



LICENSING ACT 2003

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls) Order 2009

Community Premises – Sale of Alcohol

Purpose of the Legislative Reform Order 2009

Normally, a premises licence that authorises the supply of alcohol includes mandatory conditions that;

- a) require a named Designated Premises Supervisor (DPS) to be specified on the licence, and,
- b) stipulate that every sale of alcohol at the premises must be authorised by a personal licence holder.

The 2009 Order allows a committee (or board of individuals) with responsibility for the management of community premises to apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions detailed above. The alternative condition is that every supply of alcohol under the licence must be made or authorised by the management committee. Under this alternative condition there is no requirement for a personal licence holder at the venue.

The Government has now introduced revised arrangements in order to ease the administrative burden on community premises. In introducing the new arrangements the Government recognised the important contribution, which such premises make to life in our communities. The



order allows community premises, such as church halls and village halls with properly constituted management committees or management structures, to apply to replace the normal mandatory conditions with a simpler and cheaper arrangement.

Overview of the Process

The sale and supply of alcohol carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. This is because of its impact on the wider community and on crime and anti-social behaviour. This is why individuals 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 authorised by such a licence holder.

The only exception is for community premises in respect of which a successful application has been made to disapply the normal requirement for a personal licence holder.

Under normal circumstances a premises licence (authorising the sale of alcohol) will be subject to the following mandatory conditions:

No supply of alcohol may be made under this licence:

- (a) at a time when there is no designated premises supervisor in respect of it, or*
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.*

S19(1) Licensing Act 2003

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

S19(2) Licensing Act 2003

The above licence conditions are always attached to premises licences authorising the sale of alcohol at pubs, nightclubs, restaurants, hotels, off-licences, etc.

However certain community premises may apply to include an alternative licence condition to the mandatory conditions detailed above. 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 premise. If such an application is successful, the effect of the alternative licence condition is that the licence holder (i.e. the management committee) is responsible for the supervision and authorisation of all alcohol sales. All such sales will have to be made or authorised by the licence holder (i.e. the management committee).

There will be no requirement for a DPS at the community premise or for alcohol sales to be authorised by a personal licence holder.

The alternative licence condition is worded as follows:

Every supply of alcohol made under this premises licence must be made or authorised by the Management Committee

S41D(3) Licensing Act 2003

Where the management committee is applying for authorisation for the sale of alcohol for the first time, it should include the relevant notification 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 licence application or a licence variation.

Where a community premises already has a premises licence to sell alcohol, but wishes to include the alternative licence condition in place of the usual mandatory conditions, it should submit the prescribed form on its own together with the required fee. The application fee is £23.00. There are only a small number of community premises in the East Lindsey area that will be able to undertake the £23.00 notification route. All other community premises will need to vary their licence (or apply for a new licence) and pay the full application fee.

Copies of all application forms and notices are available from the Licensing Team.

It is important to be aware that any community premises licensed to sell will be required to pay to the Licensing Authority an annual premises licence fee. Further information on the level of fees is available from the Licensing Team.

Definition of Community Premises

The 2009 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. In most instances, it will be self-evident whether a premise is a "community premises". Where it is not clear whether premises are "community premises", the Licensing Authority will approach the matter on a case-by-case basis.

Management of the Premises

The 2003 Act allows applications by community premises to apply the alternative licence condition (rather than the usual mandatory conditions) only where the applicant for the licence is the management committee of the premises in question. In addition, the Licensing Authority need to be satisfied that the arrangements for the management of the premises by the committee are sufficient to ensure the adequate supervision of the supply of alcohol on the premises.

The committee must be properly constituted and have a transparent and accountable management structure. Such a committee should have the capacity to provide sufficient oversight of the premises to minimize 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.

The application form requires the applicants to provide the names of the management committee's key officers (e.g. the Chair, Secretary, Treasurer).

The application form requires applicants to set out how the premise 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). In addition the form asks how responsibility is to be determined in individual cases and discussed and reviewed within the committee procedure in the event of any issues arising. The application form requires that the community premises submit copies of any constitution or other management documents with their applications.

Where the management arrangements are less clear, the Licensing Authority will ask for further details to confirm that the management board or committee is properly constituted and accountable before taking a decision on whether to grant the application (subject to the views of the Police).

Community premises are advised to discuss prospective applications with the Licensing Team before making an application.

