed. For example, when dining in a restaurant drinks are often ordered and served before food is ordered. However, it may be prudent to advise that in a pub setting, premises should only accept a drinks order alongside a food order, to prevent people ordering drinks but subsequently not ordering a meal. However, pragmatically, a drink ordered alongside food may be served in advance of it. The end of the meal is likely to be an appropriate time to stop taking orders of alcohol.

Can food be served in takeaway tubs?

How the food is served will be up to individual premises to determine, but it must be ‘substantial’, as above.

Is there a time limit?

Once a food order has been placed and is being consumed, there is the question of how long a person can remain in the premises consuming alcohol. It is difficult to be definitive about this as there are questions of judgement depending on the nature of the food being consumed: the length of time taken to eat a sandwich platter or pizza will be quite different to a three-course meal for example. However, with many restaurants now offering a two hour turnaround time on tables for lunch or evening meals as a standard position, this would appear to be a good guide for a maximum amount of time for a meal of multiple courses, with a shorter amount of time for meals of one course.

The guiding principle in this must be the intention of the regulations, which is that alcoholic drinks should be seen as secondary to the meal. Enforcement will be targeted at those premises which are clearly stretching things too far by allowing customers to stay well beyond the duration of a meal and in effect facilitating longer drinking sessions which present the greatest COVID 19 transmission risk.

Can we subcontract food from a takeaway/other restaurant?

Some pubs and bars are seeking to partner with local food businesses or caterers to enable them to provide substantial meals alongside alcohol. There is nothing in the regulations to prevent this happening, and provided it is managed appropriately and in line with the remainder of this document, it is permitted.

The guiding principle here is that the regulations require the substantial meal to be ordered from and provided by the premises which is serving alcohol. It is not permissible for customers to order a takeaway to be delivered to a pub or bar, or to otherwise bring their own food into the premises: food must be ordered in the same transaction in which alcohol is purchased in order for the premises to be deemed to be operating as a restaurant. The pub or bar and food business will be responsible for managing the reimbursement of costs and provision of food to the pub or bar separately to the pub's transaction with the consumer.

Can I show football/provide entertainment?

Given that pubs and bars must close unless operating as a restaurant, football and other entertainment should not be provided at this time.

Are there any exceptions?

In cinemas, theatres, concert halls and sports stadia, alcohol can be ordered at a bar to be consumed when seated in the auditorium or area where the screening/performance is taking place. This should be limited to only those with tickets. When it is consumed in the bar area itself, it must be part of a substantial meal and full table service must be provided.

COVID secure guidance

The guidance on being COVID secure has also been updated and can be viewed [here](#).

Prior to opening:

- You must make sure that you carry out a risk assessment which appropriately covers the risks associated with COVID-19. Further information on risk assessments is available [here](#).
- Check you have enough appropriate signage to encourage social distancing.
- Tables and chairs must be at least 2m apart. 1m+ is permissible where there are mitigations in place, such as screens. You need to bear in mind movement of customers within the premises and that they can safely pass others, maintaining social distancing.
- You will need to calculate the number of people who can safely enter the premises whilst maintaining social distancing (2m), this includes toilets and outdoor space.
- You should display notices around the premises reminding customers to wear a face covering.⁴

Upon entry:

- You must keep a manual record of:
 - Name of the leader of the party
 - Number of people in the group

- Date of their visit
- Arrival time, and where possible, departure time
- A contact telephone number, if not available an email address, or lastly a postal address.
- You must display an NHS QR code and customers may check in using the QR code rather than the manual system as above.
- Premises must take reasonable steps to refuse entry to those who have failed to check in via the app or via your manual records.
- Full details of the NHS test and trace is available [here](#).
- Encouraging customers to sanitise their hands upon entry and near all touch points.
- You must only take bookings and allow entry to those from the same household/support bubble.
- People cannot socialise with anyone they do not live with or who isn't in a support bubble in any indoor setting, at home or in a public place. You must take all reasonable steps to ensure people are from one household/[support bubble](#).
- Face coverings must be worn indoors unless seated (unless exempt).

Whilst in the premises:

- Full table service must be provided.
- Face coverings must be worn by all customers when not seated (unless exempt).
- Face coverings must also be worn by staff (unless exempt).
- You must also ensure larger groups do not form whilst in the premises. Notices should be displayed reminding customers tables and chairs should not be moved.
- Celebrations, such as birthday parties should not take place at this time. Wakes are permitted to a max of 15 people.

11pm closure:

- Premises must close at 11pm. Last orders for food and drink must be 10pm.
- Where your premises licence allows, you are permitted to continue delivery, click and collect and drive through of alcohol (and food, although no premises licence required for hot food or hot drink sales unless 23:00 - 05:00).

PLEASE NOTE: GUIDANCE AND LEGISLATION CAN CHANGE QUICKLY. THE ABOVE POINTS ARE CORRECT AT THIS TIME (3/12/2020). TO KEEP ABREAST OF ANY NEW REGULATIONS OR GUIDANCE VISIT, <https://www.gov.uk/coronavirus>

If you require clarification or advice, please email environmental.health@allderdale.gov.uk.

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