

Licensing Act 2003 - Community Premises and Sale of Alcohol

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls) Order 2009

Normally, a premises licence that authorises the supply of alcohol includes mandatory conditions that require a Designated Premises Supervisor (DPS) to be specified and, that every sale of alcohol at such premises is to be authorised by a personal licence holder.

The 2009 Order allows a committee or board of individuals with responsibility for the management of community premises to apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions detailed above. The alternative condition is that every supply of alcohol under the licence must be made or authorised by the management committee. Under this alternative condition there is no requirement for a personal licence holder at the venue.

The Government introduced the Order in order to ease the administrative burden on community premises that make such an important contribution to life in our communities. The order allows community premises, such as church halls and village halls with properly constituted management committees or management structures, to apply to replace the normal mandatory conditions with a simpler and cheaper arrangement.

Overview of the process

The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. This is why individuals engaged in making and authorising the sale and supply of alcohol require a personal licence. Not every person retailing alcohol at premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by such a licence holder.

The only exception is for community premises in respect of which a successful application has been made to disapply the normal requirement for a personal licence holder.

Under normal circumstances a premises licence (authorising the sale of alcohol) will be subject to the following mandatory conditions:

No supply of alcohol may be made under this licence:

- a) at a time when there is no designated premises supervisor in respect of it, or
- b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

S19(1) Licensing Act 2003

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

S19(2) Licensing Act 2003

The above licence conditions are always attached to premises licences authorising the sale of alcohol at pubs, nightclubs, restaurants, hotels, off-licences, etc.

The Legislative Reform Order 2009 allows certain community premises which have, or are applying for, a premises licence that authorises alcohol sales to also apply to include an alternative licence condition to the mandatory conditions detailed above. Such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premise. If such an application is successful, the effect of the alternative licence condition is that the licence holder (i.e. the management committee) is responsible for the supervision and authorisation of all alcohol sales. All such sales will have to be made or authorised by the licence holder (i.e. the management committee).

There will be no requirement for a DPS at the community premise or for alcohol sales to be authorised by a personal licence holder.

Where the management committee of a community premises is applying for authorisation for the sale of alcohol for the first time, it should include the relevant form with the new premises licence application or the premises licence variation application. No extra payment is required beyond the existing fee for a new application or a variation.

Where a community premises already has a premises licence to sell alcohol, but wishes to include the alternative licence condition in place of the usual mandatory conditions, it should submit the prescribed form on its own together with the required fee. The application fee is **£23**.

Definition of Community Premises

The 2009 Order defines community premises as premises that are or form part of a church hall, chapel hall or other similar building or a village hall, parish hall or community hall or other similar building. In most instances, it will be self-evident whether a premise is a “community premises”. Where it is not clear whether premises are “community premises”, the Licensing Authority will approach the matter on a case-by-case basis.

Management of the Premises

The 2003 Act allows applications by community premises to apply the alternative licence condition (rather than the usual mandatory conditions) only where the applicant for the licence is the management committee of the premises in question. In addition, the Licensing Authority needs to be satisfied that the arrangements for the management of the premises by the committee are sufficient to ensure the adequate supervision of the supply of alcohol on the premises.

The committee must be properly constituted and have a transparent and accountable management structure. Such a committee should have the capacity to provide sufficient oversight of the premises to minimize any risk to the licensing objectives that could arise from allowing the responsibility for supervising the sale of alcohol to be transferred from a personal licence holder.

The application form requires the applicants to provide the names of the management committee's key officers (e.g. the Chair, Secretary, Treasurer).

The application form requires applicants to set out how the premise is managed, its committee structure and how the supervision of alcohol sales is to be ensured in different situations (e.g. when the hall is hired to private parties). In addition the form asks how responsibility is to be determined in individual cases and discussed and reviewed within the committee procedure in the event of any issues arising. The application form requires that the community premises submit copies of any constitution or other management documents with their applications.

Where the management arrangements are less clear, the Licensing Authority will ask for further details to confirm that the management board or committee is properly constituted and accountable before taking a decision on whether to grant the application (subject to the views of the Police).

Community premises are advised to discuss prospective applications with the Licensing Team before making an application. The management committee will be strongly encouraged to notify the Licensing Authority if there are key changes in the committee's composition (e.g. to the Chair, Secretary, Treasurer) and to submit a copy to the Police. 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 a review application.

As the premise licence holder, the management committee will be collectively responsible for ensuring compliance with licence conditions and the law (and may remain liable to prosecution for one of the offences in the Licensing Act). However this does not necessarily mean that an individual member of the management committee should always be present at the premises.

While overall responsibility will lie with the management committee, where the premises are hired out it should be possible for the hirer to be clearly identified as having responsibility for matters falling within his or her 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 (TEN). Where hirers are provided with a written summary of their responsibilities under the 2003 Act in relation to the sale of

alcohol, the Licensing Authority will consider whether the management committee should be treated as having taken adequate steps to avoid liability to prosecution if a licensing offence is committed.

The 2003 Act requires the Licensing Authority to consider whether the arrangements for the management of the premises by the committee are sufficient to ensure adequate supervision of the supply of alcohol on the premises. Where private hire for events which include the sale of alcohol is permitted by the premises licence, it will be necessary to have an effective hiring agreement. With regard to hiring agreements the Licensing Authority recommend that applicants should refer to the recommendations for best practice made by organisations such as ACRE and Community Matters. Model hire agreements are available from these bodies. The model agreements can also be revised to cater for the circumstances surrounding each hire arrangement (e.g. to state that the hirer is aware of the licensing objectives and offences in the 2003 Act and will ensure that he / she will take all necessary steps to ensure that no offences are committed during the period of the hire).

Please contact the Licensing Team for if you need any further information.