The management committee will be strongly encouraged to notify the Licensing Authority if there are key changes in the committee's composition (e.g. to the Chair, Secretary, Treasurer) and to submit a copy to the Police. Failure to do so may form the basis of an application to review the premises licence, or be taken into account as part of the consideration of such a review application.

As the premise licence holder, the management committee will be collectively responsible for ensuring compliance with licence conditions and the law (and may remain liable to prosecution for one of the offences in the Licensing Act). However this does not necessarily mean that an individual member of the management committee should always be present at the premises.

While overall responsibility will lie with the management committee, where the premises are hired out it should be possible for the hirer to 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 (TEN). Where hirers are provided with a written summary of their responsibilities in relation to the sale of alcohol, the Licensing Authority will consider whether the management committee should be treated as having taken adequate steps to avoid liability to prosecution if a licensing offence is committed.

The Licensing Authority will consider whether the arrangements for the management of the premises by the committee are sufficient to ensure adequate supervision of the supply of alcohol on the premises. Where private hire for events which include the sale of alcohol is permitted by the premises licence, it will be necessary to have an effective hiring agreement. With regard to hiring agreements the Licensing Authority recommend that applicants should refer to the recommendations for best practice made by organisations such as ACRE and Community Matters. Model hire agreements are available from these bodies. The model agreements can also be revised to cater for the circumstances surrounding each hire arrangement (e.g. to state that the hirer is aware of the licensing objectives and will ensure that he / she will take all necessary steps to ensure that no offences are committed during the period of the hire).

Further specific advice in relation to the management of premises is detailed at the end of this guidance leaflet. Whilst the Licensing Officers cannot dictate the measures to be taken in relation to the management of premises the measures detailed in this guidance leaflet are considered examples of best practice.

Police Views

An additional safeguard in the 2009 Order is that in exceptional circumstances the Police can object to a request for inclusion of the alternative licence condition. The objection would be on the grounds of crime and disorder. In addition any Responsible Authority and / or interested party can seek reinstatement of the mandatory conditions through a review of the Premises Licence.

The Police will 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 alternative licence condition, the Licensing Authority must hold a Licensing Committee hearing (consisting of Councillors) in order to reach a decision on whether to grant the application

Appeals

The Police can appeal the decision of the Licensing Authority to allow the inclusion of the alternative licence condition. However this is only where the Police made an initial relevant representation against the inclusion of the licence condition. Similarly, a community premises can appeal a decision by the Licensing Authority to refuse to include the alternative licence condition.

In all cases the appeal would be to Skegness Magistrates Court. Further details are available from the Licensing Team.

Management of the Premises – Staff Training

The Licensing Authority recommends that all persons undertaking the sale or supply of alcohol on licensed premises be encouraged to attend training programmes to raise their awareness in this area of responsibility. Community venues may wish to consider adopting in-house training programmes and stringent venue hiring policies in relation to training. The document shown at **Appendix A** of this guidance leaflet offers a basic alcohol and children policy which community venues may wish to consider adopting. Such steps considered together with a commitment to ongoing compliance with such a policy would be one of the matters, which would go towards persuading the Licensing Authority that appropriate steps were in place to adequately supervise the sale or supply of alcohol at a community venue.

The management committee may also wish to consider guidance leaflets for bar staff containing the information shown at **Appendix B** of this guidance leaflet as well as relevant information from the premises' Alcohol and Children Policy.

Management of the Premises - Challenge 21 Policy (or Challenge 25 Policy)

East Lindsey District Council strongly supports campaigns to reduce the illegal sale of alcohol to underage persons and promotes the use of a Challenge 21 policy within licensed premises. Under the Policy, licence holders selling alcohol should seek proof of age from anybody who appears to be under the age of 21.

The policy creates a culture of expectation that in licensed premises proof of age should either be offered or produced on demand and that this should be the norm as far as the sale of alcohol to young persons is concerned. Asking for identification at an age limit that is higher than the legal age for sale of the product means that you are much more likely to avoid an illegal sale to someone who looks older than their true age.

The Council strongly recommends that all licence holders use the Challenge 21 scheme. Using 'No ID No Sale' with the age of 21 set as the level you ask for the identification will eliminate most illegal sales of alcohol to persons under the age of 18.

