THE LEGISLATIVE REFORM (SUPERVISION OF ALCOHOL SALES IN CHURCH AND VILLAGE HALLS &C.) ORDER 2009 No. 1724

EXPLANATORY DOCUMENT BY THE DEPARTMENT FOR CULTURE, MEDIA AND SPORT

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Introduction

1. This explanatory document is laid before Parliament in accordance with section 14 (1) of the Legislative and Regulatory Reform Act 2006 ("the 2006 Act") together with the draft of the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009.

The Duties of the Minister

2. With regard to the duties imposed on the Secretary of State in relation to public consultations by section 13 of the 2006 Act, the Secretary of State for Culture, Media and Sport considered, approved and published two successive consultation documents which related to this proposal: the first for three months on the policy, the second for one month on the proposed Order. Following the consultations, the Secretary of State considered in the light of the responses that the proposals should continue to proceed. Accordingly, the Secretary of State is laying before Parliament the documents required by section 14(1) of the 2006 Act. He is satisfied that the Order serves the purposes set out in section 2(2) of the 2006 Act and meets the conditions imposed by section 3(2) and 3(4) of that Act.

The Licensing Act 2003

3. The Licensing Act 2003 ("the 2003 Act") requires anyone carrying on a licensable activity or activities as defined (see below) to obtain a premises licence or a club premises certificate (in the case of qualifying members clubs) from their licensing authority (usually a local authority) or to give a Temporary Event Notice (a limited authorisation for short term activities). This proposal relates to a simplification measure for premises licences and would not alter the law in relation to other forms of authorisation under the 2003 Act.

4. Licensable activities comprise:

   - the sale by retail of alcohol
   - the supply of alcohol by or on behalf of a club to, or to the order of a member of a club;
   - the provision of regulated entertainment, and
   - the provision of late night refreshment.

5. The provision of regulated entertainment is defined in Schedule 1 of the Act as 'entertainment' or the provision of 'entertainment facilities'. Entertainment includes:

   - a performance of a play;
   - an exhibition of a film;
   - an indoor sporting event;
   - a boxing or wrestling entertainment;
   - a performance of live music;
   - any playing of recorded music;
   - a performance of dance.

6. Late night refreshment is defined in Schedule 2 of the Act and can be summarised as the sale of hot food or drink to members of the public between the hours of 11pm and 5am for consumption on or off the premises.

7. The functions of licensing authorities under the 2003 Act (whether in relation to granting, varying or reviewing authorisations, enforcement or otherwise) must be carried out with a view to promoting the statutory licensing objectives, set out in section 4 of the Act. These objectives are:
   - the prevention of crime and disorder;

- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

Requirements for a designated premises supervisor and personal licence holder

8. Under the 2003 Act, every premises that engages in the sale by retail of alcohol to the general public needs to have a premises licence issued by the licensing authority (unless sales are made under the authority of a Temporary Event Notice given in accordance Part 5 of the Act).

9. Section 19 of the Act makes it a mandatory condition in any premises licence 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 (as to which, see further below). In addition, it is 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).The role of the DPS is explained further below.

10. To obtain a personal licence under Part 6 of the 2003 Act, the requirements are that the applicant:

    - must be aged 18 or over;
    - possesses a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person of a description prescribed by the Secretary of State by regulations;
    - must not have had forfeited a personal licence within five years of his application; and
        - the police must not have given an objection notice about the grant of a personal licence following notification of any unspent relevant offence or foreign offence; or
        - the police have given an objection notice because of a conviction for an unspent relevant offence or a foreign offence, but the licensing authority has not considered it necessary to reject the application on crime prevention grounds; and
        - the applicant has paid the appropriate fee to the licensing authority.

11. In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, all applicants are required to produce a form of criminal record certificate to the licensing authority.

12. Personal licence holder qualifications accredited by the Secretary of State usually require applicants to attend a one-day training course and pass an examination..

13. Personal licences are valid for ten years at which time they can be renewed. They can, however be forfeited or suspended at any time on the order of a court following conviction for a relevant, or equivalent foreign, offence. Relevant offences include, among others, violent, drug, licensing and sexual offences. Relevant offences are set out in Schedule 4 to the Licensing Act 2003 and The Licensing Act 2003 (Personal licence: relevant offences) (Amendment) Order 2005. Applicants for personal licences must produce a certificate detailing any criminal record. The licensing authority must refer to the police any application involving an applicant with an unspent conviction for a relevant offence. On such a case being referred, the chief officer of police may object to the grant of the licence if he believes that to grant it would undermine the crime prevention objective.

14. Similar checks on the criminal background of premises licence holders are not normally made. Premises licence holders may be individuals, but may also be businesses, organisations, charities and, for example, village hall committees.

15. Premises licences last for the lifetime of the premises unless revoked, suspended or surrendered. A premises licence which authorises sales of alcohol must specify a personal licence holder as the

designated premises supervisor ("DPS"), in accordance with the mandatory condition. Only one DPS may be specified even though several personal licence holders could be active at a single premises. The DPS has no formal duties under the 2003 Act separate from those of a personal licence holder. However, this individual is normally responsible for the day to day running of the premises and a formal point of contact for the police and other enforcement agencies when problems arise.

16. Personal licence holders and designated premises supervisors are therefore an important part of the safeguards for preventing:

    - sales of alcohol to children and drunks;
    - disorder on the premises; and
    - the use of the premises for criminal purposes.

17. Issues relating to public nuisance and public safety arise as much in a regulated entertainment context as with sale of alcohol, but where a premises licence only authorises regulated entertainment or late night refreshment no mandatory conditions relating to personal licence holders or designated premises supervisors apply. The key policy objective is to preserve a necessary level of public protection in respect of the risks identified above without adding any unnecessary regulatory burden.

Outline of proposals

18. The Government proposes that the 2003 Act be amended so that the mandatory conditions set out in paragraph 9 above can be disapplied in relation to premises licences held by village halls, church halls, chapel halls, community halls and similar community premises. This proposal was originally put forward in the Department for Culture, Media and Sport's Licensing Simplification Plan 2006.

19. The Government also proposes to amend the Act so that whenever the mandatory conditions are disapplied as outlined in the previous paragraph, an alternative mandatory condition will automatically apply instead. The effect of this alternative condition will be that responsibility for authorising sales of alcohol would fall on the premises licence holder itself, which will be the committee or board of individuals responsible for the management of the premises. These individuals will be required to undertake the responsibilities that would normally be undertaken by a DPS. Provided the premises licence holder (i.e. the committee) had properly authorised the sale of alcohol, for example in written form through a hire agreement, an organisation or hirer using these premises for the sale of alcohol under the authority of the premises licence would not be required to obtain a personal licence.

20. The process for disapplication of the usual mandatory conditions will be similar to the process that applies under section 37 of the 2003 Act in respect of a change of DPS for particular premises. There will be no automatic disapplication of the conditions in respect of any premises. A management committee of a community, church or village hall that seeks the removal of the conditions from an existing licence, or wishes to apply for a licence that does not include them will need to apply to their local licensing authority for the conditions to be removed, and the alternative condition imposed instead. This may be done either as a part of their original licence application, or as a separate application to vary their licence. In either case, the licensing authority will be required to determine the application taking into account any representations from the police. If such representations include a statement to the effect that in the exceptional circumstances of the case, granting the application would undermine the crime prevention objective (see paragraph 7 above), the authority will be required to reject the application.

21. Where a premises licence has had the usual mandatory conditions removed in this way, they may be reinstated if concerns arise over the promotion of *any* of the licensing objectives. In such a case, an interested party (e.g. a local resident) or a responsible authority (any of those listed in section 13(4) of the Act, e.g. the police) may apply to the authority for a review of the licence. Upon review, which will be conducted in accordance with the usual procedure under sections 51 to 53 of the Act, the authority may reinstate the DPS requirements if it thinks it necessary for the promotion of any of the licensing objectives. The grounds on which a village or church hall etc may lose its exemption from the usual DPS requirements are therefore substantially wider than the grounds on which an initial application for the exemption may be refused. This is so that community premises can access the new arrangements without too onerous a procedure, whilst ensuring that there is a robust process for the reinstatement of the DPS requirements if that proves to be necessary in relation to particular premises.

Administrative cost savings

22. We estimate that the average administrative cost of a volunteer gaining a personal licence is approximately £273. Using data from Action for Communities in Rural England (ACRE) and from Community Matters we estimate that 2,000 community premises, will consider amending their existing licence to add alcohol or apply for a new one should this proposal go ahead. The removal of the requirement for a personal licence holder would therefore remove costs of £546,000 (£273 x 2,000). As well as the saving at application stage, there would be a saving each time the designated premises supervisor would needed to have been changed. Conservatively, if we estimate there would have been at least an average of one change in who is the DPS (for example if a volunteer steps down or leaves the village) in a 10 year period (the maximum duration of a personal licence) then the potential for additional savings will be the same as the initial saving (i.e. £546,000). The total potential saving would therefore be £1,092,000 over a 10 year period or an average saving of £109,200 per year.

23. In addition, village and community halls which already have a premises licence to allow the sale of alcohol (and therefore an existing DPS) might wish to take advantage of the new arrangements. We have estimated that around 4,000 such community premises may choose to do so. The potential saving over each 10 year period (the duration of a personal licence) would be £1,092,000 or approx £109,200 per year. This assumes, conservatively, that there would have been (on average) no more than one change in the DPS over the 10 year period.

24. We have reduced the above saving slightly to take account of the number of community premises that may be taken to review or applications to remove the mandatory conditions are turned down (estimated to be 1% over a 10 year period). In addition, the potential savings have been reduced as a result of the cost for volunteers of premises already with a licence to sell alcohol to make the application (estimated to be £129,920 over a 10 year period).

25. Therefore, the overall potential administrative savings under this proposal could be £2,026,780 over 10 years or £202,678 per year.

26. Full details of anticipated cost savings are provided in the Impact Assessment at Annex A.

27. Costs to the licensing authority will be recovered in full through the existing application fees for new premises licence applications and for applications to vary existing licences to add the sale of alcohol. We propose a new application fee to cover additional costs to licensing authorities where premises already have a licence to sell alcohol but wish to apply to remove the requirement for a DPS and personal licence holder,

Consultation with Welsh Ministers

28. The Act extends to England and Wales. The Welsh Assembly Government has been kept informed and consulted on these proposals.

