

# Guidance to applicants on removing the requirement to have a Designated Premises Supervisor and giving responsibility for managing the premises licence to a Management Committee

Licensing Act 2003

May 2012

# Guidance

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## **Application to remove the requirement to have a Designated Premises Supervisor and give responsibility for managing the premises licence to a Management Committee**

### **General**

It is now possible for community, church and village halls to apply under section 25A(6) of the Licensing Act 2003 (“the Act”) to remove the mandatory conditions in section 19(2) and (3) of the Act to (which require a designated premises supervisor (“DPS”), who must be a personal licence holder, to authorise every supply of alcohol) and replace them with an alternative licence condition in under which a management committee is responsible for the supply of alcohol. This removes some of the associated burdens that the current conditions place on volunteers.

**There will be no automatic disapplication of the conditions in respect of any premises. A management committee of a community, church or village hall that seeks the removal of the conditions from an existing licence, or wishes to apply for a licence that does not include them, will need to apply to their local licensing authority for the conditions to be removed and the alternative condition imposed instead.**

The types of application that can be made are as follows:

- Application to replace the requirement to have a DPS with the alternative licence condition for an existing premises licence to supply alcohol.
- New application for a premises licence including the supply of alcohol under the alternative licence condition.
- Application to vary an existing premises licence to add the supply of alcohol under the alternative licence condition.

## **Who can apply?**

The application must come from a committee or board with responsibility for the management of the community premises.

A 'committee' or 'board of individuals' is intended to cover any formally constituted, transparent and accountable management committee or structure. It should have the capacity to provide sufficient oversight of the premises to minimise any risk to the licensing objectives that could arise from allowing the responsibility for supervising the sale of alcohol to be transferred from a DPS. This could include management committees, executive committees and boards of trustees. The application form requires the applicant to provide the names of the management committee's key officers e.g. the Chair, Secretary, Treasurer.

Community premises may wish to check their position with the licensing authority before making an application.

## **Definition of Community Premises**

In most cases, it should be self evident whether a premises is or forms part of a community premises, such as a church hall, chapel hall, village hall, parish hall, community hall or other similar building.

The criteria are the same as those used for the purposes of fees exemptions, so premises that have an existing premises licence and qualify for fee exemptions for regulated entertainment will also be 'community premises' for these purposes.

Where it is not clear, the main criteria will be how the premises are predominantly used. Those premises that are made available for community benefit most of the time and accessible by a broad range of persons and sectors of the community, including for purposes beneficial to the community as a whole, are likely to meet the definition.

Many premises such as schools and private halls are made available for private hire by the general public. This fact alone would not be sufficient for such premises to qualify as community premises. Although this might be seen as providing a facility for the community, licensing authorities will consider whether halls used largely for private hire by individuals or private entities are genuinely by their nature 'community premises'. The test is whether the predominant use of the premises is for community benefit rather than the utility of the premises for members of the community for private purposes.

If the general use of the premises is contingent upon membership of a particular organisation, this would strongly suggest that the premises in question are not a 'community premises' within the definition. However, hiring the premises to individual organisations and users who restrict their activities to their own members and guests would not necessarily conflict with the status of the

premises as 'community premises', provided the premises are generally available for use by the community in the sense described above.

### **Who will be responsible for complying with the law?**

As the premises licence holder, the management committee will collectively be responsible for ensuring compliance with licence conditions and the law (and may remain liable to prosecution for one of the offences in the Act) although there would not necessarily be any individual member always present at the premises.

While overall responsibility will lie with the management committee, where the premises are hired out the hirer may be clearly identified as having responsibility for matters falling within their control (e.g. under the contract for hire offered by the licence holder), much in the same way that the event organiser may be responsible for an event held under a Temporary Event Notice. Where hirers are provided with a written summary of their responsibilities under the Act in relation to the sale of alcohol, the management committee is likely to be treated as having taken adequate steps to avoid liability to prosecution if a licensing offence is committed.

### **The fee**

The fee to apply to replace the requirement to have a DPS with the alternative licence condition is £23.

No extra payment is required beyond the existing fee to include the alternative licence condition as a part of a new application or a variation.

### **Advertising**

There is no requirement to advertise an application to include the alternative licence condition.

### **Objections to an application**

Only the Chief Officer of Police can object to a request for the inclusion of the alternative licence condition on the grounds of crime and disorder. The police will consider any history of incidents at an establishment in light of the actual or proposed management arrangements, including in relation to the use of appropriate hire agreements. If the Chief Officer of Police objects to the application to include the alternative licence condition on crime prevention grounds, the licensing authority must hold a hearing to consider the objection and determine whether to grant the application.

If the application for the alternative licence condition is granted, any responsible authority as defined in section 13(4) of the Act and/or any other person can seek reinstatement of the conditions to have a DPS through licence review (in accordance with sections 51 and 52A of the Act).

## **Appeals**

Where the Chief Officer of Police has made relevant representations against the inclusion of the alternative licence condition, or given a notice under section 41D(6) of the Act which was not withdrawn, the Chief Officer of Police can appeal the decision of the licensing authority to allow the inclusion of the alternative licence condition.

