

DECISION-MAKER:	LICENSING COMMITTEE		
SUBJECT:	LICENSING ACT 2003 - MINOR VARIATION PROCEDURE		
DATE OF DECISION:	26TH AUGUST 2009		
REPORT OF:	SOLICITOR TO THE COUNCIL		
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STATEMENT OF CONFIDENTIALITY

NOT APPLICABLE

SUMMARY

Amendments to the Licensing Act 2003 (sections 41A - 41C and 86A - 86C) have implemented new procedures dealing with applications for minor variations to premises licences and club premises certificates. This report explains those changes and sets out the delegations required for the procedure to operate as intended by Parliament.

RECOMMENDATIONS:

- (i) To consider the amendment to the legislation and amended statutory guidance annexed to this report.
- (ii) If Committee is minded, to delegate the functions relating to the new minor variations procedures to the Solicitor to the Council with the authority to further delegate to other officers as he sees fit.

REASONS FOR REPORT RECOMMENDATIONS

1. As of the 29th July 2009 the Licensing Act has been amended to include sections 41A – 41C (premises licences) and 86A – 86C (club premises certificates). In addition the statutory guidance issued in accordance with section 182 of the Licensing Act 2003 has been amended to set out the new procedure as implemented by the Act.
2. In order to ensure the Council is able to process applications in the manner intended the delegations to officers of the functions contained within sections 41A – 41C and 86A – 86C are required.

CONSULTATION

3. Not applicable.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. None.

DETAIL

5. The Licensing Act 2003 has been amended by the insertion of sections 41A to 41C and 86A to 86C relating to minor variations for premises licences and club premises certificates respectively. The wording of the new legislation is attached at Appendix 1. The Act previously made provision for those holding a premises licence or club premises certificate to vary the terms of that licence or certificate by way of and application for variation – a process, in practical terms, very similar to a full application.
6. The new processes for “minor” variations are intended to streamline those processes in circumstances where the licensing authority feels there will not be an adverse impact on the statutory licensing objectives.
7. The statutory guidance to the Act has been amended to address the minor variation procedures (as well as other minor amendments to the Act). The amended guidance relating to these specific points is attached as Appendix 2.
8. In essence it clarifies the circumstances in which an application is to be considered “minor” and the procedure to be adopted. It is very clear that the process should be administered at officer level so that it remains a matter of simple application.
9. The application need not be advertised other than by notice at the premises and interested parties may still make representation. If representations are received there is still no hearing – it remains for the officer to decide whether in light of the representations there will be an adverse impact on the licensing objectives if the variation is granted. If the officer is in any doubt Responsible Authorities may be consulted (e.g. Police or Environmental Health). There is no power to impose additional conditions, so it is likely that where any doubt remains or the officer is not fully satisfied following consultation, the officer shall in effect be bound to refuse.
10. Any variation that would result in the sale or supply of alcohol being extended either beyond the hour of 23:00 or commence earlier than 07:00 is expressly excluded from the minor variation procedure. Any such application must be a full variation and will be subject to the normal procedures.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

11. Not applicable

Revenue

12. The fee for the application, which has been set by Government at £89.00 on the basis of cost recovery, will be allocated accordingly within existing budgets for the processing of licensing applications. It is not possible to estimate how many applications will be received and thus what income will be received.

Property

13. Not applicable

Other

- 14. The work involved in implementing and exercising the new procedure will be contained within existing budgets.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

- 15. Section 7 of the Licensing Act 2003 confers all licensing functions under the Act to the Licensing Committee (excepting policy decisions). Section 10 of the same Act provides for the delegation of functions to Sub Committee and to officers with the exception of particular functions of which the minor variation procedure is not included.

Other Legal Implications:

- 16. The statutory guidance makes it clear that this is a procedure which the Government intends to be administered by Licensing Officers.

POLICY FRAMEWORK IMPLICATIONS

- 17. The decision to determine the report in the manner set out is not contrary to the council’s policy framework.

SUPPORTING DOCUMENTATION

Appendices

1.	Sections 41A -41C of the Licensing Act 2003
2.	Supplementary Guidance by the Department of Culture, Media and Sport in respect of minor variations

Documents In Members’ Rooms

1.	
2.	

Background Documents

Title of Background Paper(s)
None.

Relevant Paragraph of the
Access to Information
Procedure Rules / Schedule
12A allowing document to be
Exempt/Confidential (if
applicable)

1.		
2.		

Background documents available for inspection at:

FORWARD PLAN No: N/a **KEY DECISION?** N/a

WARDS/COMMUNITIES AFFECTED:	ALL
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