It can be very difficult to assess the age of a young person and to identify accurately whether someone is 17, 18, 19 or 20 but it is usually easier to determine whether someone is 21. If a bar

person suspects a young person is under 21 years old, then identification should be requested. If the person does not have the relevant identification e.g. passport, photo-driving card, valid proof of age scheme card bearing the PASS hologram logo, they should not be served alcohol.

Challenge 21 will protect young people by ensuring that only those over 18 can buy alcohol. It is also used to educate licensed premises and help create a level playing field for all licensed premises that sell alcohol.

Management of the Premises – Refusals Register

The Licensing Authority strongly recommend the use of a Refusals Register in relation to alcohol sales. The Refusals Register should be kept in a safe place away from customers where all staff can access it easily. Each time a sale is refused because a customer cannot produce valid photo ID to prove his or her age the details should be recorded in the Refusals Register once the customer has left the premises or bar area. The management committee will monitor that the register is being used properly and sign the bottom of each page.

The Refusals Register should record the following matters:

Date	Time	Name of Description of Person	Observations	Staff Member
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Further information on a Refusals Register is available from the Licensing Team.

The Licensing Team

East Lindsey District Council, The Hub, Mareham Road, Horncastle, LN9 6PH
Email: licensing@e-lindsey.gov.uk
Tel: 01507 601111

The information and guidance contained in this leaflet is provided for information purposes only. However, in attempting to simplify the law, certain requirements have been omitted. Full details of what you must do are in the legislation itself. Every reasonable effort is made to make the information and commentary accurate and up to date, but East Lindsey District Council assumes no responsibility for its accuracy and correctness, or for any consequences of relying on it. Laws can and do change. This information was accurate when produced, but may have changed since. We must advise that only the Courts can give an authoritative opinion on statute law.

The information and commentary does not, and is not intended to, amount to legal advice to any person on a specific case or matter. You are strongly advised to obtain specific personal advice from a solicitor or licensing consultant about your case or matter and not to rely entirely on the information or comments in this leaflet.

Alcohol and Children Policy

Premises Name:

Address:

Issue Date:

All persons who sell or dispense alcohol in the above premises are required to read and sign this Policy document.

This Policy document is to be retained at the premises with the Premises Licence and made available for inspection if requested by the Police, Licensing Authority or any other Responsible Authority

For further information and assistance please contact

Alcohol and Children Policy - Licensing Act 2003

This document sets out the policy of these premises in regard to alcohol and children.

All persons (paid and unpaid) involved in the sale or dispense of alcohol are expected to adhere to this policy.

Any person (paid and unpaid) involved in the sale or dispense of alcohol will face either disciplinary action, or other actions that the committee may decide, should they not adhere to the contents of this policy.

The Law States

1. It is an offence to sell alcohol to anyone under 18 years old at any time. There are no exceptions to this.
2. It is an offence to knowingly allow the sale of alcohol to anyone under 18 years old. This means if you witness a colleague selling alcohol to someone you know is under 18.
3. It is an offence for a person under 18 to purchase or attempt to purchase alcohol. The exception to this is for an under 18 year when empowered by the police or trading standards to attempt to purchase alcohol during a 'Test Purchasing' operation.
4. It is an offence for anyone to purchase, or attempt to purchase, alcohol for anyone under 18 years old.
 - a) The exception to this is that a person aged 18 or over may purchase beer, wine or cider for a 16/17 year old to consume whilst the 16/17 year old is having a table meal provided the person over 18 purchases the beer, wine or cider and the person over 18 is also having a table meal.
5. It is an offence for a person under 18 to consume alcohol on licensed premises (other than stated in 4.a.)
6. It is an offence for a member of staff to knowingly permit a person under 18 to consume alcohol on licensed premises (other than in 4.a.)
7. It is an offence for an unaccompanied under 16 year old to be present on premises primarily or exclusively used for the sale of alcohol for consumption on the premises whilst they are open and being used for the supply of alcohol. For an under 16 year old to be present they must be accompanied by an adult.
8. It is an offence for an unaccompanied under 16 year old to be present on any premises licensed for the sale of alcohol for consumption on the premises whilst they are open and being used for the supply of alcohol between the hours of midnight and 5am. For an under 16 year old to be present during this period they must be accompanied by an adult.

Premises Policy

1. Points 1 to 8 under the heading 'The Law States' must be adhered to at all times

2. When a customer appears to be aged 21 or under they must be asked to provide proof of their age, commonly known as 'Challenge 21'.

