

REPORT TO: LICENSING COMMITTEE – FRIDAY 2 OCTOBER 2009

REPORT BY: LICENSING MANAGER

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Licensing Act 2003 – Statutory amendments relating to the supervision of alcohol sales in community premises.

1. Purpose of report

The purpose of this report is to appraise Members on the recent statutory amendments to the Licensing Act 2003 (“the Act”) by virtue of The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009.

This Order enables community premises to apply for the removal of the mandatory conditions on the premises licence which require that:

- a) A designated premises supervisor has to be nominated on the licence; and
- b) That all alcohol sales must be authorised by a personal licence holder.

Instead they will be replaced with an alternative mandatory condition which gives responsibility for authorising sales of alcohol to the premises licence holder, which in respect of community premises, will be the committee or board of individuals responsible for the management of the premises.

2. Recommendation

RECOMMENDED

(a) that the contents of the report are noted; and

(b) That the current scheme of delegations be amended as follows:

- (i) that the Licensing Sub-Committee be granted delegated authority to consider all applications under the provisions of the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 where representations have been received; and***
- (ii) that the appropriate Chief Officer be granted delegated authority to approve such applications under the provisions of the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 where no representations have been received.***

3. Background information

Under the Act, every premises that wants to offer the sale by retail of alcohol to the general public needs to have a premises licence issued by the Licensing Authority. The only exception to this is when sales are made under the authority of a Temporary Event Notice).

Section 19 of the Act makes it a mandatory condition in any premises authorising the sale of alcohol that there must be no supply of alcohol under the licence when either:

- There is no designated premises supervisor (“DPS”) in respect of the licence; or
- Where the DPS does not hold a current personal licence.

In addition, it is a mandatory condition that every supply of alcohol must be made, or authorised by, a personal licence holder (which may, but need not be, the DPS).

With effect from 29 July 2009 the Act has been amended to insert new sections 25A, 41D and 52A into the Act which modify sections 17 to 19 (grant of premises licences), 19 and 35 (variation of premises licences) and 52A (applications to review licences).

The effect of these amendments is to enable a committee or board of individuals with responsibility for the management of a community premises (“the management committee”) to apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions. The alternative condition is that every supply of alcohol under the licence will be made or authorised by the management committee rather than by a DPS.

Equally, the Order also includes provision to revert back to the original mandatory conditions following an application for Review.

Community premises are defined to mean any church or chapel hall (or other similar building), or any village, parish or community hall (or other similar building). In most cases, it should be self evident whether or not a premises meets the statutory definition but in circumstances where this is less clear, the Licensing Authority will need to approach the matter on a case-by-case basis and the statutory guidance issued in accordance with section 182 of the Act provides advice as to how authorities should consider such applications.

4. The application process

In order to take advantage of these new provisions, an application can only be made if the licence holder is, or is to be, a committee or board of individuals who are responsible for the management of the premises. For those community premises where such arrangements exist, it may make application for the alternative mandatory condition to apply.

1. The application must be made in the prescribed form and can be made in the following circumstances:
 - Applying to remove the mandatory conditions of an **existing** premises licence which allows the sale of alcohol;
 - Applying to remove the mandatory conditions when applying for a **new** premises licence; or
 - Applying to remove the mandatory conditions when applying to **vary** an existing licence to allow the sale of alcohol.
2. In cases where the application to disapply the mandatory conditions is made in conjunction with either an application for the grant of a new licence or an application to vary an existing licence, there will be no additional fee beyond the cost of the grant or variation application.

In cases where an application is made solely to remove the mandatory conditions of an existing licence there will be a fee of £23.00

3. In order that the Licensing Authority can satisfy itself 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, the applicant must outline 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 how it will be discussed and reviewed within the committee procedure in the event of any issues arising.

The application form therefore requires that the community premises submit copies of any constitution or other management documents with their applications and provide names of key officers such as Chair, Secretary and Treasurer.

The management committee is strongly advised to notify the Licensing Authority if there are key changes in the committee's composition e.g. change of Chair, Secretary, Treasurer etc and also to submit a copy of these changes to the Police.

A failure to do so could form the basis of an application to review the premises licence, or be taken into account as part of a consideration of such an application.

4. The community premises will also need to ensure that in cases where the premises are available for private hire, they have sufficient arrangements in place to enable adequate supervision of the sale of alcohol. Effective hiring agreements should be in place and available for scrutiny by the Licensing Authority. This is in accordance with recommendations for best practice made by organisations such as ACRE (Action for Communities in Rural England) and Community Matters and model hire agreements are available from these bodies.
5. A copy of the application must also be sent to the Chief Officer of Police for consideration.
6. The timescales for consideration of this type of application are the same as those for the grant or variation of a premises licence (i.e. 28 days)

5. The decision making process

In exceptional circumstances the Chief Officer of Police can object to a request for inclusion of the alternative licence condition 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 as provided in section 52A of the Act.