Parliamentary Resolution procedure

29. The Secretary of State considers that these proposals are a small change to the Act, which will have no adverse impact on the licensing objectives. They are supported by a wide range of licensing stakeholders, including village and community halls representatives and local authorities. There were concerns expressed by the some police and some local authorities during the pre-consultation discussion period and the initial public consultation about the potential risk to the licensing objectives as a result of this process. These have been addressed by requiring community premises to apply for the change in the mandatory conditions and provisions to allow the mandatory conditions to be reinstated, following a review, should this prove necessary to support the four licensing objectives. The police will also have the right to object, at the application stage, to any premises applying for the removal of the mandatory conditions on 'crime and disorder' grounds.

30. The procedural safeguards in the Act will, therefore, be maintained and the process for appeals under Schedule 5 will continue to apply to all applications, variations and reviews under these proposals. The concept of a supervisor is retained; the supervisory role will merely be undertaken by the management committee rather than DPS. Accordingly, the impact of the proposals on the licensing objectives will be minimal.

31. Amendments to the Guidance issued to licensing authorities by the Secretary of State under s.182 of the 2003 Act will also make clear the roles and responsibilities of the management committee and the importance of proper hiring agreements. The guidance will also make clear that any application for the sales of alcohol that might, in effect, mean the community premises was operating like a commercial outlet should be subject to the necessary scrutiny and very careful consideration.

32. The Secretary of State therefore recommends the negative resolution procedure for this proposal. [subject to DCMS Ministerial agreement]

Public Consultation

33. The Secretary of State consulted on the policy options for this proposal from 8 August 2007 to 31 October 2007. A further short consultation on the draft Order, statutory Guidance to local authorities (under section 182 of the Act), proposed fee and application form was published on 4 August 2008 for one month (ending 1 September). There were 116 responses to the initial consultation and 67 responses to the second stage consultation. The consultation documents were distributed to various organisations that have an interest in the licensing process and a list of those who responded can be found at Annex C. Annexes D and E summarise the responses to the consultations and, in the case of E, the Department's response to them.

34. The Department also discussed initial proposals with a number of stakeholders, including representatives of local authorities (the Department's 'Scrutiny Councils'and LACORs), representatives of community premises (ACRE, Community Matters and the National Village Halls Forum) and the police (ACPO, individual police forces, and the police partnerships representatives at the Home Office).

Full consultation

35. The Consultation Document published in August 2007 discussed four policy options as follows:

Option 1: (a) Disapply the two mandatory conditions (currently required by section 19 of the Licensing Act 2003) relating to personal licence holders and designated premises supervisors in respect of premises licences authorising sales of alcohol at village halls, church halls, chapel halls and similar premises. (b) Give responsibility for authorising every sale of alcohol at the premises to the holder of the premises licence. (c) Do not allow the mandatory conditions to be imposed on the premises licence in any circumstances.

Option 2: (a) Disapply the two mandatory conditions (currently required by section 19 of the Licensing act 2003) relating to personal licence holders and designated premises supervisors in respect of premises licences authorising sales of alcohol at village halls, church halls, chapel halls and similar premises. (b) Give responsibility for authorising every sale of alcohol at the premises to the holder of the premises licence. (c) Following any review by the licensing authority of such a premises licence on grounds relating to the four licensing objectives, give the licensing authority discretion to impose conditions similar to those in section 19 of the 2003 Act where necessary for the promotion of the four licensing objectives.

Option 3: (a) Allow relevant premises licence holders (or prospective premises licence holders) to apply for the disapplication of the two mandatory conditions (currently required by section 19 of the Licensing act 2003) relating to personal licence holders and designated premises supervisors in respect of premises licences authorising sales of alcohol at village halls, church halls, chapel halls and similar premises. (b) Where an application is granted, give responsibility for authorising every sale of alcohol at the premises to the holder of the premises licence. (c) Following any review by the licensing authority of such a premises licence on grounds relating to the four licensing objectives, give the licensing authority discretion to impose conditions similar to those in section 19 of the 2003 Act where necessary for the promotion of the four licensing objectives.

Option 4: No change.

36. The Secretary of State recommended Option 3 on the grounds that it would remove a significant barrier to community premises securing a licence to cover fully all of their activities, while retaining an adequate level of public protection in relation to the sale of alcohol at such premises. The Department's initial intention had been to recommend option 2, but this option had raised some concerns with stakeholders during pre-consultation discussions:
    - There would be no mechanism to prevent the removal of the premises supervisor requirement from the small number of community premises which are at risk of crime and disorder;
    - The automatic disapplication of the requirements would make enforcement more complex, particularly where a premises claimed to be a community premises but may not be genuinely used as such. There would be some grey areas which could only be resolved through the courts.

37. The Secretary of State therefore recommended option 3 which introduced a requirement for premises to apply to the licensing authority for removal of the mandatory conditions. This would allow the police to object where they had concerns about crime and disorder. The requirement to apply will allow uncertainties about whether an individual premises meets the definition of being a community purposes to be resolved through an administrative, rather than court, process. It would also provide clarity for enforcement agencies about which premises should have a personal licence holder and premises supervisor. The option for a review of the licence based on concerns about any of the four licensing objectives would also be preserved.

38. The majority of respondents agreed with the Government's proposals to allow the removal of the personal licence holder and DPS requirements for community premises and the majority of those

who expressed a view on how to do this supported the Government's preference for option 3. There were also a significant number of additional respondents (26) who wrote general letters of support for the Government's proposal for change *(although it is not clear whether some of those may have preferred option 1 or 2).*

39. However, a significant minority disagreed, with a split between option 2 and option 4. The majority of those which preferred Option 2 were representative of community premises but some of them did also say that they would also accept option 3. Only 14 respondents (12%) believed that there should be no change (option 4), most of these were councils.

40. While concerns about the proposals were only expressed by a small minority of respondents, the Secretary of State agreed further measures to ensure public protection:

- The Order (as opposed to just the Guidance) would specify that the premises must have an appropriate management committee structure

- The Guidance would include advice to licensing authorities on how to assess whether a premises met the community premises definition for the purposes of this measure. This would specifically address the issue of commercial activities, private hire, schools and members clubs.

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41. The results of the consultation also supported:

- the Government's definition of those community premises to be covered by the proposals and that it would be for licensing authorities to determine whether individual premises met the definition;
- that the proposal shall only include premises with a formal management or executive committee and that it would be licensing authorities to determine this; and
- that option 3 strikes a fair balance between the public interest and the interests of those affected adversely by the proposal and that this option 3 does not remove any necessary public protection.

Second stage consultation

42. In the second phase of consultation, the Secretary of State asked for views on the draft Order, draft statutory Guidance to licensing authorities, and the application form. Views were also sought on the proposed, flat rate fee (for existing premises licences already with permission to sell alcohol) which is set at the same level as the fee for changing the DPS (currently £23).

43. There were no substantive comments about the draft Order. Respondents raised some helpful questions about the process for applications under these proposals and greater clarity in the draft Guidance about how to assess whether a premises is a community premises for the purpose of this measure. It was also unclear that the application had to be copied to the police. Some respondents also submitted suggestions for improving the proposed application form.

44. The detailed process for premises to apply for the disapplication of the mandatory conditions will be set out in regulations to be brought before Parliament in due course. This will include the application form, and the requirement to copy it to the police. Amendments to the Secretary of State's guidance to licensing authorities are also made through a parliamentary process and this will reflect the suggestions made during consultation.

45. A significant majority of respondents (75% and including some licensing authorities) thought that proposed fee was correct, but some thought that it was too low and suggested fees of £30 - £73. They believe that there could be quite a lot of additional work for licensing authorities to ascertain whether the application was covered by the definition and whether there was adequate public protection in place.

46. It is worth noting that most applications will be for a new permission to sell alcohol and would therefore attract the full premises licence application fee and be subject to full scrutiny as part of that process. This was perhaps unclear in the second stage consultation and will therefore be made clearer in the guidance. While licensing authorities would have to consider whether the premises meets the definition of a community hall and has adequate management arrangements in place, this merely replaces the existing requirement to check that a proposed Designated Premises Supervisor is a personal licence holder and has included the relevant documentation. One existing part of the process is simply being replaced by another. We do not believe that the disapplication of the mandatory requirements causes an additional burden that justifies an increase in fees for those applicants.

47. Where a community premises already has a licence which allows the sale of alcohol, there will be a separate process to remove the mandatory conditions. We believe that this will be a straightforward process in most cases and most village, community and church halls, will self evidently meet the definition of a community premises, will have an appropriate management structure in place and will already be known to the Licensing Authority. We, therefore, believe that the costs of such a process similar to those relating to change of DPS and intend to set the fee at the same level (currently £23). This fee can be considered at any future review of licensing fees generally.

48. In addition, in light of the consultation responses, we will also ensure the application form will provide licensing authorities with additional information, in order to assess the application more easily and quickly. The Secretary of State, therefore, considers that the proposed fee level is set at the right level.

49. Subject to Parliament's approval of this Order, the Secretary of State will lay a statutory instrument to amend the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 and the Licensing Act 2003 (Fees) Regulations 2005 to introduce a new form and fee respectively.

Pre-conditions

50. The 2006 Act specifies that any Order must abide by certain preconditions. These are:

(a) the policy objective intended to be secured by the provision could not be satisfactorily secured by non-legislative means;

(b) the effect of the provision is proportionate to the policy objective;

(c) the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it;

(d) the provision does not remove any necessary protection;

(e) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;

(f) the provision is not of constitutional significance.

An analysis of the results of the Secretary of State's consultation in relation to these preconditions is set out below.

Non-legislative solutions

51. The requirements for alcohol sales to be made or authorised by a personal licence holder, and for a personal licence holder to be designated as premises supervisor derive from primary legislation. They cannot be changed through secondary legislation other than an LRO.

52. Although the Secretary of State is empowered to issue Guidance to licensing authorities under section 182 of the 2003 Act, such Guidance cannot effect changes to primary legislation or seek to influence the decisions of prosecuting authorities. In addition, authorities must have regard to the Guidance but it is not otherwise binding on them; nor is it binding on the police.

53. The Secretary of State is satisfied that providing special arrangements for community premises cannot be achieved through: any voluntary agreements between central government, licensing authorities and the police; changes to the statutory Guidance under section 182 of the Act; or changes to the regulations made by the Secretary of State under his powers in the 2003 Act. All but one of the respondents to the initial consultation agreed with this view – a village hall representative suggested that such premises should not be included within the licensing regime at all, and be subject to a voluntary code of conduct.