3. The only forms of identification to be accepted are ones with a photograph and from the following list:

- A valid photo drivers licence
- A valid passport
- A recognised valid proof of age scheme card bearing the PASS hologram logo.

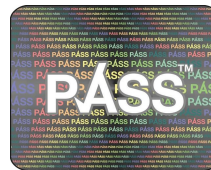
4. Any identity documents provided should be checked for the following:

- Photo matches the holder
- Date of birth makes the holders age 18 or over
- It is current and valid
- It has not been tampered with
- It is not a fake

Using the 5 Step Checking Process:

Step 1 Check the PASS Hologram

- Look for the 3D effect in the background of the hologram
- Look for the small PASS text in the background.
- The PASS hologram must be flush with the plastic of the card - NOT stuck on top of the plastic.
- If in doubt, compare it with a sample card.



Step 2 Check the Photograph

- Ensure that the photograph is of the person presenting the card – if necessary, politely ask the person to remove their hood, hat or sunglasses to be sure.
- The photograph must be printed directly on to the plastic of the card – NOT stuck on top of the plastic.

Step 3 Check the Date of Birth

- Calculate the age of the person from the date of birth.
- Make sure they are old enough to buy the goods or services requested.
- The date of birth must be printed on to the plastic – NOT stuck on top of the plastic.

Step 4 Check the Card

- Ensure that the card has not been tampered with or altered.
- Feel the card – it should be completely smooth – NO ridges or anything stuck on to the card.

Step 5 Check the Person

- If you are still unsure about a person's age, your legal responsibility is to refuse to sell.
- If you refuse to sell items because you believe that the person is too young, once the person has left, report the incident to your supervisor or manager, and record.

5. If you still have any doubts after examining a form of identification you should still refuse to serve the customer.
6. If caught selling alcohol to a person under 18 or committing an offence such as listed in points 1 to 8 under the heading 'The Law States' you may be issued with a fixed penalty fine by the police of £80. In such circumstances it the responsibility for payment of such fine will be that of the person the fine was issued to.
7. In cases where a person is issued with a fixed penalty or where a person does not adhere to points 1 to 8 under the heading 'The Law States' they will face either disciplinary action, or other actions that the committee may decide which may result in dismissal from the premises or if an outside contractor refusal to supply services to the premises in the future.
8. If you refuse service for any reason an entry should be made in the refusals register.

Challenge 21

It is this venue's policy to ask a customer to produce valid photo ID to prove his or her age if they do not look 21 or older before selling alcohol.

Photo driver's licences, passports and recognised valid proof of age scheme cards bearing the PASS hologram logo, are acceptable as proof of age.

Student ID cards, birth certificates and other forms of ID are not acceptable as proof of age.

If a customer is not able to produce valid photo ID that confirms his or her age, the sale must be refused.

If you suspect that an adult is buying for a young person you should refuse the sale.

If a person sells alcohol to a customer who is under 18 years of age both the management committee and individual concerned may be liable to prosecution.

A review of the venue's premises licence may also be held and this could result in additional conditions or restrictions being put on the licence or the licence might be suspended or revoked.

How to refuse a sale

Ask for proof of age. This helps the situation, as it is not a direct refusal. It says that you will make the sale if they can produce valid proof of age. Only accept proof of age with a photograph, and only then if you are happy it is correct.

Refuse politely. If necessary repeat your refusal clearly.

Keep calm. Don't get into an argument.

Explain briefly why you cannot sell. Try saying:

- I am sorry, if I serve you I might be breaking the law.
- We have a policy of 'no proof of age, no sale.'
- Our company policy is not to sell these products to young people.

Show customers notices, posters and stickers that indicate you will not serve alcohol to under 18s.

Offer an application form for an approved proof of age card scheme and tell the customer that if they come back with a proof of age card showing they are old enough you will be happy to serve them.

Be positive in your refusal. Have a firm tone of voice, be confident and use direct eye contact. Do not waver from your decision not to sell. If you look unsure a customer may think you are likely to change your mind and continue to argue.

The law is on your side and you are doing the right thing.

Call the supervisor or member of the management committee for support if necessary.

Record details of the attempted purchase in your Refusals Register

Report incidents where you have felt threatened and/or intimidated.