The Police will need to consider any history of incidents at an establishment in light of the actual or proposed management arrangements, include the use of appropriate hire agreements.

If the Police issue a notice seeking the refusal of the application to include the alternative licence condition, the Licensing Authority must hold a hearing in order to reach a decision on whether to grant the application.

6. Appeal provisions

Where the Police have given a notice under section 41D(6) which was not withdrawn, and the Licensing Authority grant the application following a hearing, the Police can appeal the decision to allow the inclusion of the alternative licence condition.

Similarly, a community premises can appeal a decision by the Licensing Authority to refuse to include the alternative licence condition.

Following a review of the licence in which mandatory conditions are reinstated, the licence holder may appeal against the decision. Equally, if the alternative licence condition is retained on review, the applicant for the review or any person who made relevant representations may appeal against the decision.

7. Scheme of delegation

Section 7 of the Licensing Act 2003 confers all licensing functions under the Act to the Licensing Committee (except for the adoption or amendment of the statement of licensing policy which must be undertaken by Council). Section 10 of the same Act provides for the delegation of functions to Sub Committee and to officers with the exception of particular functions.

In line with its existing published scheme of delegations, it is recommended that the current scheme of delegations be amended so as to include the provisions of the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 as follows:

- a) that the Licensing Sub-Committee be granted the delegated authority to consider all applications where representations have been received; and
- b) that the appropriate Chief Officer be granted the delegated authority to approve such applications where no representations have been received.

8. City Solicitor's comment

The Committee is able to approve the recommendations made in this report.



Licensing Manager

Appendices

Appendix A - Copy of sections 25A, 41D and 52A of the Act;

Appendix B - Supplementary Guidance by the Department of Culture, Media and Sport in respect of the removal of the requirement for a designated premises supervisor and personal licence at community premises.

Amendments to the Licensing Act 2003 by the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009:

Application for licence in respect of community premises: supervision of alcohol sales

25A Grant of premises licence: supply of alcohol from community premises

- (1) Where a management committee of community premises makes an application under section 17 for a premises licence authorising the supply of alcohol, the application may include an application for the alternative licence condition to be included in the licence instead of the conditions in section 19(2) and (3).
- (2) In this section “the alternative licence condition” is the condition that every supply of alcohol under the premises licence must be made or authorised by the management committee.
- (3) In a case where an application under section 17 includes an application under subsection (1), sections 17 to 19 are modified as follows.
- (4) Section 17 has effect as if subsections (3)(c) and (4)(e) were omitted.
- (5) Section 18 has effect as if—
 - (a) subsection (4)(c) were omitted;
 - (b) in subsection (6)(c), the reference to the identity of the person named in the application as the proposed premises supervisor were to the inclusion of the alternative licence condition;
 - (c) in subsection (9)(b), the reference to the designation of the person concerned as the premises supervisor under the premises licence were to the inclusion of the alternative licence condition.
- (6) Section 19 has effect as if at the end there were inserted—

“(4) But where—

 - (a) the relevant licensing authority is satisfied that the arrangements for the management of the premises by the applicant are sufficient to ensure adequate supervision of the supply of alcohol on the premises, and
 - (b) if any representations are made pursuant to section 18(6)(c), the authority does not consider the inclusion of the conditions in subsections (2) and (3) to be necessary to promote the crime prevention objective,

the licence must not include the conditions in subsections (2) and (3) but must include the alternative licence condition referred to in section 25A(2) instead.”.

Variation of licence in respect of community premises: supervision of alcohol sales

41D Variation of premises licence: supply of alcohol from community premises

- (1) Where a management committee which holds a premises licence in respect of community premises makes an application under section 34 for variation of the licence so as to authorise the supply of alcohol, the application may include an application for the alternative licence condition to be included in the licence instead of the conditions in section 19(2) and (3).
- (2) A management committee which holds a premises licence in respect of community premises which includes the conditions in section 19(2) and (3) may make an application under section 34 for (or which includes an application for) variation of the licence to include the alternative licence condition instead of those conditions.
- (3) In this section “the alternative licence condition” is the condition that every supply of alcohol under the premises licence must be made or authorised by the management committee.
- (4) In a case where an application under section 34 includes an application under subsection (1), or is made pursuant to subsection (2), section 19 (as it applies by virtue of section 35(7)) and section 35 are modified as follows.
- (5) Section 19 has effect as if at the end there were inserted—

“(4) But where—

- (a) the relevant licensing authority is satisfied that the arrangements for the management of the premises by the applicant are sufficient to ensure adequate supervision of the supply of alcohol on the premises, and
- (b) if any representations are made pursuant to section 35(5)(aa), the authority does not consider the inclusion of the conditions in subsections (2) and (3) to be necessary to promote the crime prevention objective,

the licence must not include the conditions in subsections (2) and (3) but must include the alternative licence condition referred to in section 41D(3) instead.”.