54. Community premises without a licence which permits alcohol sales can allow events to be held under the authorisation of Temporary Event Notices (TENs). However, these are limited to 12 events a year. It has been suggested that increasing the number of TENs that can be used at a community premises would provide the flexibility they require without the need for a full alcohol licence (and therefore no need to remove the mandatory conditions). This would not provide a non-legislative solution as a change to primary legislation would be required to introduce a different TENs limit for community premises. Ministers have also said that they would not want to increase the flexibility of the TENs regime which is already a very light touch form of regulation. Police concerns about the minority of community premises which risk crime and disorder would also need to be considered.

Proportionality

55. The Government believes that village halls and similar community premises play a vital role in ensuring a thriving local community and cultural life and offer a wide variety of entertainment and other activities.

56. The Government is concerned that the benefits of the Act are not being delivered in relation to community premises due to a reluctance to apply for premises licences which allow the sale of alcohol. The fact that 90% of halls have a licence to put on entertainment, suggests that it is the specific requirements of alcohol licences that are putting people off. Moreover, the TENS regime under Part 5 of the Act is not sufficiently flexible in all cases due to the demands on the community premises and the limitation on the number of TENS than can be given.

57. The Secretary of State believes that the removal of the DPS requirement and the fact that it is limited to village and community halls and similar community premises represents a targeted and proportionate approach. This view was shared by 89% of respondents to the initial consultation

58. The proposals maintain the concept of supervision in the form of the management committee, and the appeals regime under Schedule 5 to the Act will continue to apply. As such, the safeguards in the Act will apply to the processes set out the proposals.

Fair balance

59. As explained earlier, personal licence holders and the designated premises supervisor are an important part of the safeguards for preventing: sales of alcohol to children and drunks; disorder on the premises; and the use of the premises for criminal purposes. The public interest in this case lies in the protection of people living in the vicinity of licensed premises who may be affected by the licensed activities; the wider public who may be directly affected by alcohol related crime and disorder and public nuisance, the vulnerable e.g. children; customers who may be at risk from inadequate or non-existent public safety measures in licensed premises; and society as a whole which is damaged by crime and disorder and public nuisance.

60. However, there is also a strong public interest in the role of the village hall and similar community premises as cohesive centres for many rural communities. In rural areas some commercial premises providing cultural, leisure and social activity find economic viability difficult. This increases the importance of village halls etc run by volunteers in filling the gap.

61. The Secretary of State considers that the proposed community premises process includes safeguards, such as the requirement for premises to apply for the mandatory conditions to be removed from the relevant licence and for these mandatory conditions be re-instated, following review called by interested parties and/or responsible authorities, based on the promotion of one of the four licensing objectives. There is also the fact that the alternative mandatory condition, requiring alcohol sales to be supervised by the management committee, will apply. Any failure by the committee to supervise alcohol sales would not only afford grounds for the police or other responsible authorities to seek review; it would also place the committee in breach of its licence, and at risk of prosecution under section 136 of the 2003 Act, for which the penalties are considerable. The proposal therefore achieves a fair balance between the identified public interest and the interests of those who may be adversely affected by it by putting in place. This view was supported by 91% of respondents to the initial consultation.

Necessary protection

62. The Secretary of State considers that no necessary protections will be removed by the introduction of the community premises process for the reasons outlined above. 95% of respondents to the initial consultation agreed that option 3, the one being taking forward, would not remove necessary protections. In particular, the right of local residents to seek a review of the licence based on any of the licensing objectives, and to make representations on such reviews, will be preserved.

Rights and freedoms

63. The changes proposed will not prevent anyone from exercising an existing right of freedom. Applications from community halls to add alcohol sales to an existing licence, or for a new licence to allow alcohol sales, will still need to go through the full application process under the 2003 Act. This includes advertising the application and allowing interested parties (such as local residents) and responsible authorities (such as the police, training standards, environmental health officers) to make representations if they have concerns in relation to the licensing objectives. In the case of a variation to change the DPS from one individual to another, it is only the Police who can object under the crime and disorder objective. Where a community premises already has a licence which allows alcohol sales, this would have been previously granted following a full application process.

Constitutional Significance

64. This proposal is not constitutionally significant.

Related Orders

65. On XX November 2008, the Department laid an Order before the Committees which would amend the 2003 Act to make provision for a new 'minor' variations process that will provide a quicker, less bureaucratic and cheaper route for the approval of small, low risk changes to licences and club certificates.

66. The Secretary of State considers that, as the proposed community premises process relates to the sale of alcohol, it should not be considered as a minor variation. The draft Minor Variations Order, therefore, excludes the community premises process from the minor variation process.

Compatibility with the European Convention on Human Rights

67. The Secretary of State is satisfied that the draft Order is compatible with the European Convention on Human Rights.

68. In the Secretary of State's view the proposals offer an alternative arrangement for the regulation of alcohol sales under individual licences, which need only be taken up by licence-holders if they wish to do so. There is therefore no interference with any property rights constituted by the licence under Article 1 of the First Protocol.

69. As regards Article 6 of the Convention, the proposals in the draft Order follow closely the procedural scheme in the Licensing Act 2003 for:

    (a) the determination of applications for a new premises licence;
    (b) the determination of applications to vary the conditions of an existing premises licence;
    (c) the review of an existing premises licence.

    These provisions were designed to preserve the procedural rights of applicants for premises licences, existing premises licence holders, responsible authorities (defined in section 13(4) of the Act, including the police and health and safety authorities) and interested parties (defined in section 13(3) of the Act, and includes local residents and businesses).

    In the case of an application for a premises licence without the mandatory DPS conditions in section 19 of the Act and including the alternative licence condition instead (or an application to vary a licence to that effect), only the police can make relevant representations and these must relate to the crime prevention objective. This might be said to impinge to some extent upon the rights of other responsible authorities or interested parties (including local residents) to a fair trial in respect of their civil rights and obligations at these stages of the process. However, the Secretary of State notes that the rights of responsible authorities and interested parties at these stages are comparable to those that apply in respect of a change of DPS under section 37 of the Act, where the issues are similar. And in one respect, the rights under the new proposals go further, in that any interested party or responsible authority may initiate a review of the licence (including the application of the alternative mandatory condition) at any time, based on concerns about any of the licensing objectives. The Secretary of State also considers that the policy objective of fostering the use and development of community premises without unnecessary burdens is sufficiently important to warrant the measures in question. Any impairment of Article 6 rights that might be said to exist is therefore justified and proportionate.

Compatibility with Obligations arising from membership of the European Union

70. The draft Order is compatible with obligations arising from membership of the European Union.

Annex A: Impact Assessment

Summary: Intervention & Options		
Department /Agency: Department for Culture, Media and Sport	Title: Impact Assessment of the proposal to remove the requirements for a Designated Premises Supervisor and personal licence holder for community premises	
Stage: Final impact Assessment	Version: **2**	Date: **16/06/08**
Related Publications: **Licensing Act 2003, Consultation Paper on the proposal to remove the requirement for a Designated Premises Supervisor for community premises under the LA 2003**		
Available to view or download at: http://www.culture.gov.uk		
Contact for enquiries: **David Gookey**		Telephone: **020 7211 6351**

What is the problem under consideration? Why is government intervention necessary?
Organisations representing village and community halls have identified a barrier to such premises applying for a licence that allows the sale of alcohol is the requirement for a designated premises supervisor (DPS)/personal licence holder to authorise the sale of alcohol. Volunteers are reluctant to take on this role which means many premises are relying on temporary permissions to allow alcohol sales (Temporary Event Notices) which are limited to 12 events each year. Government intervention is required to amend the Licensing Act to disapply these requirements.
What are the policy objectives and the intended effects?
It is intended that more village halls and similar community premises will apply for a licence that allows the sale of alcohol if these requirements are disapplied. This would include those which are at risk of not being able to accommodate all of the activities which are being demanded under the Temporary Event Notice (TENs) regime and ensure the licensing regime is not unecessarily restricting local community activities. It should provide greater flexibility for these premises and have a potential reduction in costs over a 10 year period.

What policy options have been considered? Please justify any preferred option.
Those who represent community premises have called for a substantial increase in the limit of TENs. However, other key stakeholders including some local authorities, residents groups and the police are concerned about relaxing limits on a light touch regime that does allow residents to object to events.The proposal was supported by an independent panel which was set up to review the licence fee and other costs. It concluded that village halls should apply for full premises licences in order to reduce their reliance on temporary permissions and longer term administrative burdens.

The Government consulted on the following options from 8 August 2007 to 31 October 2007:

Option 1: (a) Disapply the two mandatory conditions (currently required by section 19 of the Licensing act 2003) relating to personal licence holders and designated premises supervisors in respect of premises licences authorising sales of alcohol at village halls, church halls, chapel halls and similar premises. (b) Give responsibility for authorising every sale of alcohol at the premises to the holder of the premises licence. (c) Do not allow such conditions to be imposed on the premises licence in any circumstances.

Option 2: (a) Disapply the two mandatory conditions (currently required by section 19 of the Licensing act 2003) relating to personal licence holders and designated premises supervisors in respect of premises licences authorising sales of alcohol at village halls, church halls, chapel halls and similar premises. (b) Give responsibility for authorising every sale of alcohol at the premises to the holder of the premises licence. (c) Following any review by the licensing authority of such a premises licence on grounds relating to the four licensing objectives, give the licensing authority discretion to impose conditions similar to those in section 19 of the 2003 Act where necessary for the promotion of the four licensing objectives.

Option 3: (a) Allow relevant premises licence holders (or prospective premises licence holders) to apply for the disapplication of the two mandatory conditions (currently required by section 19 of the Licensing act 2003) relating to personal licence holders and designated premises supervisors in respect of premises licences authorising sales of alcohol at village halls, church halls, chapel halls and similar premises. (b) Where an application is granted, give responsibility for authorising every sale of alcohol at the premises to the holder of the premises licence. (c) Following any review by the licensing authority of such a premises licence on grounds relating to the four licensing objectives, give the licensing authority discretion to impose conditions similar to those in section 19 of the 2003 Act where necessary for the promotion of the four licensing objectives. (**The Government's preferred option).**

Option 4: No change.

Overall, the majority of respondents agreed with the Government's proposal to remove the requirement for a DPS and personal licence holder for village halls and similar community premises. Only 14 (12%) believed that there should be no change (option 4).

The majority of respondents supported the Government's preferred option - option 3.

