

LICENSING COMMITTEE – 20 OCTOBER 2009

MODERN LOCAL GOVERNMENT GROUP – 22 OCTOBER 2009

COUNCIL – 10 NOVEMBER 2009

OFFICER RESPONSIBILITIES AND DELEGATIONS – REMOVAL OF DESIGNATED PREMISES SUPERVISORS AT COMMUNITY PREMISES

Report of the: Community and Planning Services Director

Status: For Decision

Executive Summary:

The removal of the requirement for a Designated Premises Supervisor (DPS) in community premises came into force on 27 July 2009.

Community premises are now allowed to apply to have the standard mandatory conditions under s19 Licensing Act 2003 removed from their premises licence. The s19 conditions require all premises licensed for the sale of alcohol to have a DPS and for all sales of alcohol to be made or authorised by a person who holds a personal licence. This change will enable community premises to operate without a DPS and for sales of alcohol to be made on such premises without the authorisation of a personal licence holder.

The responsibility for the sale of alcohol at the premises will then move to the community premises Management Committee.

This report supports the Key Aim of safe communities

Portfolio Holder Cllr. Mrs Bracken

Head of Service Head of Environmental and Operational Services – Mr Richard Wilson

Recommendation: It be RESOLVED that the following delegation to the Community and Planning Service Director be approved

“To determine all applications for removal of Designated Premises Supervisors at Community Premises”

and that the Constitution (Part 13 – Delegation to the Community and Planning Service Director – Licensing) be amended accordingly.

Background

1. The term “community premises” is not defined in the Licensing Act 2003 but a definition is given in the Guidance as follows:

Premises such as church halls, chapels (and parts thereof), community and village halls (and parts thereof).
2. The criteria already used by Licensing Authorities in order to determine whether a premises meets the definition of community premises for the purpose of the fee exemptions for regulated entertainment set out in s9(2)(b) of the Licensing Act 2003 (Fees) Regulations 2005 (SI 2005/79) can be used to assess whether a premises is a community premises.
3. For those premises that did not benefit from the above fee exemption (e.g. community premises licensed to sell alcohol or provide late night refreshment), it will usually 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. Where it is not clear whether premises are “community premises”, the matter should be approached on a “case-by-case” basis, with the main consideration being how the premises are predominantly used, for example:-
 - If they are genuinely made available for community benefit most of the time and;
 - are 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;
5. Licensing Authorities, when considering premises such as schools and other private halls must consider the extent to which such premises are providing a facility for the community rather than members of the community for private purposes. The test is directed at the nature of the premises themselves, as reflected in their predominant use.
6. Premises which require users to become members of a particular organisation are unlikely to be community premises for the purposes of this process and are more likely to be qualifying clubs for the purposes of a club premises certificate, and they are not the intended beneficiaries of the new approach to community premises.
7. Only the management committee of the premises can apply under this procedure. The application form requires the applicants to provide the names of the management committee’s key officers to the Licensing Authority. The Licensing Authority must be satisfied that 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.

8. Where a community premises already has a premises licence to sell alcohol, but wishes to benefit from the relaxation in the requirements regarding DPS, the management committee should apply to include the alternative licence condition in place of the usual mandatory condition by submitting the prescribed form, together with the prescribed fee of £23.

The application procedure

9. Applications are made to the Licensing Authority on standard forms prescribed by the DCMS. The application must be advertised on a white notice at the premises. There is no requirement to advertise the application in a local newspaper and no requirement to notify the responsible authorities.
10. The process for a new premises licence for community premises is made in the usual way, using the standard application form for a new premises licence, which should be accompanied by the prescribed form requesting the removal of the mandatory DPS condition. No additional fee is payable.
11. To enable Sevenoaks District Council as Licensing Authority to satisfy itself that the premises will be properly managed when licensable activities are taking place, 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, and how responsibility for this is to be determined in individual cases and reviewed within the committee procedure in the event of any issues arising.
12. Where arrangements are not clear, the Licensing Authority may wish to ask for further details to confirm that the management committee/board is properly constituted and accountable before taking a decision on whether to grant the application.
13. In the event of offences under the Licensing Act 2003 where community premises have the management committee authorising the sale of alcohol, the management board or committee will remain the premises licence holder and will be collectively responsible for ensuring compliance with licence conditions and the law. The hirer may be clearly identified as having responsibility for matters falling within his or her control (e.g. in the contract for hire between the hirer and the premises licence holder), e.g. as per events held under Temporary Event Notices.
14. 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, issuing a notice seeking the refusal of the application to include the new mandatory condition. The Licensing Authority must then hold a hearing in order to reach a decision on whether to grant the application. The decision can be appealed by either party.

15. The other responsible authorities do not have the right to issue a notice seeking refusal. They can seek reinstatement of the mandatory conditions through a review of the licence under s52A of the Licensing Act 2003.

Key Implications

Financial

16. Each application for the Removal of the Designated Premises Supervisors at Community Premises will be accompanied with a fee of £23.

Legal, Human Rights etc.

17. None.

Equality

18. Equality is not affected by processing an application for the Removal of the Designated Premises Supervisors at Community Premises.

RISK ASSESSMENT STATEMENT

19. Without the Delegation for the Removal of the Designated Premises Supervisors at Community Premises, authorising Officers at Sevenoaks District Council would be unable to process applications quickly as stated in the Revised Guidance for the Licensing Act 2003 issued by the DCMS.

<http://www.culture.gov.uk>

Sources of Information: Revised Guidance Licensing Act 2003

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**COMMUNITY AND PLANNING SERVICES DIRECTOR
KRISTEN PATERSON**