- (6) Section 35 has effect as if—

(a) after subsection (5)(a) there were inserted—

“(aa) if they relate to the inclusion of the alternative licence condition referred to in section 41D(3)—

- (i) were made by the chief officer of police for a police area in which the premises are situated, and
- (ii) include a statement that, due to the exceptional circumstances of the case, he is satisfied that including the alternative licence condition instead of the conditions in section 19(2) and (3) would undermine the crime prevention objective, and”, and

(b) in subsection (6)-

- (i) in paragraph (a) “by an interested party or responsible authority” were omitted, and
- (ii) paragraph (c) were omitted.”.

Review of licence in respect of community premises: supervision of alcohol sales

After section 52 insert—

52A Review: supply of alcohol from community premises

- (1) In a case where an application is made under section 51 for review of a premises licence which—
 - (a) is held by a management committee in respect of community premises, and
 - (b) includes the alternative licence condition,section 52 is modified as follows.
 - (2) Subsection (4) has effect as if paragraph (c) were omitted.
 - (3) Subsection (5) has effect as if for that subsection there were substituted—
 - “(5) Subsection (3) is subject—
 - (a) to the requirement that the licence must include—
 - (i) the conditions in section 19(2) and (3), or
 - (i) the alternative licence condition referred to in section 52A(4)(but not both), and
 - (b) to sections 20 and 21 (requirement to include certain conditions in premises licences).”.
 - (4) In this section “the alternative licence condition” is the condition that every supply of alcohol under the premises licence must be made or authorised by the management committee.”.
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Part 2: The removal of the requirement for a designated premises supervisor and personal licence at community premises

[Chapter 4: Personal Licences]

INTRODUCTION

4.1. This Chapter provides advice about best practice in administering the process for issuing personal licences to sell or supply alcohol. It also contains guidance for decision-making on applications from community premises (church and village halls etc.) to disapply the usual mandatory conditions that relate to personal licences and Designated Premises Supervisors (DPSs).

REQUIREMENTS FOR A PERSONAL LICENCE

4.2 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. This is why individuals who may be engaged in making and authorising the sale and supply of alcohol require a personal licence. Not every person retailing alcohol at premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by such a licence holder (see paragraphs 10.48 -10.53 of this Guidance). The only exception is for community premises in respect of which a successful application has been made to disapply the usual mandatory conditions set out in sections 19(2) and 19(3) of the 2003 Act. (Guidance on such applications is set out in paragraphs 4.32 to 4.47 of this Guidance). Any premises where the personal licence holder requirements do apply at which alcohol is sold or supplied may employ one or more such licence holders. For example, there may be one owner or senior manager and several junior managers holding a personal licence.

SPECIFICATION OF NEW DESIGNATED PREMISES SUPERVISORS

4.19 In every premises licensed for the supply of alcohol, a personal licence holder must be specified as the 'designated premises supervisor', as defined in the 2003 Act. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to disapply the usual mandatory conditions set out in sections 19(2) and 19(3) of the 2003 Act. Guidance on such applications is set out in paragraphs 4.32 to 4.47 of this Guidance.

APPLICATION FORMS

8.24 An application for a premises licence must be made in the prescribed form to the relevant licensing authority and be copied to each of the appropriate responsible authorities. For example, applications for premises which are not vessels should not be sent to the Maritime and Coastguard Agency. The application must be accompanied by:

- the required fee (details of fees may be viewed on the DCMS website);
- an operating schedule (see below);
- a plan of the premises in a prescribed form; and
- if the application involves the supply of alcohol:
 - a form of consent from the individual who is to be specified in the licence as the designated premises supervisor; or
 - in the case of a community premises seeking to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (i.e. to remove the usual requirements in respect of the authorisation of alcohol sales by a personal licence holder and for a Designated Premises Supervisor who holds a personal licence), a completed form prescribed for that purpose.

VARIATIONS

8.34 There are simplified processes for making applications in the following cases: a change of the name or address of someone named in the licence (section 33); an application to vary the licence to specify a new individual as the designated premises supervisor (section 37); an application in relation to a licence in respect of community premises that authorises the sale of alcohol to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act concerning the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence (sections 25A and 41D); and application for minor variation of a premises licence (sections 41A to 41C).