The results of the consultation also supported:

- the Government's definition of those community premises to be covered by the proposals and that it would be licensing authorities to determine whether individual premises were included;
- that the proposal shall only include premises with a formal management or executive committee a and that it would be licensing authorities to determine this; and
- that option 3 strikes a fair balance between the public interest and the interests of those affected adversely by the proposal and that this option 3 does not remove unnecessary public protection.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? **Winter 2011, three years following implementation.**

Ministerial Sign-off

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.
Signed by the responsible Minister:

Summary: Analysis & Evidence	
Policy Option:	Description: the proposal to remove the requirements for a Designated Premises Supervisor and personal licence holder for community premises

COSTS

ANNUAL COSTS

One-off (Transition) **Yrs**

£ 0

Average Annual Cost (excluding one-off)

£ 0

Description and scale of **key monetised costs** by 'main affected groups'

Total Cost (PV) **£ 0**

Other **key non-monetised costs** by 'main affected groups' There may be a need for Licensing Authorities to seek clarification from actual applicants to establish that they are appropriately managed community premises. However, the marginal costs involved in relation to a new premises licence application or variations to an existing premises licence would be small and would be passed on to the applicant through the fee payable to the licensing authority.

BENEFITS

ANNUAL BENEFITS

One-off **Yrs**

£

Average Annual Benefit (excluding one-off)

£ 0.2m

Description and scale of **key monetised benefits** by 'main affected groups'

Should the proposal go ahead, there will be a potential saving of up to £273 in the application costs for those village and community halls that wish to get a premises licence that allows the sale of alcohol.

	'At Risk' Premises	Premises with an alcohol licence
Potential Savings (PV over 10 yr period)	£901,351	£784,221

Total Benefit (PV) **£ 1.7m**

Other **key non-monetised benefits** by 'main affected groups'

No individual person (usually a volunteer) would be required to take on DPS responsibility.

Additional flexibility for those that get a full premises licence (reducing reliance on TENs).

Key Assumptions/Sensitivities/Risks Estimated 'at risk premises' and those with an alcohol licence have been extrapolated from surveys by other organisations about the number of village and community halls.

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£**

What is the geographic coverage of the policy/option?	England & Wales
On what date will the policy be implemented?	Spring 2008
Which organisation(s) will enforce the policy?	Licensing Authorities
What is the total annual cost of enforcement for these organisations?	£ 0 (fees cover)
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per year?	£ n/a
What is the value of changes in greenhouse gas emissions?	£ n/a

Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **0**	Small **0**	Medium **0**	Large **0**
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2007 Prices)			(Increase - Decrease)
Increase of £ 0	Decrease of £ 200,000	**Net Impact**	**£** -£200,000

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

The Burden - Background

Section 19 of the Licensing Act 2003 provides that where a premises licence authorises the supply of alcohol, the licence must include two conditions.

- The first condition is that no supply of alcohol may be made under the premises licence:
  - at a time when there is no "designated premises supervisor" in respect of the premises licence;
  - or at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The Government's proposal

The proposal is that the 2003 Act be amended so that premises licences held by village halls, church halls, chapel halls, community halls and similar community premises would be exempted from the two mandatory conditions described above.

The Act would also be amended so that the responsibility for authorising sales of alcohol would fall on the premises licence holder which might be, for example, the village hall committee collectively. This would mean that a member of the organisations using these premises for the sale of alcohol would not be required to obtain a personal licence.

The Government announced, in a Ministerial written statement in July 2006, the Government's intention to work up these proposals for Parliamentary consideration subject to the outcome of public consultation.

The Burden – Costs

Personal Licenses

Applicants for personal licences must:

- complete the necessary forms – estimated to be 1 hour;
- apply and pay for a certificate that reveals the individual's criminal record or lack of one at a cost of £20 from *Disclosure Scotland*;
- pay a fee of £37;
- attend a course for one day – estimated to be 6 hours; and
- pay an average cost of £150 for the course.

Using the BRE's estimate for the hour cost of a volunteer to be £9.48, the total cost of gaining a personal licence is estimated to be approx £273.

Premises licences.

The application and annual fees for licensed premises are based upon the premise's non domestic rateable value band. The majority of village and community halls and similar premises are likely to be in Band A and band B. Under the Licensing Act, the fees are:

Band A
Application fee: £100 Annual fee: £70
Band B
Application fee: £190 Annual fee: £180

No fees are payable for premises licences allowing regulated entertainment only (no alcohol) at church halls, chapel halls or other similar buildings, or village, parish or community halls, or schools or colleges (for the purpose of the educational institution).

Temporary Event Notices (TENs)
Apply for events up to 96 hours and for a maximum of 499 people. Limit of 12 TENs per premises, up to a maximum 15 days, per year. Each TEN costs £21.

Who is covered by the burden
The assumptions made below are based upon the existing, albeit limited, evidence about the potential burden costs to village halls and community halls and similar premises in England and Wales.

A survey published in 1997 by Paul Marriott for *Community Matters* established that there were approximately 18,800 community buildings, such as village halls and community halls and community centres across in non-rural and rural England and Wales. Marriott's report estimated that more than a third of these were village halls, a quarter were community centres and one in twelve were church buildings. More recently, Action with Communities in Rural England (ACRE) has estimated that there are approximately 8,900 village halls in rural areas in England.
Research conducted by ACRE indicates that over 90 per cent of village halls in rural areas in England have obtained premises licences which have been in force since 24 November 2005. However, the vast majority of these licences are limited to the provision of regulated entertainment and only a third of the premises licences authorise the sale by retail of alcohol. This suggests that the majority of village halls and similar premises rely on temporary event notices (TENs), which are limited to 12 notices for each premises in a calendar year, for activities which involve the sale of alcohol.

'At risk premises'

ACRE's research showed that approximately 20% of the village halls in the survey which have no licence to sell alcohol were at risk of exceeding their limit of TENs for the number events that involve the sale of alcohol. While this was based on a small sample of village halls, if extrapolated to ACRE's total estimate of village halls, this would suggest that around 1,200 (20% of the approx 6000 village halls with no alcohol licence) village halls in England alone might be at risk of not being able to accommodate all of the activities which are being demanded. If similar assumptions, in terms of the proportion of community premises that do not have a licence to sell alcohol and that are likely to exceed their TENs limit are made to Marriot's figures then the number would be approx. 2,500. In reality, some of the premises included in Marriot's figure (such as church halls and other similar community buildings) are less likely than village halls to want to allow alcohol sales, so the total figure needs to be adjusted downwards accordingly. We therefore estimate that the range of premises most likely to consider applying for a premises licence that allows the sale of alcohol, should the options be taken forward, of a round 2,000.

By removing the requirement for a DPS and a premises licence holder for such premises (cost has been estimated above to be £273) then the potential initial saving would be approx £546,000 (2,000 x £273). As well as the saving at application stage, there would be a saving each time the DPS changed. Conservatively, if we estimate there would have been at least an average of one change in who is the DPS

(for example if a volunteer steps down or leaves the village) in a 10 year period (the maximum duration of a personal licence) then the potential for additional savings will be the same as the initial saving (i.e. £546,000). The total potential saving would therefore be £1,092,000 over a 10 year period (£546,000 x 2) which equates to an average saving of £109,200 per year.

Village and community halls already with a premises licence to alcohol

In addition, village and community halls which already have a premises licence to allow the sale of alcohol might wish to take advantage of the new arrangements. According to ACRE's survey, there are about 2,400 village halls with alcohol licences in England. If similar assumptions, in terms of the proportion of community premises that do have a licence to sell alcohol are made to Marriot's figures then the number would be approx. 5,000 premises. As above, not all of the premises included in Marriot's estimate (such as church halls and other similar community buildings) will have as high a requirement to sell alcohol as village halls, so this higher figure will probably be less. We therefore estimate that the number of premises most likely to benefit from a premises licence that allows the sale of alcohol (but without a DPS or personal licence holder) could be around 4,000.

By removing the requirement for a DPS and a premises licence holder (cost has been estimated to be £273) then the potential saving over each 10 year period (the duration of a personal licence) would be £1,092,000 (4,000 x £273) or approx £109,200 per year. This assumes, conservatively, that there would have been (on average) no more than one change in the DPS over the 10 year period.

Possible reductions in savings

There is a possibility of the DPS requirement could be added to a premises licence, following a review, and therefore an additional cost, we have little evidence to show how often this may happen. A short survey carried out by DCMS in 2006 suggested that, overall, around 0.3% of all premises had their licences reviewed in the first year following the new regime coming into effect. A review allows a number of actions to be taken to address problems that arise and if a village or community hall licence is reviewed, it is by no means certain that a reinstatement of the DPS requirement would be outcome. If we assumed that 1% of halls would have their licences reviewed over a 10 year period and have the DPS requirement reinstated as a result, this might amount to 60 out of 6000 halls and a total of £16,380 in potential savings lost over the 10 year period. For the sake of ease, we have assumed that this would be split between both types of premises listed in this assessment.

We therefore estimate that the potential savings would be reduced slightly to £1,083,810 over 10 years for each of the types of premises.

In addition, for those premises that already have a licence that allows the sale of alcohol, we envisage that the cost to apply for the removal of the DPS and personal licence holder (assuming that the process and cost will be similar to the current process and cost for the variation of DPS) would be approximately £32.48, including 1 hours work for a volunteer. This additional cost for the estimated 4,000 premises would reduce the potential savings over 10 ten years by approx £129,920 making them £953,890. The potential savings could be reduced further if the application attracts representations and is denied at a hearing. However, concerns may be addressed in other ways, so it is difficult to estimate how many applications would be unsuccessful in removing the DPS (as opposed to other outcomes). If we assume the same level as for licence reviews above (1%), this would mean a reduction in savings of £10,920.

Therefore, the overall potential savings under this proposal could be £2,026,780 over 10 years or £202,678 per year. In Present Value terms (adjusting for time preference using a 3.5% discount rate) this totals £1,685,572 over the 10 year period.

Other Issues

The Government believes the removal of the DPS/personal licence requirement would not be an automatic right, but would be subject to an application process which would allow objections by the police (for example on crime and disorder grounds) and objections from interested parties such as residents. This would potentially allow the activities covered by the licence at an individual premises to be limited and for appropriate conditions to be added (for example requiring proper hire agreements) before the DPS/personal licence requirement is removed. The Government believes that it strikes the right balance between relaxing requirements for village halls so they can respond to the needs of local communities, but in doing so, instil a greater sense of responsibility for the management of the hall.

