



GUIDANCE FOR APPLICANTS

**For applications to disapply the
requirement for a premises
supervisor in Community premises**

under Sections 25A and 41D of the

Licensing Act 2003

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GUIDANCE FOR APPLICANTS

Disapplication of the requirement for a premises supervisor under the Licensing Act 2003

1. INTRODUCTION

This guidance is for management committees of Community premises to make application to disapply certain mandatory conditions on a premises licence (imposed under section 19 of the Licensing Act 2003). This procedure enables Community premises to operate without a Designated Premises Supervisor (DPS) and for sales of alcohol to be lawfully made on such premises without the authorisation of a personal licence holder. The effect of the procedure means that the licence holder (i.e. the management committee) becomes responsible for the supervision and authorisation of alcohol sales on the premises.

2. ELIGIBILITY

An application for disapplication 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 'Community premises' concerned.

What we mean by 'Community premises'

We will normally take the term 'Community premises' to include places such as church halls, chapels, community and village halls or some other similar building. While usually self-evident whether premises form part of Community premises, we may consider, on a case by case basis, how the premises are predominantly used and, whether they are genuinely made available for community benefit most of the time, are accessible by a broad range of individuals and sectors of the local community and whether they are available for purposes which include purposes beneficial to the community as a whole.

We consider the fact that premises are available for private hire to the general public is not itself sufficient to qualify premises as 'Community premises'. Where appropriate, we may consider whether premises used largely for private hire by individuals or private entities are genuinely, by their nature, 'Community premises', as reflected in their predominant use, and not only in the usefulness of the premises for members of the community for private purposes.

We will **not** normally consider premises to be Community premises where use of the premises is contingent upon membership of any particular organisation. 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 'Community premises', provided the premises are generally available for use by the community in the sense described above.

What we mean by 'management committee' or 'board of individuals'

We will normally take the terms 'management committee' or 'board of individuals' to mean any formally constituted, transparent and accountable management committee or structure which has the capacity to provide sufficient management and oversight of the premises to minimise any risks to the licensing objectives.

3. MAKING AN APPLICATION

For all applications for disapplication of the requirement for a DPS in Community premises, the following documents, submissions and actions are required. Unless stated, all documents must be original, as photocopies will **NOT** be accepted.

Please note that applications that do not meet the criteria detailed below may be deemed invalid and/or rejected.

(a) Application Form

Applications for disapplication must be made on the form and contain the information set out in Schedule 4B of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009 (Statutory Instrument 2009 No.1809).

(b) Prescribed Documents

(1) Licence Documents

If applying to remove the DPS requirements from an existing premises licence, the application must be accompanied by the relevant premises licence (and, where appropriate, the summary document) which the application seeks to vary.

If the application is submitted with a simultaneous application for first-time grant of a premises licence, this does not apply.

(2) Management of the premises

Before we may grant disapplication, we must be satisfied that arrangements for the management of the premises by the committee are sufficient to ensure adequate supervision of alcohol sales on the premises. Applicants must therefore give details and clearly set out –

- (a) how the premises is managed;
- (b) its committee structure;
- (c) how the supervision of alcohol sales is to be ensured in different situations (e.g. when the premises are hired for private parties); and

- (d) how responsibility for alcohol sales in different situations is to be determined in individual cases and/or reviewed by the committee in the event of any issues arising.

In view of the above, we strongly recommend that applicant committees submit their applications with copies of –

- (a) any written constitution;
- (b) any other relevant management documents that, in addition to the matters detailed above, show the structure, contact details and relationship of its key officers e.g. Chair, Secretary, Treasurer etc; and
- (c) any relevant hire agreements (where applicable) for the use and hire of the premises by third parties.

NB: Where necessary, additional information may be required.

(c) Responsible authority notification

Except for applications that are submitted entirely electronically, applicant committees must serve a copy of their application (including copies of any accompanying documents) on the Police **on the same day** that it is given to the licensing authority. Copies of applications must be given to the Police care of the following –

Hampshire Constabulary

www.hampshire.Police.uk

C/o Admin Office, Aldershot Police Station,
Wellington Road
Aldershot, Hampshire GU11 1NZ.
Tel: 01256 406414

(d) Fee(s) & Charges

If the application to disapply the requirement for a DPS is submitted with a simultaneous application for grant or variation of a premises licence, there is no fee payable (other than the application fee for grant or variation of the premises licence).

If the application is submitted on its own (i.e. in isolation from any application for grant or variation of a premises licence) the application must be accompanied by the prescribed fee of £23.

