

GUIDANCE NOTES

APPLICATION FOR THE REMOVAL OF THE MANDATORY ALCOHOL CONDITION UNDER THE LICENSING ACT 2003

The Licensing Act 2003 has been amended to allow certain community premises which have or are applying for a Premises Licence that includes the sale of alcohol to also apply to remove the need for a Designated Premises Supervisor. This is through The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009.

Such an application can only be made if the Licence Holder is, or is to be, a Committee or Board of Individuals who will have responsibility for the management of the premises.

As the Premises Licence Holder the Management Committee will collectively be responsible for ensuring that compliance with licensing conditions and the law is met. Should the premises be hired out and where overall responsibility lies with the Management Committee, the hirer can be clearly identified as having responsibility for matters falling within their control by the use of a Contract for Hire document offered by the Premises Licence Holder.

If an application is successful the Licence Holder, (ie the Management Committee), will be responsible for the supervision and authorisation of all alcohol sales made against the Licence. There will, therefore, be no requirement for a Designated Premises Supervisor or for Personal Licence Holders to authorise sales of alcohol.

The Order defines 'Community Premises' as premises that are or form part of:

- A Church Hall
- A Chapel Hall or similar building
- A Village Hall
- A Parish Hall or Community Hall or other similar building

Where it is not clear whether a premises is a 'Community Premises' the Licensing Authority will look at how the premises will predominantly be used and consider if it is:

- Genuinely made available for community benefit most of the time.
- Accessible by a broad range of persons and sectors of the local community for purposes which include those beneficial to the community as a whole.

If these two points are applicable the premises will likely meet the 'Community Premises' definition.

As such, community premises are usually multi-purpose with a variety of activities taking place in them, eg playschools, indoor sports, youth clubs, public meetings etc.

The statutory test for definition will be directed at the nature of the premises itself, as shown by the predominant use, and not only at the usefulness of the premises for members of the community for private purposes (eg, private hire by individuals or private parties).

It is not the intention under this Order to allow 'qualifying clubs' to seek a Premises Licence removing the requirement for a Designated Premises Supervisor instead of a Club Premises Certificate. If the general use of a premises is reliant upon membership of a particular organisation or organisations this would strongly suggest that the premises is not a 'Community Premises'.

Application Process

A new application for a Premises Licence involves the completion of a Premises Licence application along with a new form applying for the mandatory alcohol condition requiring a Designated Premises Supervisor to be disapplied.

- The premises licence application form, along with a plan of the premises, must be submitted to the relevant Licensing Authority and also copied to each of the Responsible Authorities.
- The application form for the mandatory alcohol condition requiring a Designated Premises Supervisor to be disapplied must be submitted to the relevant Licensing Authority and only copied to the Chief Officer of Police.
- No extra payment will be required beyond the existing fee.

For existing licence holders, without the facility to sell alcohol on their licence, the process involves the completion of a Variation Licence application to include the sale of alcohol and any other items to be varied, along with a new form applying for the mandatory alcohol condition requiring a Designated Premises Supervisor to be disapplied.

- The variation application form, along with a plan of the premises (if applicable), must be submitted to the relevant Licensing Authority and also copied to each of the Responsible Authorities.
- The application form for the mandatory alcohol condition requiring a Designated Premises Supervisor to be disapplied must be submitted to the relevant Licensing Authority and only copied to the Chief Officer of Police.
- No extra payment will be required beyond the existing fee for the variation of the Licence.

For a community premises that already holds a Licence to sell alcohol, but wishes to disapply the mandatory alcohol condition, the application form for the mandatory alcohol condition requiring a Designated Premises Supervisor to be disapplied should be submitted to the Licensing Authority, with a copy being sent to the Chief Officer of Police. The required fee of £23.00 should accompany the application.

In exceptional circumstances the Chief Officer of Police for the area in which the premises are situated can object to a request for exclusion of the mandatory alcohol condition on the grounds of crime and disorder. The Local Authority must then hold a Hearing in order for a decision to be reached on whether to grant the application.

The Licensing Authority must also be satisfied that the arrangement for management of the premises are sufficient to ensure adequate supervision of alcohol on the premises, before the alternative licence condition is to be included on the licence in place of the mandatory condition.

Any Responsible Authority and/or Interested Party can seek reinstatement of the mandatory condition through a review of the Licence. Should a review take place a Hearing must be held in order for a decision to be reached.

Appeals

- A Community Premises can appeal a decision by the Local Authority to refuse to include the alternative licensing condition following a Hearing triggered by Relevant Representations or by a Notice given by the Police.
- The Chief Officer of Police can also appeal the decision of the Local Authority to include the alternative licence condition if they have made a Relevant Representation or given Notice that was not successful.
- A Premises Licence Holder may appeal a decision following a Review of the Licence in which mandatory conditions are reinstated.
- Persons who made Relevant Representations may appeal if the alternative licence condition has been applied in place of the mandatory licence condition.