Competition Assessment

The British Beer and Pub Association and the Federation of Licensed Victuallers Associations have suggested that there may be competition issues where a village hall begins to allow alcohol on a more regular basis and in effect completes with rural pubs. Whilst this may already be a theoretical possibility, it is impossible to predict how often this might be the case *as a result of these proposals*. Discussions with village hall representatives suggest that most village halls are not interested in operating in this way. In addition, any application to allow the sale of alcohol requires an operating schedule to be completed which indicates the type and frequency of activity to be licensed. Interested parties, such as local businesses and police can make representations against such applications. While competition issues are not licensing objectives, the DPS/personal licence requirements are there largely in recognition of the potential of alcohol sales to lead to crime and disorder, including sales children. The rationale for removing this requirement from village and community halls is that their activities carry less risk as they are overseen by a management committee and do not constitute to same level of commercial interest in making retail sales of alcohol to the public. We would expect that any application for the sales of alcohol that would, in effect, mean the community premises were operating like a commercial outlet would be subject to the necessary scrutiny and very careful consideration given before the DPS requirement was removed. The protection would be strongest under the Government's preferred option 3. We therefore do not believe that the proposed policy is likely to raise any competition concerns as it will not directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

Small firms impact test

Village and community premises are generally run by public bodies or as charities and we do not believe there is likely to be a significant impact on small businesses. To the extent that any of the premises covered by these proposals might be businesses, the impact can only be one of reducing burden and allowing greater flexibility. As well as discussing these proposals in detail with organisations representing village and community premises, officials have had brief informal discussions to sound out organisations which represent businesses involved in the sale of alcohol. Their interest was whether these proposals would generate competition issues for small pubs, rather than the impact of these changes directly on small businesses in their sector (see above).

Equality Impact Assessment

Please see attached annex which assesses the possible impact of the proposal on the strands of Age, Disability, Gender, Race, Religion or belief, and Sexual Orientation.

Rural Proofing

Throughout the development, implementation and monitoring of the Licensing Act 2003 we have engaged with groups representing rural interests. Action with Communities in Rural England (ACRE) was asked to represent rural interest on DCMS Minister's High Level Group of key stakeholders and has been part of other working groups including the Live Music Forum. A senior official of the Commission

for Rural Communities was appointed as a member of the independent Fees Review Panel and the ten Scrutiny Councils included a mainly rural local authority.

This proposal has been brought forward as a result of our continuing engagement with representatives of rural communities. In working up these specific proposals, officials have liaised closely with ACRE, Community Matters and DEFRA. They have also had pre-consultation discussions with rural authorities and police and have spoken at the National Village Halls Forum and Rural Community Buildings Network.

Health Impact Assessment Screening

We have undertaken a screening process to determine whether this policy needs a full health impact assessment. Given that the proposal only potentially changes the responsibility for the licensed premises from one designated person to a group of people (e.g. a village hall committee) and does not otherwise change any other element of licensing policy, we do not believe that a health impact assessment is required.

We have considered that the policy will not have:

a significant impact on human health by virtue of its effects on the following wider determinants of health: Income, Crime, Environment, Transport, Housing, Education, Employment, Agriculture or Social cohesion.

a significant impact on any of the following lifestyle related variables: Physical activity, Diet, Smoking, drugs, or alcohol use, Sexual behaviour, Accidents and stress at home or work.

a significant demand on any of the following health and social care services: Primary care, Community services, Hospital care, Need for medicines, Accident or emergency attendances, Social services, Health protection and preparedness response

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	Yes	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	No	No
Rural Proofing	Yes	No

Department for Culture, Media and Sport: Equality Impact Assessment – Initial Screening

Section	Notes
1. Name of the function/policy to be assessed: **Possible Regulatory Reform Order to remove the requirement for a Designated Premises Supervisor (DPS) for community premises under the Licensing Act 2003.**	
2. What is the aim, objective or purpose of the policy? **To remove a potential barrier to village halls and similar community premises from applying for a premises licence that allows the sale of alcohol.**	
3. What are the intended outcomes? **More village halls etc. may apply for a licence that allows the sale of alcohol in the premises if a potential barrier is removed. This could include those which might be at risk of not being able to accommodate all of the activities which are being demanded.**	*Consider:* • ***How will you monitor progress towards these outcomes?*** • ***Do the outcomes support or hinder other policies, values or objectives within the Department?*** • *If they hinder other work is this justifiable?*
4. Who are the key stakeholders? **Those who represent village hall and community halls interests, including ACRE and Community Matters, those involved with licensing policy implementation including LACORs and the LGA, and those involved in the enforcement of the Licensing Act such ACPO.**	• *Who are the groups/individuals likely to be affected by the function or policy?* • *Who else might have a significant interest in the implementation of this policy?* • *Who else might have knowledge of the impact or potential impact of the policy or function?*
5. Is the aim of the policy or any of its intended outcomes designed specifically to meet the Public Duties, for example to: ➢ Eliminate discrimination? ➢ Promote equality of opportunity? ➢ Promote good relations between different groups? **NO**	• *For example, a policy that has the aim of preventing harassment and bullying* • *If the answer is **YES** to any of the questions, then you are required to proceed to a full impact assessment. You*

[*Most functions, policies and practices will not be designed **specifically** to meet the Public Duties. You need only answer **'yes'** if the **specific intent** of the function, policy or practice is to meet the public duties. Otherwise, move on to section 6]*	*should turn to section 13, though please note that sections 7-12 will help you to conduct a full assessment*

6. Does the function or policy involve or have consequences for members of the public or staff employed by the Department? **YES**	• *If the answer is **YES** proceed to section 7* • *If the answer is **NO** list the evidence or other justification opposite or on an attached sheet that identifies why the function or policy has no consequences for members of the public or for staff employed by the Department* • *If the evidence that you have indicates that there is no impact or likely impact you do not need to conduct an impact assessment but you do need to monitor the implementation of the policy over time to ensure that there continues to be no impact on people. At a minimum this should be every three years* • *If you are sure the answer is **NO**, proceed to sections 13 and 14*
7. Is there any evidence that tells you how the function or policy is working or is intended to work for the intended stakeholders? **YES** **According to ACRE's research, the current requirements in respect to premises licence to allow the sale of alcohol under the Licensing Act 2003 mean that a number of village halls in England are in danger of not being able to undertake all of the activities which are being demanded. ACRE has identified that one of the barriers for village halls applying for a premises licence is the reluctance of an individual, usually a volunteer, to take on the**	• *If you have no evidence available, then **you will not be able to assess if the policy is relevant to equality*** • *You will need to gather evidence about the effects of the policy on stakeholders. (Please refer to section 2 of the guidance notes on gathering evidence)* • *You should also consider consulting with*

responsibilities of being a DPS. There is also a cost implication in the requirement for a personal licence holder to authorise sales of alcohol (including training & and a criminal records check). The RRO proposal would seek to reduce these burdens for village halls and similar community premises who wish to apply for a premises licence to sell alcohol.

stakeholder groups and involving disabled people at this stage (Please refer to section 5 on consulting and involving)

- *When you have gathered evidence of the effects of the policy on the intended stakeholders, you can then proceed with the initial screening*
- *You should ensure that the actions necessary to collect the evidence are identified in an action plan*

8. From the available evidence, is there any reason to believe that people are affected differently or are likely to be affected differently according to any of the listed equality strands, for example, because they have different needs or priorities?

	Yes	No	Not known		Yes	No	Not Known	
Age		**X**		Race		**X**		
Disability		**X**		Religion or belief		**X**		
Gender		**X**		Sexual orientation		**X**		

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

Neither ACRE's research on the issue of licensing and village halls (available on their website) nor discussions with them and Community Matters indicate that the proposed regulatory change is likely to affect any of the above equality strands any differently.

- *If the answer to any of these questions is **Yes** for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 9-12 will help you to conduct a full assessment*
- *If the answer is **No** and the evidence supports this, proceed to section 9*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above*

9. Is there any evidence that the function or policy in any way discriminates or might discriminate unlawfully, directly or indirectly against people from any of the listed strands, for example, in terms of access to a service, or the ability to take advantage of an opportunity?

	Yes	**No**	**Not known**		**Yes**	**No**	**Not known**
Age		X		Race		X	
Disability		X		Religion or belief		X	
Gender		X		Sexual orientation		X	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

As in section 8, ACRE's research and discussions with them and Community Matters does not suggest that the proposed regulatory change will discriminate against people in the listed strands.

- *If the answer to any of these questions is **Yes** for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 10-12 will help you to conduct a full assessment*
- *If the answer is **No** and the evidence supports this, proceed to section 10*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above*

10. Is there any evidence that people from the groups covered by the listed strands have or may have different expectations of the function or policy in questions?

	Yes	**No**	**Not known**		**Yes**	**No**	**Not known**
Age		**X**		Race		**X**	
Disability		**X**		Religion or belief		**X**	
Gender		**X**		Sexual orientation		**X**	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

As with sections 8 & 9, neither ACRE nor Community Matters believe that any of the above groups will have different expectations of the proposed regulatory change.

- *If the answer to any of these questions is **Yes** for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 11-12 will help you to conduct a full assessment*
- *If the answer is **No** and the evidence supports this, proceed to section 11*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above*

11. Is there any evidence that the function or policy affects or might affect relations between groups covered by the listed strands, for example is it, or might it, be seen as favouring a particular group or denying opportunities to another?

	Yes	**No**	**Not known**		**Yes**	**No**	**Not known**
Age		**X**		Race		**X**	
Disability		**X**		Religion or belief		**X**	
Gender		**X**		Sexual orientation		**X**	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

As above, discussions with ACRE and Community Matters indicate that the proposed regulatory change will favour a particular group or deny opportunities to another.

- *If the answer to any of these questions is **Yes** for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13, though please note that sections 12 will help you to conduct a full assessment*
- *If the answer is **No** and the evidence supports this, proceed to section 12*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above*

12. Have previous consultations with relevant stakeholder groups or individuals indicated that policies of this type create exclusion or hold specific challenges for any of the listed groups?

	Yes	**No**	**Not known**		**Yes**	**No**	**Not known**
Age		**X**		Race		**X**	
Disability		**X**		Religion or belief		**X**	
Gender		**X**		Sexual orientation		**X**	

Please summarise what the evidence shows and attach the evidence more fully to this screening document or reference where the evidence is available

Again, the type of proposal for regulatory change (which is to reduce burdens on village halls and community halls who wish to apply for a premises licence) will not create exclusions or hold specific challenges for any of the listed group.

