

# Revised Guidance issued under section 182 of the Licensing Act 2003

April 2018

## **Disapplication of certain mandatory conditions for community premises**

4.52 The 2003 Act was amended in 2009 to allow certain community premises which have, or are applying for, a premises licence that authorises alcohol sales to also apply to include the alternative licence condition in sections 25A(2) and 41D(3) (“the alternative licence condition”) of that Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3). 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 premises (the “management committee”). If such an application is successful, the effect of the alternative licence condition will be that the licence holder (i.e. the management committee) is responsible for the supervision and authorisation of all alcohol sales authorised by the licence. All such sales will have to be made or authorised by the licence holder. There will be no requirement for a DPS or for alcohol sales to be authorised by a personal licence holder.

4.53 Community premises are defined 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.

4.54 The process requires the completion of a form which is prescribed in regulations made under the 2003 Act. 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 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.

4.55 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 in sections 19(2) and 19(3) of the 2003 Act, it should submit the form on its own together with the required fee.

## **Definition of community premises**

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

4.57 Licensing authorities may have previously taken a view on how to determine whether a premises meets the definition of community premises for the purpose of the fee exemptions set out in regulation 9(2)(b) of the Licensing Act 2003 (Fees) Regulations 2005 (SI 2005/79). As the criteria are the same, premises that qualify for these fee exemptions for regulated entertainment will also be “community premises” for present purposes.

4.58 Where it is not clear whether premises are “community premises”, licensing authorities will need to approach the matter on a case-by-case basis. The main consideration in most cases will be how the premises are predominately used. If they are genuinely made available for community benefit most of the time, and accessible by a broad range of persons and sectors of the local community for purposes which include purposes beneficial to the community as a whole, the premises will be likely to meet the definition.

4.59 Many community premises such as school and private halls are available for private hire by the general public. This fact alone would not be sufficient for such halls to qualify as “community premises”. The statutory test is directed at the nature of the premises themselves, as reflected in their predominant use, and not only at the usefulness of the premises for members of the community for private purposes.

4.60 If the general use of the premises is contingent upon membership of a particular organisation or organisations, this would strongly suggest that the premises in question are not a “community premises” within the definition. However, the hire of 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 a “community premises”, provided the premises are generally available for use by the community in the sense described above. It is not the intention that qualifying clubs, which are able to apply for a club premises certificate, should instead seek a premises licence with the removal of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act relating to the supply of alcohol.

## **Management of the premises**

4.61 Sections 25A(1) and 41D(1) and (2) of the 2003 Act allow applications by community premises to apply the alternative licence condition rather than the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act only where the

applicant for the licence is the management committee of the premises in question. In addition, sections 25A(6) and 41D(5) require the licensing authority to be satisfied that the arrangements for the management of the premises by the committee or board are sufficient to ensure the adequate supervision of the supply of alcohol on the premises.

4.62 The reference to a “committee or board of individuals” is intended to cover any formally constituted, transparent and accountable management committee or structure. Such a committee 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 and personal licence holder or holders. This could include management committees, executive committees and boards of trustees.

4.63 The application form requires applicants to set out how the premises 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) and how responsibility for this is to be determined in individual cases and discussed 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 and that they provide the names of their key officers. Where the management arrangements are less clear, licensing authorities may wish to 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 may wish to check with the licensing authority before making an application. The management committee is strongly encouraged to notify the licensing authority if there are key changes in the committee’s composition 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.

4.64 As the premise 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 2003 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 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. Where hirers are provided with a written summary of their responsibilities under the 2003 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.

4.65 As indicated above, sections 25A(6) and 41D(5) of the 2003 Act require 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 licence, it would be necessary to have an effective hiring agreement. Licensing authorities may wish to consider model hiring agreements that have been made available by organisations such as ACRE and Community Matters. Such model agreements can be revised to cater for the circumstances surrounding each hire arrangement; for example to state that the hirer is aware of the licensing objectives and offences in the 2003 Act and will ensure that it will take all appropriate steps to ensure that no offences are committed during the period of the hire.