

Designated Premises Supervisor – Guidance Fact Sheet Licensing Act 2003

What is a Designated Premises Supervisor?

The statutory definition of a Designated Premises Supervisor (DPS) is provided within Section 15 of the Licensing Act 2003, this states that:

- (1) In this Act references to the ‘designated premises supervisor’, in relation to a premises licence, are to the individual for the time being specified in that licence as the premises supervisor.*
- (2) Nothing in this Act prevents an individual who holds a premises licence from also being specified in the licence as the premises supervisor’.*

Apart from the above, the Act says **nothing more** and is therefore of **no assistance** in relation to the role or its expectations for this individual.

When is a Designated Premises Supervisor required?

Under the Licensing Act 2003, it is a mandatory requirement that at any premises which has been granted a Premises Licence which includes the retail sale of alcohol as a licensable activity that within the Premises Licence a DPS **must** be specified. However, to fulfil the role of a DPS, the nominated individual **must** hold a Personal Licence.

Statutory guidance on the role of the Designated Premises Supervisor

Statutory guidance concerning the role of the DPS has been issued by the Department for Culture, Media and Sport under Section 182 of the Licensing Act 2003; however it should be remembered that this is guidance and **not** law.

The guidance states quite clearly that 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 that associated with other licensable activities such as the provision of regulated entertainment and late night refreshment. This is why a Personal Licence is therefore required by individuals who are engaged in **making** and **authorising** sales and supplies of alcohol. However, not every person retailing alcohol at licensed premises needs to hold a Personal Licence, but every sale or supply of alcohol **must** be authorised by a Personal Licence holder.

Any premises at which alcohol is sold or supplied may employ one or more Personal Licence holders. For example, there may be one owner or senior manager possessing a Personal Licence and several junior managers similarly qualified. However, the main purpose of the DPS is to ensure that there is always one specified individual, among these Personal Licence holders, who can be readily identified at the premises. This person will normally have been given day to day responsibility for managing the premises by the Premises Licence holder.

How is the Designated Premises Supervisor identifiable?

The Government considers it essential that Police Officers, Fire Officers or Officers of the Licensing Authority can identify immediately the DPS as a person in a position of authority at any premises selling or supplying alcohol. This should have the positive outcome that any licensing problems arising at the premises can be dealt with swiftly by engaging with this key individual.

The DPS will be easily identifiable, as both the Premises Licence and Summary (this is a shortened version of the Premises Licence) specify the name of the DPS. The Summary of the Premises Licence has to be prominently displayed at the premises.

Can I have more than one Designated Premises Supervisor?

The guidance states quite clearly that only one DPS may be specified in a single Premises Licence.

Who can object to an individual being nominated as the Designated Premises Supervisor?

The Police are able to object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective (i.e the failure to promote the prevention of crime and disorder licensing objective). Police objection is permitted where, for example, a particular DPS is first appointed or transfers into particular premises and the presence of that individual in combination with particular premises gives rise to exceptional concerns. For example, this could occur where a Personal Licence holder has been allowed by the Courts to retain his Personal Licence despite convictions for selling alcohol to minors (this is a relevant offence under the Act) and he then transfers into premises with some degree of notoriety for underage drinking.

Where the Police do object, the Licensing Authority must arrange for a hearing to be held at which the issue can be considered and both parties can put forward their arguments. The Act provides that the applicant may apply for the individual to take up his post as DPS immediately and therefore, in such cases, the issue would be whether the individual should be removed from this post. The Licensing Authority considering the matter must confine their consideration to the issue of crime and disorder. They should give comprehensive reasons for their decision and either party would be entitled to appeal if their argument is rejected.

Can I change my Designated Premises Supervisor?

Where a new DPS is to be specified, the normal course is for the Premises Licence holder to apply to the Licensing Authority (including an application for immediate effect) accompanied by a form of consent by the individual concerned to show that he consents to taking on this responsible role; and to notify the Police of the application. The whole Premises Licence does not have to be provided for amendment. The Act provides that a part of the licence may be submitted with the application. Ideally, this will require submission of a schedule to the main licence giving personal details of key individuals.

This will be amended by the Licensing Authority and returned following receipt. In circumstances where the Police feel appropriate, they can object to the new proposed DPS.

What does a Designated Premises Supervisor have to do if they wish to be removed from this position?

The DPS must inform the relevant Licensing Authority if he or she wishes to be removed as the DPS. Within 48 hours of the Notice being given to the Licensing Authority, the individual must also give the Premises Licence holder a copy of the Notice sent to the Licensing Authority. The DPS must also send a Notice directing the Premises Licence holder to send the Premises Licence to the relevant Licensing Authority. If that is not practicable, a statement of the reasons for the failure to provide the licence within 14 days of receiving the Notice should be issued to the Licensing Authority. If the holder fails to comply with the direction he/she will commit an offence.

Does the DPS have to be on the premises at all times alcohol is being served?

The Licensing Authority hopes and anticipates that that the DPS will spend a significant amount of time on the premises, as the guidance suggest that the DPS should be someone who has 'day to day responsibility for running the premises'.

Section 19 of the Act states that:

'Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

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

There is no requirement for the DPS to be on the premises at all times alcohol is sold however the DPS will remain responsible for all sales.

Can I be the DPS for more than one premises?

There is nothing in either the Act or guidance which states that this is not legally permitted. However, as previously stated, the guidance suggests that the DPS should be someone who has 'day to day responsibility for running the premises', and therefore if you are going to be the DPS for more than one premises, you would need to carefully consider whether you are able to fulfil the requirements laid down in the guidance.

Offences committed by the Designated Premises Supervisor

There are a range of offences listed within the Act which can be committed by a number of individuals, one of which is the DPS. It is not possible for the purposes of this fact sheet to provide a fully comprehensive summary of all of the various statutory offences listed in the Act. However it is hoped that the following identifies some of the key offences which a DPS, amongst others, should be aware of.

Section 140 – Allowing disorderly conduct on licensed premises

This section applies to any person who works at the premises in a capacity, whether paid or unpaid, which authorises him to prevent the conduct. In the case of a premise which is subject to a Premises Licence, this applies to both the Premises Licence holder and the DPS.

Section 141 – Sale of alcohol to a person who is drunk

This section applies to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to sell the alcohol concerned. In the case of a premises which is subject to a Premises Licence, this applies to both the Premises Licence holder and the DPS.

Section 144 – Keeping of smuggled goods

This section applies to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to prevent the keeping of the goods on the premises. In the case of a premises which is subject to a Premises Licence, this applies to both the Premises Licence holder and the DPS.

Section 145 – Unaccompanied children prohibited from certain premises

This section applies to any 'person' who works at the premises in a capacity, whether paid or unpaid, which authorises him to request the unaccompanied child to leave the premises. In the case of a premises which is subject to a Premises Licence, this applies to both the Premises Licence holder and the DPS.

Section 146 – Sale of alcohol to children

This section applies to a 'person' who sells alcohol to an individual aged under 18'.

Section 147 – Allowing the sale of alcohol to children

This section applies to a 'person' who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the supply.

Section 148 – Sale of liqueur confectionery to children under 16

This section applies to a 'person' who sells liqueur confectionery to an individual aged under 16.