- *If the answer to any of these questions is Yes for any of the strands, you will need to proceed to a full impact assessment. In which case, proceed to section 13*
- *If the answer is No and the evidence supports this, proceed to section 13*
- *If your evidence is not enabling you to identify the impact on different groups, you will need to gather more evidence that allows you to do this. Refer back to section 7 above*

13. Is a full impact assessment required? **<u>NO</u>** We do not believe that the proposed regulatory change will affect any of the groups under the listed strands in a different way. It will still be for individual village halls and similar community premises to decide whether or not to apply for a premises licence that allows the sale of alcohol.	• *If the answer is NO please use the space opposite to summarise why and attach any further supporting evidence* • *If the answer is YES you will need to arrange to carry out a full impact assessment* • *Please note that the information that you have already identified in this initial screening will be valuable to you in carrying out the full impact assessment*
14. If a full impact assessment is not required, please indicate the plans to monitor the implementation of this policy over the next three years. **We will check with key stakeholders whether the statement in section 13 is still correct 12 months after the regulatory change (subject to Parliament) is enacted.**	
15. Please return a copy of this form to: [DCMS]	
Name: David Gookey	
Unit/Directorate Licensing Act Policy & Implementation Team / Industry Directorate	
Date 14/06/07	

ANNEX B: DRAFT STATUTORY GUIDANCE

DRAFT SUPPLEMENTARY GUIDANCE[1]

Introduction

This Guidance amends sections of the statutory Guidance to the Licensing Act 2003 (published 28 June 2007) which deal with the mandatory conditions relating to personal licence holders and Designated Premises Supervisors for premises with a licence to sell alcohol. It adds new guidance in respect of decisions on applications to disapply those mandatory conditions in the case of community premises (e.g. church or chapel halls and similar premises (or parts thereof), and village parish or community halls and similar premises (or parts thereof)).

The paragraphs below are to be substituted for the same-numbered paragraphs in the Guidance published on 28 June 2007.

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 normal 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 mandatory conditions set out in s.19(2) and s.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.

[1] This draft Guidance will be revised before presentation to Parliament under section 182 of the 2003 Act taking into account the consultation responses and any observations the House of Commons Regulatory Reform Committee may wish to make.

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 mandatory conditions set out in s.19(2) and s.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 mandatory conditions in s.19(2) and s.19(3) of the 2003 Act (ie to remove the usual requirements in respect of the supervision 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 mandatory conditions 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

8.60 (New paragraph, formerly 8.53) 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 mandatory conditions in s.19(2) and s.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.

MANDATORY CONDITIONS

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 on paragraph 10.46 to 10.52 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 mandatory conditions set out in s.19(2) and s.19(3) of the 2003 Act. (Guidance on such applications is set out in 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 mandatory conditions relating to personal licence holders and Designated Premises Supervisors have been disapplied (see paragraphs 4.32 to 4.47 of this guidance).

ADDITIONAL PARAGRAPHS

The following paragraphs are inserted after paragraph 4.31 of the Guidance published on 28 June 2007.

DISAPPLICATION OF MANDATORY CONDITIONS FOR COMMUNITY PREMISES

4.32 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2008 (SI 2008/XXXX) amended the 2003 Act to allow certain community premises which have, or are applying for, a premises licence that authorises alcohol sales to apply to include the alternative condition set out in sections 25A(2) and 41D(3) ("the new mandatory condition") of the 2003 Act in the licence instead of the mandatory condition set out in s.19(2) and (3) ("the usual mandatory conditions"). 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 (a "management committee"). If such an application is successful, the effect of the new mandatory condition will be that the licence-holder (i.e. the committee or board) is responsible for the supervision 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 supervised 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.

4.33 The process requires the completion of a new form which is set out in [regulations which will be made in due course]. Where a management committee of 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 new the mandatory condition rather than the usual ones, it should submit the form on its own together with the required fee.

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 s.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 DPS 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, then 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 the particular school in question.

4.39 Many 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 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 mandatory conditions 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 new mandatory condition rather than the usual ones only where the applicant for the licence is a 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.

4.43 There is no requirement for community premises to submit copies of their constitutions or other management documents with their applications. However, the proposed application form does require 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. 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 views of the police). Community premises may wish to check with the licensing authority before making an application.

4.44 As the premise licence holder, the management board or committee will collectively be responsible for ensuring compliance with the law, although there would not necessarily be any individual member always present at the premises. While overall responsibility will lie with the management board or 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.

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 in view of the conditions to which the licence are or will be subject are sufficient to ensure adequate supervision of the supply of alcohol on the premises. Where private hire for events that 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.

Police views

4.46 An additional safeguard is that in exceptional circumstances the police can object to a request for inclusion of the new mandatory condition on the grounds of crime and disorder, and any responsible authority can seek reinstatement of the conditions through licence review (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 police issue a notice seeking the refusal of the application to include the new mandatory 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 new mandatory condition, or given a notice under s41D(6) which was not withdrawn, they can appeal the decision of the licensing authority to allow the inclusion of the new mandatory condition. Similarly, a community premises can appeal a decision by the licensing authority to refuse to include the new mandatory condition following a hearing triggered by relevant representations or by a notice given under s41D(6). Following a review of the licence in which the usual mandatory conditions are reinstated, the licence holder may appeal against the decision. If the new mandatory condition is retained on review, the applicant for the review, or any person who made relevant representations may appeal against the decision.

ANNEX C: RESPONDENTS TO INITIAL PUBLIC CONSULTATION

Abbots Langley Parish Council
Action with Communities in Rural England
Action in Rural Sussex
Alburgh Village Hall
Aldeburgh
Arts Reach
Ashford Borough Council
Ashurst McDermott Hall Trust
Association of School and College Leaders
Association of Show and Agricultural Organisations
Attleborough Town Council
Balcombe Parish Council
Basingstoke and Deane Community Forum
BII
Birmingham City Council
Bletchingley Village Halls Management Committee
Bodmin Town Council
Boredon Parish Hall
Boxley Parish Council
Braceborough and Wilsthorpe Village Hall
Braunton Parish Council
Brentwood Borough Council
Briningham Village Hall Committee
British Beer and Pub Association
Broxtowe Borough Council
Buckland Newton Village Hall
Budleigh Salterton Town Council
Burton Bradstock Village Hall Trust
Business in Sport and Leisure ltd
Catherdrals and Church Buildings Division Church of England
Central Council for Amateur Theatre
CGCA
Cheltenham Borough Council
Christchurch Borough Council
Cley Village Hall
Colchester Borough Council
Community Council for Somerset
Community Council for Staffordshire
Community Lincs
Community Matters
Coxhoe Parish Council
Cuckfield Parish Council
Cumbria Fire and Rescue
Dave Rydings
DEFRA

Dorset Community Action
Doynton Village Hall Committee
East Devon District Council
Eathorpe Village Hall
Elmswell Parish Council
Erpingham and Calthorpe Village Hall
Federation of Irish Societies
Ferryhill Town Council
Fiskerton Village Hall
Gloucestershire Constabulary
Graffham Parish Council
Great Barton Parish Council
Gwent Police
Hackney Borough Council
Hammonds
Hanham Folk Centre
Hatfield Town Council
Hempnall Village Hall Committee
Henry Warren Village Club
Hethersett Village Hall
Hinckley & Bosworth Council
Instow Parish Council and Parish Hall
Itchenor Parish Council
Julia Soyke
King Edward VII Institute Groomberidge Village Hall
Kurt Steinart Levy Solicitors
LACORS
Lancashire Police
Licensing Act Active Resident's Network
Licensing Consultancy Services
Lichfield City Council
Lingfield & Dormanslend Community Centre
Little Theatre Guild
Little Waltham Sports and Social Club
Llanishen Parochial Hall Management Committee
London Borough Camden
London Fire Brigade
Loughton Town Council
Lowdham Village Hall and Playing Fields Committee
Magistrates Association
Maidstone Borough Council
Margaret Prince
Maritime and Coastguard Agency
Medway Council
Merryfield Hall
Mid Beds District Council
Mid Devon District Council
Mid Suffolk
Milton Damerel Parish Hall
Milton Keynes Council

Musicians Union
National Campaign for the Arts
National Confederation of Parent Teacher Associations
National Rural Touring Forum
National Village Halls Forum
National Confederation of Parent Teacher Associations
New Buckenham Village Hall
Newton and Biggin Parish Council
NFW Village Hall Management Committee
National Organisation of Residents Associations
North Cornwall District Council
North Somerset Council
North Warwickshire
North Yorkshire Police
Norton Fitzwarren Village Hall Management Committee
Norwich City
Nunney Village Hall Management Committee
Oxford Preservation Trust
Pamela Hambro Hall
Portesham Village Hall
Rawson Hall
Reepham & Cherry Willingham Village Hall
Rendham Village Hall
Rother District Council
Rye Town Council
Sandford Orcas Village Hall Management Committee
Sandwell Council
Scarning Village Hall & Estate Trust
Shildon Town Council
Society of Local Council Clerks
South Gloucestershire Couny Council
South Ribble Borough Council
South Suffolk District
Southwater Parish Council
Speldhurst Village Hall Foundation
Staffordshire Council
Staffordshire Moorlands District Council
Starston Village Hall
Suffolk Costal District
Swindon Borough Council
Tandridge District Council
Tanworth in Arden Village Hall
Tarleton Parish Council
Taylor Semour Arcitects
Tenby Town Council
Tendring District Council
The Bouverie Hall
The Churches Conservation Trust
The National Association of Local Councils
Thornford Village Hall Management Trustees

Thorpe St Andrew Town Council
Three Rivers District Council
Tickenham Village Hall
Tickenham Village Hall Management Committee
Toftwood Village Hall Mangement Committee
Tyne and Wear Fire and Rescue
Tynedale Council
Village Hall Committee Coronation Hall Slindon
Voluntary Arts Wales
Wandsworth Borough Council
Washingborough Parish Council
Watlington Village Hall
Welbourne Village Hall Events Committee Secretary
Wenhaston Village Hall
West Yorkshire Fire & Rescue Service
Westminister Council
Wigginton Parish Council
Wisborough Green Parish Council
Woking Borough Council

ANNEX D: SUMMARY OF INITIAL CONSULTATION

REMOVAL OF THE REQUIREMENT FOR THE DESIGNATED PREMISES SUPERVISOR FOR COMMUNITY PREMISES

RESPONSES TO THE PUBLIC CONSULTATION

Introduction

1. This document provides a summary of the responses to the public consultation on the above proposal which ran from 8 August to 31 October 2007. Copies of all responses to the consultation have been made available to view on the DCMS website.

