

17 November 2009		ITEM 6
Licensing Committee		
LICENSING ACT 2003 – SUPERVISION OF ALCOHOL SALES IN COMMUNITY PREMISES		
Portfolio Holder: Councillor Ben Maney, Public Protection		
Wards and communities affected: All	Key Decision: No	
Accountable Head of Service: Lucy Magill, Public Protection		
Accountable Director: Bill Newman, Corporate Director Sustainable Communities		
This report is Public.		
Purpose of Report: To inform Members of changes to the Licensing Act 2003 whereby church halls and community premises no longer require a designated premises supervisor for the sale or supply of alcohol.		

EXECUTIVE SUMMARY

The Licensing Act 2003 requires that a mandatory condition is placed on all premises licences requiring a designated premises supervisor to be specified and that every sale of alcohol be authorised by the holder of a personal licence. The Government has issued a Legislative Reform Order that enables church halls and community premises to apply for removal of this condition and have an alternative condition added that makes the management committee responsible for the sale or supply of alcohol.

1. RECOMMENDATIONS:

1.1 That the Committee notes the changes to the Licensing Act 2003 in respect of church halls and community premises.

2. INTRODUCTION AND BACKGROUND:

2.1 At present, each premises licence issued under the Licensing Act 2003 (‘the Act’) has a mandatory condition that the premises must have a designated

Comment [s]: PLEASE CLICK THIS BOX ONCE and enter the date of the meeting (in font 16, not capitals)

Comment [s]: Please leave this for completion by Democratic Services

Comment [s]: PLEASE CLICK THIS BOX ONCE and enter the name of the Committee you are reporting to (in font 16, not capitals)

Comment [s]: Please state the name of the Cabinet Member and the Portfolio to which the report refers

Comment [s]: Please enter details of any Wards and Communities affected by the report. If this section is not

Comment [s]: Yes/No/Not Applicable – a ‘Key Decision’ is generally one affecting more than 2 wards or having 250,000

Comment [sj]: Please state the Head of Service’s name and job title

Comment [sj]: Please state Director’s name and job title

Comment [sj]: State whether your report is Public or Exempt. If Exempt (i.e. not to be given to the public or discussed in

Comment [sj]: Briefly set out the purpose of your report

Comment [sj]: Please provide a summary of the key points in your report

Comment [s]: The recommendations should be set out in bold in the form of the decision that the decision

Comment [s]: You should briefly explain why the report is on the agenda - See para. 5.3 and 5.4 of the report writing guidelines

premises supervisor (DPS) and that every sale of alcohol must be authorised by a personal licence holder.

- 2.2 Many church and community halls have found this requirement difficult and costly to meet, especially as they are often staffed or run by volunteers. Many have opted to obtain premises licences that do not allow the sale or supply of alcohol and rely instead on Temporary Event Notices (TENs) with the limitations that they impose.
- 2.3 A person wishing to be nominated as a DPS for premises must first obtain a recognised personal qualification in licensing practice and undergo a Criminal Record Bureau check at basic level. This can be expensive and time consuming. The Government's aim is to speed up the process and reduce costs to community premises.
- 2.4 The Government has issued the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls & c.) Order 2009 ('the Order'). This will enable church and village halls and similar community premises to have that condition removed when they apply for a premises licence. An alternative condition will be added to the licence that makes the management committee of the premises responsible for all sales. (**Appendix A**)
- 2.5 Church halls, community and similar premises that currently hold a premises licence with the mandatory condition attached can apply to have this taken off and the new one substituted. However, this can only be done by means of the full variation procedure. This may not be done under the new minor variations procedure.
- 2.6 If no representations are made, and the authority is satisfied that the arrangements for the management of the premises are sufficient to ensure adequate supervision of the supply of alcohol, then the alternative licence condition is to be included.
- 2.7 A safeguard exists in that, in exceptional circumstances, the Chief Officer of Police may make representation if it is believed the inclusion of the alternative condition would undermine the crime prevention objective.
- 2.8 Licensees of community premises can appeal a decision by the licensing authority to refuse an application to include the alternative condition or where the mandatory conditions have been re-instated after a review hearing.
- 2.9 Any responsible authority and/or interested party can seek reinstatement of the mandatory conditions through a review of the licence.
- 2.10 Community premises are defined as any church or chapel hall (or similar building), any village, parish or community hall (or similar building).
- 2.11 The Government has set a fee of £23 for this application. This is the same as currently exists for changing a DPS on a licence.

