

TAUNTON DEANE BOROUGH COUNCIL

LICENSING COMMITTEE – 19 November 2009

REPORT OF THE LICENSING OFFICER

UPDATED REPORT ON THE PROPOSAL TO ALLOW THE REMOVAL OF REQUIREMENTS FOR A DESIGNATED PREMISES SUPERVISOR AND PERSONAL LICENCE HOLDER FOR COMMUNITY PREMISES.

1 SUMMARY

1.1 This report introduces a new process that allows operators of community premises including village halls, church halls, chapel halls and similar community buildings, to seek to disapply the mandatory conditions that would otherwise require:

- A designated premises supervisor (DPS) to be specified for every premises licence authorising sales of alcohol; and
- Every sale of alcohol at such premises to be authorised by a personal licence holder.

2 PURPOSE OF REPORT

2.1 This report is intended to update Members on changes that allow operators of community premises to seek to disapply mandatory conditions under the Licensing Act 2003.

3 BACKGROUND

3.1 Under the Licensing Act 2003 sales of alcohol must be made or supervised by a personal licence holder and there must be a designated premises supervisor, holding a personal licence in respect of the premises. There may be more than one personal licence holder on the premises; however there is only the requirement for one designated premises supervisor for the premises.

3.2 The sale of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than is the case for the other licensable activities. For this reason, individuals engaged in selling or authorising the sale of alcohol require a personal licence. Not every person retailing alcohol at licensed premises needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by such a licence holder.

- 3.3 Following consultation, the Government has acted to remove barriers regulating community premises seeking a licence to for all of their activities, while still retaining an adequate level of public protection in relation to the sale of alcohol. This means that, since August 2009, operators of community premises can make application for the usual mandatory conditions set out in the Licensing Act 2003 to be disapplied.
- 3.4 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 licensing authority has 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 sale of alcohol.

- 3.5 If an application is successful, the effect will be that the Committee or Board will be responsible for the supervision and authorisation of all alcohol sales under the licence.

There will be no requirement for a Designated Premises Supervisor or for alcohol sales to be authorised by an individual personal licence holder.

4 PROCESS OF REMOVING THE REQUIREMENT FOR A DPS AND PERSONAL LICENCE AND MANAGEMENT OF THE PREMISES

- 4.1 If the management committee of a community premises is applying for authorisation to sell alcohol for the first time, it will complete the application form in the new format.
- 4.2 No extra payment is required beyond the existing fee for a new application or a variation.
- 4.3 Where a community premises already has a premises licence to sell alcohol, but wishes to take advantage of the scheme to disapply the usual mandatory conditions, it will submit the new form together with a fee of £23.
- 4.4 The application form requires applicants to set out how the premises is managed, its committee structure and how the effective 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.
- 4.5 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 e.g. the Chair, Secretary, Treasurer.

- 4.6 Where the management arrangements are less clear, licensing authorities may 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). Operators of community premises are encouraged to check with the licensing authority before making an application.
- 4.7 The management committee should 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 Chief Officer of 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 an application.

5 RESPONSIBILITY

- 5.1 As the premises licence holder, the management committee will collectively be responsible for ensuring compliance with licence conditions and be liable in law. However, there would not necessarily be an individual member always present at the premises during the time that it is licensed for alcohol sales.
- 5.2 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. In this respect, it is similar to the arrangements for a third party holding an event under a Temporary Event Notice. Where hirers are provided with a written summary of their responsibilities under the Licensing Act 2003 in relation to the sale of alcohol, the management committee is likely to be deemed to have taken adequate steps to avoid liability for prosecution if a licensing offence is committed.
- 5.3 Where private hire for events which include the sale of alcohol is permitted by the licence, it will be necessary to have an effective hiring agreement. Licensing authorities will consider arrangements for the use of hiring agreements in the light of recommendations for best practice made by organisations such as ACRE and Community Matters. Model hire agreements are available from these bodies.

6 POLICE VIEWS

- 6.1 An additional safeguard is that in exceptional circumstances the Chief Officer of Police for the area in which the community premises is situated can object to a request for disapplication on the grounds of crime and disorder, and any responsible authority and/or interested party can seek reinstatement of the mandatory conditions through a review of the licence.

- 6.2 The police will consider any history of incidents at an establishment in light of the actual or proposed management arrangements, including the use of appropriate hire agreements. If the Chief Officer of Police issues a notice seeking the refusal of disapplication, the licensing authority must hold a hearing in order to reach a decision on whether to grant the application.

7 APPEALS

- 7.1 Where the Chief Officer of Police has made relevant representations against disapplication he may, by Notice, appeal a decision of the licensing authority to allow disapplication

Similarly, the operators of a community premises can appeal a decision by the licensing authority to refuse disapplication following a hearing triggered by relevant representations or by police Notice. In the case of a review of the licence in which the mandatory conditions are reinstated, the licence holder may appeal against the decision. If disapplication is retained on review, the applicant for the review or any person who made relevant representations may appeal against the decision.

8 RECOMMENDATION

- 8.1 The committee is requested to note the contents of the report.

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