



LICENSING

No Specific Ward Relevance

Committee

25th January 2010

LICENSING ACT 2003 – MINOR VARIATIONS DELEGATION TO OFFICERS

(Report of the Head of Environment)

1. Summary of Proposals

The Government has issued Supplementary Guidance to Local Authorities under Section 182 of the Licensing Act 2003 on a simplified process for minor variations to Premises Licences and Club Premises Certificates.

The Guidance recommends that all decisions in the administration of applications for minor variations should be delegated to Licensing Officers. This will simplify the process and enable a minor variation to be swiftly made to a premises licence or club premises certificate, within prescribed time periods.

2. Recommendations

The Committee is asked to **RECOMMEND** that

- 1) **decisions in the administration process for Minor Variations under the Licensing Act 2003 be delegated to Officers as detailed in paragraph 5.6 and as shown below:**
 - a) **Change of name and address of someone named in the Premises Licence – Section 33 of the Licensing Act 2003;**
 - b) **Application to change the Designated Premises Supervisor – Section 37 of the Licensing Act 2003;**
 - c) **Application in relation to licence for community premises that authorises the sale of alcohol to dis-apply the mandatory conditions concerning the supervision of alcohol sales by a Personal Licence Holder and the need for a Designated Premises Supervisor – Sections 25A and 41D of the Licensing Act 2003;**
 - d) **Application for Minor Variation of Premises Licence; to add a licensable activity e.g. addition of live or recorded music - Sections 41A to 41C of the Licensing Act 2003; and**
- 2) **the Statutory set fee of £89.00 be entered into the Council's list of Fees and Charges.**

3. Financial, Legal, Policy, Risk and Climate Change / Carbon Management Implications

Financial

3.1 None identified.

Legal

3.2 Please see Policy implications.

Policy

3.3 Licensing authorities will need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of premises) which in themselves may not be significant but which cumulatively may impact adversely on the licensing objectives.

3.4 Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases.

3.5 The Act covers a wide range of other licensable activities and the Licensing Authority will need to consider each application on a case by case basis and in the light of any licence conditions put forward by the Applicant.

3.6 Licensing Officers will need to bring their own experience and knowledge of licensing to bear when considering applications.

3.7 Licensing Authorities cannot impose their own conditions on the licence through the minor variations process. If the Licensing Authority considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed they should refuse it.

3.8 Any other changes to the licence require an application to vary under Section 34 of the Licensing Act 2003.

Risk

3.9 The Licensing Authority should consider if there is any likely impact on the promotion of the licensing objectives in deciding whether there is a need for an application to vary in relation to features which are not required to be shown on the plan under Section 17 of the Licensing Act 2003.

Climate Change / Carbon Management

3.10 None identified.

Report

4. Background

4.1 The Government has issued guidance to local authorities outlining a simplified process for minor variations to premises licences and club premises certificates.

4.2 The Guidance revises and replaces the Guidance on Variations of Premises Licences published on 28th June 2007.

4.3 The Licensing Authority must consider whether an application for minor variation could impact adversely on the licensing objectives.

4.4 The Government recommends that decisions on minor variations should be delegated to licensing officers. In considering the application, it will be a matter of judgement by Officers as to whether a proposed variation is a "minor" one and there is a requirement that the Licensing Authority must consult relevant responsible authorities if there is any doubt about the impact on the variation, and to take their views into account in reaching a decision.

5. Key Issues

5.1 The Licensing Authority must consider any relevant representations received from Interested Parties within a period of 10 working days.

5.2 Within 15 working days, the Licensing Authority must determine the application to the effect either that:

- a) the minor variation is granted; or
- b) the application is refused.

5.3 If the Licensing Authority fails to respond to the applicant within fifteen working days, the application will be treated as refused and the Local Authority must return the fee to the applicant forthwith.

5.4 Minor variations will generally fall into four categories:

- a) Small adjustments to licensing hours.
- b) Removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions.
- c) Addition of certain licensable activities.
- d) Minor changes to the structure or layout of premises.

5.5 In all cases the overall test is whether the proposed variation could adversely affect any of the four licensing activities.

5.6 The delegation should incorporate the following officers:

- a) HE - Head of Environment.
- b) MEH - Manager of Environmental Health.
- c) ML - Manager of Licensing.

6. Other Implications

Asset Management - None identified.

Community Safety - A consistent approach to decision making of the relevant licensing legislation is required.

Health - None identified.

Human Resources - existing staffing levels can accommodate the changes in the legislation and any increase in applications.

Social Exclusion - None identified.

Environmental/
Sustainability - None identified.

7. Lessons Learnt

An appropriate delegation of authority can help streamline services to customers and avoid unnecessary delays. This delegation of authority to Licensing Officers will enable a minor variation to be swiftly made to a premises licence or club premises certificate, within prescribed time periods.

8. Background Papers

The Licensing Act 2003.
Guidance issued under section 182.
Supplementary guidance issued July 2009.

9. Consultation

9.1 This report has been prepared in consultation with relevant Borough Council Officers.

9.2 Other consultees were the Countywide Licensing Officers Group.

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10. Author of Report

The author of this report is Sue Garratt (Licensing Manager) who can be contacted on extension 3032 (email: sue.garratt@redditchbc.gov.uk) for more information.

11. Appendices

None.