2. We received 116 responses to the consultation. A full breakdown by category of respondent is set out below.

Category of respondent	**Number of responses**
Village Halls	33
Local Council	23
Parish/town council	20
Associations	13
Parish and other halls	6
Other	5
Members of the Public	4
Police	4
Residents' groups	3
Trade	2
Community / other centres / sports club	3
Total	116

3. It is worth noting that not every respondent answered every question and that 40 of the 116 responses were made using the form provided in the consultation document. Many of the responses only covered certain aspects of the questions in the consultation document. A summary of responses by question is provided at Annex A - the numbers shown are for respondents that expressed a clear opinion.

Summary

4. Overall, the majority of respondents agreed with the Government's proposal to remove the requirement for a DPS and personal licence holder for village halls and similar community premises. Only 14 (12%) believed that there should be no change (option 4).

5. The majority of respondents who expressed an opinion on which option should be taken forward agreed with the Government's preferred option - option 3. Although a significant minority of respondents did not prefer option 3, there was an almost equal split between option 2 and option 4. It is worth noting that several of those who preferred option 2 did also state that option 3 would be acceptable.

6. The results of the consultation also supported:

- the Government's definition of those community premises to be covered by the proposals and that it would be licensing authorities to determine whether individual premises were included;

- that the proposal shall only include premises with a formal management or executive committee a and that it would be licensing authorities to determine this; and

- that option 3 strikes a fair balance between the public interest and the interests of those affected adversely by the proposal and that this option 3 does not remove unnecessary public protection.

Next Steps

7. The Government will prepare:

- a draft Legislative Reform Order to amend the 2003 Act; and

- supplementary statutory Guidance on the proposed DPS and village halls process.

8. The Government aims to consult publicly on the Order and draft Guidance from July this year, with a view to commencing the new process towards the end of 2008.

Annex A: Summary of Responses to each question

1. Do you agree that the requirements for personal licence holders and designated premises supervisors in respect of volunteers providing services for village halls and similar premises represent a burden as defined in section 1(3) of the Legislative and Regulatory Reform Act 2006? (Paragraph 2.20)

Agree	47
Disagree	3

Almost all of those who responded to this question agreed that the above requirements represented a burden to village halls and similar premises.

Some respondents highlighted that the current licensing regime is a burden too high for small organisations and does not take into account the fact that most village halls and similar premises are operated by volunteers. They believe that the current requirements act as a disincentive for some community organisations who have difficulty finding a suitable person willing to take on the personal responsibility.

2. Do you agree that the proposal only covers 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? Paragraph 2.23)

Agree	43
Disagree	3

Again, almost all of those who responded to this question agreed. There were some concerns raised over the inclusion of urban community halls in the proposals and how this could affect local residents. Some commented that 'similar building' was too open to interpretation and guidance would be needed to help provide a more focused definition. A handful of respondents thought the scope should be greater and asked for other premises run by volunteers to be included such as school halls and sports clubs.

3. Do you agree that it will be for the relevant Licensing Authority to determine whether an individual premises is, or forms part of, a similar building to a church hall, chapel hall, village hall, parish hall or community hall? Please indicate whether your view depends on which option from section 4 is adopted. (Paragraph 2.24)

Agree	46
Disagree	2

In general, respondents agreed and *several thought that Licensing Authorities should be allowed some discretion when having to decide whether a premises falls within the definition. Guidance on this issue was seen as important.*

Some respondents mentioned that village halls are already defined as such (e.g. through deeds of trust and/or through the Charity Commission) and therefore the Licensing Authority (LA) does not need to determine whether the building falls in the definition. Others commented that the LA should look at individual circumstances and that it was important to look at the activities involved rather than just including those buildings registered as charities.

4. **Do you agree that the proposal shall only cover village halls and similar community buildings (and others identified in 2.23) where a formal management or executive committee or trustees will hold a premises licence? (Paragraph 2.28)**

Agree	44
Disagree	3

General agreement that it brings more protection to the public, but a small number of respondents stated that some community buildings are already well run without committees in place.

5. **Do you agree that it will be for the relevant Licensing Authority to determine whether an individual premises has the appropriate formal management or executive committee or trustees to hold the premises licence? (Paragraph 2.29)**

Agree	42
Disagree	5

*General agreement, but guidance for both Licensing Authorities and applicants was seen as necessary. Some respondents mentioned that the Charity Commission already determines the appropriate management structure of a building used for charitable activities whether a registered charity or not***.**

6. **Do you agree that the risk to the promotion of the four licensing objectives is probably lower in respect of village halls, church halls, chapel halls and similar community premises than at most other premises selling alcohol for consumption on the premises? Paragraph 4.13)**

Agree	39
Disagree	5

There was agreement that such premises <u>generally</u> posed a lower risk to the licensing objectives, but not necessarily in all cases. Some respondents, notably the police and licensing officers, strongly did not agree that such premises were a lower risk.

Some respondents mentioned that it depended upon the type of activities – weddings and other celebrations were possible high-risk activities. Several

respondents did, however, state that the sale of alcohol was an incidental part of the majority of events at village halls etc.

7. **Do you agree that Option 4 – "No Change" – should be rejected? If not, please give your reasons. (Paragraph 4.14)**

Agree	43
Disagree	14

While 75% of those who answered this question thought that option 4 should be rejected, a number of respondents felt the requirement for a DPS and personal licence holder should remain for village and community premises. They believe this would provide the most protection to the public and provide a level playing field for such premises that already have a DPS and for other licensed premises. Nevertheless, a number of other respondents commented that it was vital to make changes to legislation in order to help community premises survive.

8. **Do you agree that the required changes identified under Options 1-3 cannot be achieved by non-legislative means? If you consider that the change can be given effect by non-legislative means, please provide your reasons. (Paragraph 5.8)**

Agree	43
Disagree	1

General Agreement, with few comments.

9. **Do you agree that the proposals to remove the mandatory conditions for village halls and similar community buildings (and others identified in 2.23 is proportionate to the policy aims set out above? (Paragraph 6.4)**

Agree	40
Disagree	5

There was general agreement that the proposals were proportionate to the policy aim of bringing community premises fully into the (alcohol) licensing regime, in order to provide them with more flexibility.

10. **Do you agree that Option 1 does <u>not</u> strike a fair balance between the public interest and the interests of those affected adversely by the proposal? (Paragraph 7.6)**

Agree	42
Disagree	4

General agreement – some respondents stated that they believed the inability to re-impose a requirement for a DPS and PLH, if necessary to protect the licensing objectives, was against the public interest.

11. **Do you agree that Option 2 strikes a fair balance between the public interest and the interests of those affected adversely by the proposal? (Paragraph 7.9)**

Agree	24
Disagree	16

This produced a split amongst those who responded. Many of those who agreed were representatives of community buildings. Some respondents commented that this option offered a fair balance between a lighter touch regime for community buildings, but with the safeguard that conditions could be imposed if there were problems.

Of those who disagreed, the majority were representatives of councils. Some respondents commented that the safeguard(s) and scrutiny should be in place from the start. They were concerned that there would be a gap between scrutiny (of whether or not there should be a DPS) and the outcome of the review process in the case of problem premises.

12. **Do you agree that Option 3 strikes a fair balance between the public interest and the interests of those affected adversely by the proposal? (Paragraph 7.13)**

Agree	40
Disagree	4

There was significant agreement that option 3 strikes a fair balance. Many of those who commented felt that it would allow individual consideration of whether a community premises should (or should not) be required to have a DPS and PLH. Some respondents commented that option 2 would place a lower burden on community premises and disagreed with the question.

13. **Do you agree that Option 1 removes necessary public protection? (Paragraph 8.9)**

Agree	36
Disagree	8

It was generally agreed that Option 1 removes necessary public protection.

The majority of those that disagreed represented community premises and some commented that they believed that such premises were low risk generally with almost all alcohol sales for small groups and an ancillary activity.

14. **Do you agree that Option 2 does <u>not</u> remove necessary public protection? (Paragraph 8.13)**

Agree	26
Disagree	11

Whilst there was general agreement that option 2 did not remove necessary public protection, a significant minority disagreed. Those who agreed felt that option to reinstate the requirement for a DPS/PLH during the review process was enough of a safeguard. Some also reiterated their belief that community premises were low risk anyway. Of those that disagreed, some commented that option 2 did not allow enough public protection until a review is called.

15. **Do you agree that Option 3 does <u>not</u> remove necessary public protection? (Paragraph 8.16)**

Agree	41
Disagree	2

Almost complete agreement – very few comments of note.

16. **Do you agree that Options 1 - 3 would not prevent any person continuing to exercise a right or freedom that that person might otherwise reasonably expect to continue to exercise? If you do not agree, please explain why. (Paragraph 9.5)**

Agree	42
Disagree	1

Almost complete agreement though a couple of respondents mentioned that Options 1 & 2 did not allow residents to object to the proposal to remove the requirement for a DPS/PLH and to make it more difficult them to prevent or resolve any potential problems that may arise.

17. **Do you agree that Option 3 is the best Option? (Paragraph 10.11)**

Agree	43
Disagree	27

18. **If not, which of Options 1, 2 and 4 would you prefer to see adopted? (Paragraph 10.12)**

Option 1	0
Option 2	14
Option 4	10

The majority of those who responded to this section thought that option 3 was the best option. ***There were also a significant number of additional respondents (26) who wrote general letters of support for the Government's proposal for change*** *(although it is not clear whether some of those may have preferred option 1 or 2).*

Of those who disagreed, there was split between option 2 and option 4. The majority of those which preferred Option 2 were representative of community premises ***but some of them did also say that they would also accept option 3.*** *The majority of those who favoured no change (Option 4) were councils.*

19. **Do you consider that there are other options that should be explored, which are not identified in this consultation document? (Paragraph 10.13)**

The majority of respondents did not come up with alternative options, in terms of the removal of requirement for the DPS and PLH for community premises, but there were some alternatives raised. These included:

- Increasing the limit to the number of Temporary Event Notices (TENs) allowed

- Not including incidental, ancillary, or 'low-risk' alcohol sales within the licensing regime (or at least not within the TENs limit), for community premises

20. **Do you have any comments on the Impact Assessment (Appendix B) Paragraphs 1.12 & 11.2**

There were a handful of comments on the impact assessment. A couple of respondents mentioned that premises licence application and annual fees had not been included, along with application advertising costs – this was simply due to the IA focusing on the potential savings under each option i.e. it did not include costs that would remain the same under any of the four options, including no change.