APPLICATIONS TO CHANGE THE DESIGNATED PREMISES SUPERVISORS

8.79 Paragraphs 4.19 – 4.28 above cover designated premises supervisors and applications to vary a premises licence covering sales of alcohol by specifying a new designated premises supervisor. Paragraphs 4.32 to 4.47 cover applications by community premises to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act concerning the authorisation of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence.

[Chapter 10: Conditions attached to premises licences and club premises certificates]

Designated Premises Supervisor

10.45 Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. The main purpose of the 'designated premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force.

That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in paragraph 10.46 to 10.53 below in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see paragraphs 4.32 to 4.47 of this Guidance).

Authorisation by personal licence holders

10.53 It must be remembered that whilst the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises, and is also responsible for alcohol sales at community premises where the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act relating to personal licence holders and Designated Premises Supervisors have been disapplied (see paragraphs 4.32 to 4.47 of this Guidance).

[Chapter 4: Personal Licences]

DISAPPLICATION OF CERTAIN MANDATORY CONDITIONS FOR COMMUNITY PREMISES

4.32 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 (SI 2009/1724) amends the 2003 Act 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 the 2003 Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act. 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 made pursuant to the licence. All such sales will have to be made or authorised by the licence holder. There will be no requirement for a Designated

Premises Supervisor or for alcohol sales to be authorised by a personal licence holder. The Order defines community premises 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. While there may be issues relating to whether a premises is a community premises with a proper management committee, there should not be many disputed cases and many will self evidently meet the definition of a community premises and have an appropriate management structure in place. There is more detailed commentary on what constitutes community premises in paragraphs 4.35 to 4.40 of this Guidance.

- 4.33 The process requires the completion of a new form which is set out in The Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009/1809. 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.
- 4.34 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. The work required to process such an application is expected to be similar to that required for to process an application for a variation of a Designated Premises Supervisor.

Definition of community premises

- 4.35 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.
- 4.36 Many licensing authorities will already have 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.
- 4.37 However, there may be types of premises seeking disapplication of the personal licence and Designated Premises Supervisor requirements which have not previously sought exemption from the fee as a community premises. This might be because they had previously included alcohol or late night refreshment in their licence and therefore had to pay a fee regardless, or may have qualified for the exemption from the fee for regulated entertainment licences as an educational institution.
- 4.38 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. This could feasibly include educational premises, such as school halls, but only where they are genuinely and widely used for the benefit of the community as a whole, and not just for the particular school in question. As such, community premises are usually multi-purpose and a variety of activities can be expected to take place in them, such as playschools, senior citizens' clubs, indoor sports, youth clubs and public meetings.

- 4.39 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". Although availability of premises for hire might be seen as providing a facility for the community, licensing authorities will want to consider whether halls used largely for private hire by individuals or private entities are genuinely by their nature "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.
- 4.40 If the general use of the premises was contingent upon membership of a particular organisation or organisations, this would strongly suggest that the premises in question were not "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 "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 disapplication 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

- 4.41 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.
- 4.42 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 personal licence holder/designated premises supervisor.

This could include management committees, executive committees and boards of trustees. The application form requires the applicants to provide the names of the management committee's key officers e.g. the Chair, Secretary, Treasurer.

- 4.43 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 and reviewed 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 e.g. the Chair, Secretary, Treasurer. 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 e.g. to the Chair, Secretary, Treasurer 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.
- 4.44 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 Licensing 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.
- 4.45 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 should 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. The model agreements can also be revised to cater for the circumstances surrounding each hire arrangement e.g. 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 necessary steps to ensure that no offences are committed during the period of the hire.

Police views

4.46 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 inclusion of the alternative licence condition 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 (as provided in section 52A of the 2003 Act). The police will want to 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 issue a notice seeking the refusal of the application to include the alternative licence condition, the licensing authority must hold a hearing in order to reach a decision on whether to grant the application.

Appeals

4.47 Where the Chief Officer of Police has made relevant representations against the inclusion of the alternative licence condition, or given a notice under section 41D(6) which was not withdrawn, the Chief Officer of Police can appeal the decision of the licensing authority to allow the inclusion of the alternative licence condition. Similarly, a community premises can appeal a decision by the licensing authority to refuse to include the alternative licence condition following a hearing triggered by relevant representations or by a notice given under section 41D(6). Following a review of the licence in which the mandatory conditions are reinstated, the licence holder may appeal against the decision. If the alternative licence condition is retained on review, the applicant for the review or any person who made relevant representations may appeal against the decision.