Similarly, a community premises can appeal a decision by the licensing authority to refuse to include the alternative licence condition following a hearing triggered by relevant representations or by a notice given under section 41D(6). Following a review of the licence in which the mandatory conditions are reinstated, the licence holder may appeal against the decision. If the alternative licence condition is not removed on the determination of the review, the applicant for the review or any person who made relevant representations may appeal against that decision.

## **Procedure for applying to replace the licence conditions**

### **The application form**

The form is available from your licensing authority website or from the alcohol application forms page of the Home Office. This form can be printed off or filled in electronically.

<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-licensing/designated-premises-supervisor/>

We advise that you supply as much information as possible and that rather than leaving any section blank, you mark it as not applicable.

You may also wish to discuss your application with your licensing officer before completing the form.

### **PART 1 – Premises details**

As the form requires that the application is from a committee or board, you must provide the name of the committee or board rather than of an individual member of the committee or board.

The details required in this section relate to the premises themselves (rather than the committee). If the premises have no postal address, e.g. if the application relates to open land, you should describe the location of the premises or give the Ordnance Survey map reference. You should also only give the telephone number of the premises (if there is one) in this section, rather than a point of contact off the premises.

This section also asks for a description of the premises and the composition of the committee or board with responsibility for the management of the premises. It is important to provide as much information as possible. The licensing authority will use this information to judge whether or not your premises is genuinely a 'community premises'. If you have any documents showing the structure of the premises and how it is managed, we advise that you include these. Please note however that it is only necessary to name the committee's or board's key officers such as the Chair, Secretary, Treasurer etc.

This section also asks for a description of how you will ensure that alcohol sales are properly supervised and what arrangements you have in place (if any) for hiring out the premises. The licensing authority will only grant the alternative licence condition if they are content that the supply of alcohol will be properly supervised in different situations in the absence of a DPS. It is important to include how responsibility for alcohol sales is to be determined in individual cases and how this will be discussed/reviewed within the committee's or board's procedure in the event of any issues arising. We advise that you include copies of any hiring agreements that describe the arrangement made between the community premises and the hiring party. Models of hiring agreements are available from ACRE and Community Matters:

<http://www.acre.org.uk/>

<http://www.communitymatters.org.uk/>

## **PART 2 – Applicant details**

This section requires a telephone number and address (if there is one) to contact the committee. This may be the phone number and address of an individual member of the committee (such as the Secretary) if this is used to contact the committee.

This section also requires that you state whether you have enclosed the premises licence. This should be included for applications to replace the requirement to have a DPS with the alternative licence condition and for applications to vary an existing licence to add the supply of alcohol and to include the alternative premises licence. If you are unable to enclose the premises licence, please explain clearly why not.

There is also a checklist to ensure that you have enclosed all the relevant information. This is divided into two sections. Only those premises that have an existing licence that authorises the sale of alcohol need enclose the fee.

For those premises applying alongside a new premises licence application or an application to vary an existing premises licence to add the supply of alcohol, documents that identify the premises and

how it is run and copies of any hiring agreements should also be included. As this application should be included with the new application or the application to vary a premises licence, there are already requirements to send the documents to the Chief Officer of Police as a responsible authority.

### **PART 3 – Signatures**

The application form must be signed by two members of the management committee. Please state in what capacity the signatory is signing the application, such as Committee Chair, Committee member, Secretary etc.

This section also asks for a contact name, address and telephone number for correspondence associated with the application if this has not been given in previous sections. If you would like to use the details in a previous section, please state clearly which details you would like to use for correspondence.

**Then send your completed form to your local licensing authority and the Chief Officer of Police.**

### **Role of licensing authorities**

When the licensing authority receives your application, they take the following into consideration:

- Whether the applicant is, or is to be, a committee or board of individuals with responsibility for the management of the premises.
- Whether the premises is a 'community premises'.
- Whether they are satisfied that the arrangements for the management of the premises by the committee or board are sufficient to ensure adequate supervision of the supply of alcohol on the premises in different situations, such as when the premises is hired out to private parties.
- Whether replacing the requirement to have a DPS with the alternative licence condition will have a negative impact on the licensing objectives.

### **Timescales**

The timescales for applications mirror the application process for a grant of a premises licence or to vary a premises licence. Broadly, this is as follows:

When applying for a new licence with the alternative licence condition or if applying to vary the licence to add alcohol with the alternative licence condition, the applicant must copy the application to all responsible authorities on same day as application is sent to the licensing authority.

Where the only application is to remove the requirement to have a DPS from an existing licence, the applicant must copy the application to the police on the same day as the application is sent to the licensing authority.

Representations must be made within 28 days of the application being given to the licensing authority.

A hearing, if representations are received, must be held within 20 working days of the last date on which representations could have been made.

The licensing authority must make a determination within 5 working days of the last day of the hearing.

### **When an application has been granted**

The management committee is strongly encouraged to notify the licensing authority if there are key changes in the committee's composition such as to the Chair, Secretary, Treasurer, and to submit a copy to the Chief Officer of Police. A failure to do so may form the basis of an application to review the premises licence, or be taken into account as part of the consideration of such an application.