

# Licensing Act 2003

## Guidance on the Removal of the DPS Requirement for Community Premises



### Introduction

The Licensing Act 2003 (“the 2003 Act”) requires that anyone wishing to sell alcohol or provide entertainment or late night refreshments (the supply of hot food and drink between 11pm and 5am) must do so from premises that have the benefit of a premises licence or club premises certificate.

The 2003 Act has stipulated until now that every premises licence that authorises the sale of alcohol is subject to the following mandatory condition:

- No alcohol sales may be made unless the premises licence has named on it a nominated person, known as the designated premises supervisor (“DPS”) who in turn must be a personal licence holder.
- Every sale of alcohol must be made or authorised by a personal licence holder. To obtain a personal licence a person must possess a licensing qualification and a criminal record bureau certificate.

### New provisions for Church Halls and Village Halls

The Government has now amended the 2003 Act to disapply the above mandatory condition in relation to premises licences held by village halls, church halls, chapel halls, community halls and similar community premises (“Community Premises”). If the mandatory condition is disapplied, a new alternative condition will be applied instead. The new ‘alternative’ condition means that a “Management Committee” supervises sales of alcohol and the application form requires you to set out how that supervision will take place in a range of different circumstances. You will also need to provide copies of your constitution and the names of your key officers such as the Chairman, Treasurer and Secretary. If these officers change then you need to notify the Council, as the licensing authority, and send a copy to the police.

As premises licence-holder the management committee will collectively be responsible for ensuring compliance with licence conditions and the law, although it would not be necessary for a member of the committee to be present all the time the premises were being used. A robust hiring agreement providing a written summary of the hirer’s responsibilities under the Licensing Act in relation to the sale of alcohol is suggested as an appropriate measure, as the “Management Committee” could be liable to prosecution if the hirer commits any licensing offences. Organisations such as ACRE and Community Matters have model hire agreements that you might like to adopt for your purposes, especially in making the hirer aware of the licensing objectives and duties under the Licensing Act in respect of the sales of alcohol.

This change has been introduced to reduce the burden to community premises of having to find individuals prepared to take the responsibility of being the Premises Designated Supervisor in relation to the sale of alcohol. There is also the cost of that individual becoming a personal licence-holder, including the cost of the training course to obtain the relevant qualification.

### How to disapply the mandatory conditions

If you already have the sale of alcohol on your premises licence the application fee is £23 and the prescribed application form can be obtained from the Council’s Licensing Team or from its website on the licensing pages. The address for service of applications is – The Licensing Manager, Licensing Service, East Devon District Council, Knowle, SIDMOUTH, EX10 8HL. Please remember when you are applying to disapply the mandatory conditions that you must send a copy the application to the police (Police Licensing Officer at Exmouth Police Station). You should also

note that if any issues arise with how the premises are run by the Management Committee then the police are able to request that the licence is reviewed so that the premises must have a Designated Premises Supervisor again if the sales of alcohol are to continue.

If you do not currently have the sale of alcohol as one of the licensable activities on the licence you may include this 'disapplication' if you should decide to apply for a new licence to include the sale of alcohol. This Licensing Authority would normally except where an applicant wishes to add the sale of alcohol to an existing licence that this would be done by way of a new licence application and not by variation. Providing you apply for the disapplication at the same time as the new licence there will be no additional fee. You will merely pay the normal application fee that is relevant to your community premises. The fee for both a new licence and a variation are identical and the process is similar.

### **Time Scales**

A variation of a licence to exclude the DPS requirement altogether (or reinstate it) must always follow the 28 day variation timescale. This means that where an application is made to disapply the mandatory DPS condition it can not take effect until a period of 28 days has expired following receipt of the application by the Licensing Authority and the Police.

### **Responsible Authority Role**

In exceptional circumstances the Chief Officer of the Police for the area in which the community premises is situated can object to a request for inclusion of the alternative licence condition on the grounds of crime and disorder. In those circumstances the police would issuing a notice seeking the refusal of the application to include the new mandatory condition. The licensing authority would then hold a hearing in order to reach a decision on whether to grant the application. The authority's decision can be appealed by either party.

The other responsible authorities (Environmental Health, Fire Service etc.) do not have the right to issue a notice seeking refusal. They can however seek reinstatement of the mandatory conditions at a later date through a review of the licence under section 52A of the Licensing Act 2003.

If you would like any further advice on this matter please contact the Licensing Team.

You may contact us at:

Licensing Service, East Devon District Council, Knowle, SIDMOUTH, EX10 8HL.

Telephone 01395 517410/517411

Email: [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)

Website: [www.eastdevon.gov.uk/licensing](http://www.eastdevon.gov.uk/licensing)

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