3. ISSUES AND/OR OPTIONS:

3.1 This is a legislative reform and there are no issues for the Committee to consider nor are there any options.

4. CONSULTATION (including Overview and Scrutiny, if applicable)

4.1 Consultation is not required on this matter.

5. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT

5.1 The Council has a duty under Section 17 of Crime & Disorder Act 1998 to do all that it reasonably can to prevent:

- (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment), and;
- (b) the misuse of drugs, alcohol and other substances in its areas.

This is a legislative change that the Council must implement. However, when an application is made the Council should have due regard to any submissions made by all parties, the Guidance issued by the Secretary of State under Section 182 of the Act and the Council's own Statement of Licensing Policy.

6. IMPLICATIONS

6.1 Financial

Implications verified by: **Michael Jones**
 Telephone and email: **01375 652772**
mxjones@thurrock.gov.uk

There are no direct financial implications for the Council.

6.2 Legal

Implications verified by: **Maureen Ogbu**
 Telephone and email: **01375 65**
mogbu@thurrock.gov.uk

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls & c) Order 2009 amends the Licensing Act 2003 and the amendments allow a Committee or board of individuals with responsibility for the

Comment [s]: Other headings may be appropriate. The report should outline the reasoning that leads to its recommendations and **must** include:

1. a brief summary of options considered;
2. consultation outcomes
3. a risk assessment.
4. Whether the responsible cabinet members have been consulted/contributed to the report (NB professional and political advice must be clearly distinguished)

- See para.5.5 of the report writing guidelines.

Comment [jj]: This should include any consultation with Ward Members and Shadow Portfolio Holders, as well as any public or statutory consultation

Comment [a]: Please refer to Section 5.7 of the Report Writing Guidelines

Comment [sj]: This section should always be completed – if they are dealt with fully in another part of the report, they also need a brief cross reference here. The names and job titles of the officers providing the implications should be

Comment [sj]: See Guideline 6.2

Comment [sj]: See Guideline 6.3

management of 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 be made or authorised by the management committee.

Articles 3, 4, 5 of the Order insert new sections 25A, 41D and 52A into the Act which modify, respectively section 17 to 19, 35 and 52 of the Licensing Act, these deal with applications for licences, applications for variation of licences and applications for review of licences.

Community Premises are defined by section 193 of the Act to mean premises that are or form part of (a) a church hall, chapel hall or other similar building or (b) a village hall, parish hall, community hall or other similar building.

6.3 **Diversity and Equality**

Implications verified by: **Samson DeAlyn**
 Telephone and email: **01375 652472**
sdealyn@thurrock.gov.uk

This is a legislative change and there are no direct diversity or equality implications for the Council.

6.4 **Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

The implications of Section 17 Crime and Disorder Act 1998 have been considered at 5.1 above.

7. **CONCLUSION**

7.1 The Committee should note the change in the Licensing Act 2003 in relation to the requirements regarding designated premises supervisors at church and community halls.

BACKGROUND PAPERS USED IN PREPARING THIS REPORT:

- The Licensing Act 2003
- The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls & c) Order 2009
- The Secretary of State’s revised Guidance issued under Section 182 Licensing Act 2003

Comment [sj]: See Guideline 6.4

Comment [sj]: This should inform the recommendations in the report

Comment [sj]: See Guideline 8. If any Papers are to be placed in the Members room that relate to this report, you should also list them here

APPENDICES TO THIS REPORT:

- Appendix A Legislative Reform Order

Comment [sj]: List the Appendices referred to in the Report

Report Author Contact Details:

Name: Ron Galliers, Senior Licensing Officer
Telephone: 01375 652187
E-mail: rgalliers@thurrock.gov.uk

Comment [sj]: Insert the full contact details of the author of the report