All cheques and/or postal orders should be made payable to RUSHMOOR BOROUGH COUNCIL.

4. WHAT HAPPENS NEXT

On receipt, your application for disapplication will be allocated to one of the Council's licensing officers. The licensing officer will check to ensure that the application is valid and has been satisfactorily completed i.e. all the relevant information and documentation has been provided. The licensing officer will also check to ensure the application has been advertised correctly.

(a) What will happen if we identify a problem?

If there is a relatively minor problem with the application, the licensing officer may contact you for further information or may return the application (or part of it) to you for your attention as may be appropriate. Where there is a fundamental error, the application may be rejected.

(b) Check to ensure that the application has been copied to the Police

By law, a copy of any application for disapplication must be given to the local Police. Failure to correctly notify the Police of the application may render the application invalid because the Police may not know that an application has been made and may miss the(ir) opportunity to make representations. For this reason, we will check that the application has correctly been copied to them (see above).

NB: The Police are the only responsible authority that may make representations about this type of application.

(c) What happens following validation?

Management of the premises

Before we may grant disapplication, we must be satisfied that arrangements for the management of the premises by the committee are sufficient to ensure adequate supervision of alcohol sales on the premises. We will therefore review how the premises is managed, the committee structure and how the supervision of alcohol sales is to be ensured in different situations (e.g. when the premises are hired for private parties). We may also look at how responsibility for this is to be determined in individual cases and/or reviewed by the committee in the event of any issues arising.

In deciding whether management arrangements are suitable, we will normally consider and take account of any constitution and/or management documents that, in addition to the matters detailed above, show the structure, contact details and relationship of the key officers of the committee (i.e. Chair, Secretary, Treasurer etc). We may similarly consider the use and hire arrangements of the premises by third parties and any hiring agreements that have been put in place, particularly for events that include the sale of alcohol.

Where arrangements are not clear, we may ask for further details or information to confirm that the management committee is properly constituted and accountable before taking any decision on whether to grant the application (subject to the views of the Police).

(d) Consideration of objections

In exceptional circumstances, the Police may object to a request for disapplication where they believe it would undermine the crime prevention objective.

Where the Police object, the applicant committee is entitled to a hearing before our Licensing Committee or one of its Sub-Committees to determine the application, unless all parties agree that a hearing is unnecessary.

(e) Determination of the application

Relevant considerations to Police objections

Where Police objection is received, we will, at any subsequent hearing, confine the consideration of the objection to the objective of preventing of crime and disorder only.

Within the context of the crime and disorder objective, the licensing authority will have regard to the degree and extent to which the matters or circumstances giving rise to the objections are genuinely exceptional. While not exhaustive, we may consider the following, namely –

- (a) the previous [management] record of the premises;
- (b) the [proposed] management arrangements of the premises;
- (c) the criminal history of any individuals in the [proposed] management committee;
- (d) the age and (in)experience of the [proposed] committee;
- (e) any incident history at the premises; and
- (f) the circumstances, nature and/or use of the premises and the activities provided there (inclusive of hire arrangements).

As disapplication effectively makes the licence holder (i.e. the management committee) responsible for the supervision and authorisation of alcohol sales on the premises, we consider that the position of those in the committee carries with it

significant responsibility. We will therefore, within the context of the crime and disorder objective, consider any Police objections with this level of responsibility in mind.

(f) How long will it take us to determine your application?

We aim to process applications for disapplication within a period of 56 days (beginning on the first working day after the day on which we receive the application). However, because we deal with a large number of licence applications, permits and other authorisations, it can sometimes take us a little longer.

(g) What happens if your application is refused?

If, after consideration of relevant objections we refuse the application on determination, we will inform you of our decision in writing, together with the reason(s) for refusal and your rights of appeal, what you need to do to appeal and the time in which you have to do it should you choose to do so. **NB:** In these cases, there is no fee refund.

(h) What happens if your application is granted?

Where an application for disapplication is granted, we will advise you by notice of grant that tells you about the premises licence which is to have effect as a result of the application together with the date / time at which it takes effect. We will also issue your premises licence documents and return these to you with the grant notice.

The mandatory licence conditions requiring the supply of alcohol to be made or authorised by a person who holds a personal licence and/or when there is a designated premises supervisor will be removed / disappplied. The premises licence will however include the alternative licence condition required on disapplication that every supply of alcohol under the premises licence must be made or authorised by the management committee.