21. **Are there any other points you would like to make about the Government's proposal?**
As above, there were some additional comments but not necessarily directly related to the proposal in the consultation document. One point, not included elsewhere and mentioned a number of times, was that Parish and Town Councils should become responsible authorities under the Licensing Act

ANNEX E: SUMMARY OF SECOND STAGE CONSULTATION

REMOVAL OF THE REQUIREMENT FOR THE DESIGNATED PREMISES SUPERVISOR FOR COMMUNITY PREMISES

Overall responses

1. The second stage consultation on the proposal for community premises ran from 4 August to 1 September. We received a total of 67 responses from a variety of stakeholders. A full breakdown of respondents by type is provided below.

Type of respondent	**Number of responses**
Local authority/town council	26
Village Hall	11
Trade/National Associations	11
Residents / rural associations	8
Responsible authority	6
Legal profession	2
Members of the public	2
Government body	1
TOTAL	67

2. It is worth noting that not every respondent answered every question and not all responses were made using the questionnaire provided in the consultation document. A summary of responses by question is provided in Annex A - the numbers shown are for respondents that expressed a clear opinion.

Points raised

3. There were a number of points raised in response to each question and some points covered a number of the questions. The main points and issues raised are summarised within the bullet points below:

- Community Premises definition could be widened to amateur/community theatres and sports clubs. Need to clarify the position with schools further.
- Make the 'similar buildings' definition more clear in the LRO (or at least add further detail to the guidance).
- Some concern that the wide definition could be open to abuse. Need to tighten up/clarify definition to ensure, for example, leisure centres with bars are not covered even though there is an element of community use.

DCMS response

We do not agree that the community premises definition needs clarification in the LRO, but will give further detail within the amended statutory guidance, including the position regarding schools. The proposed additional paragraph (4.38) describes the requirement for consideration of whether the premise qualifies for this process and this makes clear that such consideration should be based upon the predominant uses of the premises. We will be amending this paragraph to reflect that community premises are 'multipurpose'in order to make the definition a little tighter, whilst maintaining discretion by Licensing Authorities. 93% of those who commented on the definition for community premises, in the first consultation, agreed with the scope.

- Although most respondents (including some licensing authorities) thought that proposed fee was correct, some thought that it was too low with fees of £30 - £73 suggested. They believe that there could be quite a lot of additional work for licensing authorities to ascertain whether the application was covered by the definition and whether there was adequate public protection in place.

    - This may be mitigated by the suggestions for having more detail in the application form about licensable activities, the management structure and measures to supervise the sale of alcohol. Along with enclosing supporting information/documentation and hiring agreements, details for previous years usage.

DCMS response

It is worth noting that most applications will be for a new permission to sell alcohol and would therefore attract the full premises licence application fee and be subject to full scrutiny as part of that process. This will be made clear in the guidance. While licensing authorities would have to consider whether the premises meets the definition of a community hall and has adequate management arrangements in place, this merely replaces the existing requirement to check that a proposed Designated Premises Supervisor is a personal licence holder and has included the relevant documentation. One existing part of the process is simply being replaced by another. We do not believe that the disapplication of the mandatory requirements would therefore cause an additional burden that justifies an increase in fees for those applicants.

Where a community premises already has a licence which allows the sale of alcohol, there will be a separate process to remove the mandatory conditions. We believe that this will be a straightforward process in most cases and most village, community and church halls, will self evidently meet the definition of a community premises, will have an appropriate management structure in place and will already be known to the Licensing Authority. We therefore believe the costs of such a process similar to those relating to change of DPS and intend

to set the fee at the same level (currently £23). This fee can be considered at any future review of licensing fees generally.

Points raised about the Order & Guidance

- Guidance and Order should have more detail about the timescales for processing the application and notice arrangements for the police, particularly for existing licensed premises.
- Order should include a requirement for the Premises licence to be enclosed with the application.
- Order should be retitled to refer to community premises.
- Guidance should make clear the management committee's liabilities as well as responsibilities and what is expected in hiring agreements.
- Order is unclear about process and timescales for refusal(s) – either because the premises does not fall under the community premises definition or management structures are not adequate enough to ensure proper supervision.
- Order should make clear what happens to the fee if the application is rejected.
- Appeals procedure.
- Suggest that for small events with sales of alcohol there is no need for a committee member to be present.
- Guidance should reflect that these community premises are *multipurpose* and give examples of the types of activities that take place.
- Guidance should include a paragraph (between 4.46 and 4.47) marked 'reviews' which makes clear that the DPS requirement could be re-instated following review.
- Guidance should suggest that licensing officers speak to RCCs or urban community associations to learn more about the village halls. *Acre* and *Community Matters* can supply contact details.
- Guidance should make clear that premises (or parts of premises e.g. side room with a bar setup) acting predominately and/or regularly on a commercial basis should have same responsibilities as other commercial premises and require a DPS.

DCMS response

The existing regulations make clear the timescales for the process for new applications and the variations process to add alcohol to the premises licence – the proposed process will run alongside these where a community premises is applying for disapplication of the mandatory conditions at the same time.

The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 and the Licensing Act 2003 (Hearings) Regulations 2005 will be amended by negative resolution procedure in the usual way to set out the process for disapplying the mandatory conditions from an existing licence which allows alcohol sales.

We will do not propose to amend the title of the order as the existing title is more descriptive and less likely to mislead.

The draft guidance to be issued under s.182 of the Licensing Act 2003 will be amended to make clear the process and timescales for refusals and that the Local Authority will keep the application fee if the removal of the mandatory condition is rejected as with all the existing application processes. We will also make clear the appeals procedure

We will also make clear, in the guidance, the roles and responsibilities of the management committee and how hiring agreements may make this clearer. We agree there should be an additional 'reviews' paragraph in the guidance and the guidance will refer to 'multipurpose' community premises. The guidance will also reflect our view that we would expect that any application for the sales of alcohol that might, in effect, mean the community premises were operating like a commercial outlet would be subject to the necessary scrutiny and very careful consideration given before the DPS requirement was removed.

We will consider working with LACORs to develop best practice guidance, which may include a reference to seeking advice from RCC or urban community associations.

Application Form

- Add box for the name of premises to the application form.
- Change form to allow alternative address to be for a correspondent's address and contact number as not all village halls have letterboxes. (Although make clear that liability/responsibility is solely for the correspondent)
- Application form should require more info about the community use of the premises, how often it is used for these activities and for private hire/commercial use. (e.g. Daily, weekly or monthly or as a percentage)
- The above could be solicited by having prompts/questions e.g. primary use, charity number? Etc.
- Part 2 of the form should have space for 2 signatures as this is a requirement for many village hall committees.
- Para 5.1 of the form is misleading. 2nd line says form "should accompany "the licence application, line 4 states that the form should be sent "on its own".
- Add a tick box for copy of application sent to the Police (and make clearer the need to do so in the guidance).
- Form should make clear the management committee's liabilities/responsibilities.
- Detailed points on the application form raised by ACRE and LACORs

DCMS response

We will change page 1 of the application form to state "name and address", clarify paragraph 5.1 concerning whether or the premises licence needs to accompany the application, depending upon the nature of the application. We will also add a tick box to the checklist, to ensure the application is copied to the Police. As explained earlier, the guidance will explain the management committee's responsibilities.

We will also changes the application form boxes, as suggested by LACORs and ACRE, to make it easier for applicants to describe the activities that usually take place in the premises. We do not intend to be prescriptive about the level of detail required as this could add unnecessary burdens to what should be, in most cases, a straightforward decision for the licensing authority. We will, however amend the application form notes, to suggest that applicants "may wish to explain" how the premises are used for community purposes (and how often) and how often they are used for private hire/commercial use.

Other

- Should the application be copied to all Responsible Authorities (RAs)?
- Should RAs other than the Police be able to comment/decline the application?
- Request for draft notices for the licensing authority and/or police refusal to allow the disapplication.
- Hearings regulations will need to be amended.
- Some (including LACORs) suggested that the DPS process is incorporated into the Minor Variations Process.
- Premises application forms should also be amended so that community premises applicants can simultaneously apply for a new licence (or a variation) and to have the DPS requirement disapplied, rather than having to go through both processes.
- Request for greater number of Temporary Event Notices (TENs)

DCMS response

The application form for the removal of the DPS does not need to be copied to all responsibilities since it will only be for the Police to object to the application (under crime and disorder grounds) or for the licensing authority to determine whether the premises meets the criteria. This will be clarified by adding an appropriate tick box to the application. Responsible authorities and interested parties will continue to have the right to object to a new premises licence application, or a variation to add alcohol, as well as the right to call for the review of an existing premises licence if necessary to promote the four licensing objectives.

The process cannot be incorporated into the 'minor variations' process as the MV process does not include applications relating to alcohol.

We will keep the amendment of existing premises application forms under review, as part of the Department's wider simplification process.

We believe the existing arrangements and limits for TENs correctly balance the flexibility of a light-touch regime against the need for necessary public protection.

Annex A: Summary of responses to each question

1. Do you agree that this draft Order accurately reflects the new process described at Section 3, Chapter 1 of this Consultation Document to allow the disapplication of mandatory conditions relating to the sale of alcohol in relation to community premises?

Agree	42
Disagree	6

2. Does this draft Guidance (Section 3, Chapter 3) provide sufficient advice to assist licensing officers in coming to a decision on whether a premises meets the requirements set out in the proposed s25A(6) of the 2003 Act to allow the disapplication of the mandatory conditions relating to personal licence holder and DPS?

Agree	35
Disagree	12

3. Do you think the recommended fee (Section 3, Chapter 4) is a) right, b) too low, or c) too high?

Right	35
Too low	11
Too high	1

4. Do you think that applicants will be able to complete this form (Section 3, Chapter 5 easily without seeking legal advice?

Agree	40
Disagree	6

5. Does this form (Section 3, Chapter 5) strike the right balance between providing sufficient information for a licensing officer to decide whether a hall is a community premises and has an adequate management structure and minimising burdens on applicants?

Agree	31
Disagree	13