

Licensing Act Committee

3rd November 2009

LICENSING ACT 2003 **MINOR VARIATIONS TO PREMISES LICENCES**

Report of the Director of Community Services

STRATEGIC AIM:	Increasing our culture, sport and recreational offer Maintaining high levels of employment and a thriving third sector
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1. PURPOSE OF THE REPORT

- 1.1 The Licensing Act 2003 has recently been amended to include a new category "Minor Variations". New regulations have also been introduced which set out the procedures for dealing with Minor Variations to premises licences. The new procedure is designed to shorten the time taken to process these applications.

2. RECOMMENDATIONS

2.1 That Council approves:

- 1. That the processing of minor variations applications is delegated to the Public Protection Manager and the Director of Community Services.**
- 2. All elected Members and the Strategic Management Board be notified of all applications for minor variations to licences.**

3. REASONS FOR THE RECOMMENDATIONS

- 3.1 The introduction of the Minor Variations system and the application process came into force in 27th July 2009, and is intended to fast track these type of applications. The time periods for this are much shorter than those for ordinary variations to a premises licence. The Guidance on Minor Variations recommends that the processing of applications is delegated to licensing officers. The processing of ordinary variations to the premises licence are currently delegated to officers in accordance with the Statutory Guidance and the Council's Statement of Licensing Policy.

4. MINOR VARIATIONS

- 4.1 The minor variations system came into force on 27th July 2009. To date no applications for minor variations have been received.

4.2 The types of applications that the guidance envisages will be made under this system fall into 4 main types.

- Minor changes to the structure or layout of a premises
- Small adjustments to licensing hours, i.e. change in the hours between which alcohol is sold, but no overall increase in hours it is sold
- Conditions: removal of out of date irrelevant or unenforceable conditions
- Licensable activities: adding certain licensable activities including live music

4.3 There is a single fee of £89 per application there are no exemptions from this fee. Annual fees remain unaffected and fall due as per the original grant of the premises licence.

5. THE MINOR VARIATIONS SYSTEM

5.1 Applications

5.1.1 Applications are made to the licensing authority on the prescribed forms. The application must be advertised on a white notice at the premises, and the notice must comply with the requirements set out in regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42 as amended). These require that the notice be A4 or larger, and contain basic details such as a brief description of the proposed variation (s); name of the applicant or club; address of premises; and date by which an interested party may make representations.

5.1.2 There is no requirement for the applicant to advertise the application in a local newspaper.

5.1.3 Applicants can volunteer conditions as part of the minor variations process, whether from their own risk assessment of the variation, or from informal discussions with the responsible authorities or the licensing authority.

5.2 HEARINGS

5.2.1 There are no hearings under the minor variation process

5.3 ROLE OF RESPONSIBLE AUTHORITIES

5.3.1 There is no requirement for applicants to notify responsible authorities of their application. Instead, responsible authorities are only involved at the request of the licensing officer. The Guidance suggests that licensing officers “must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision.”

5.3.2 The Guidance envisages that “in many cases the licensing authority may be able to make a decision without consultation”

5.4 ROLE OF INTERESTED PARTIES

- 5.4.1 Interested parties may make representations based on the licensing objectives. Representations do not trigger a hearing under the Minor Variations process, but the Guidance states that licensing authorities must take any representations into account in arriving at a decision.

5.5 DELEGATION

- 5.5.1 The Government recommends that the LA delegates decision making on Minor Variation applications to licensing officers.
- 5.5.2 DCMS will issue a letter setting out the Government's advice regarding delegation and minor variations.

5.6 TIMESCALES

- 5.6.1 The timescale set out in the legislation is 15 working days. Day one is the "initial day", i.e. the first working day after the day the licensing authority receives the application. The licensing authority must then process the application, and determine it within 15 working days of the initial day. If the authority fails to determine the application within 15 working days, the application is deemed refused, and the fee must be returned to the applicant.
- 5.6.2 The first 10 working days of the 15 working day period constitute a consultation period in which Interested Parties may make representations to the licensing authority. LAs may also wish to consider the application and consult relevant responsible authorities during this time. A determination cannot be made during the 10 working day period, leaving LAs with the remaining 5 working days to determine the application. If the application is rejected within the 15 days, the LA retains the fee in the usual way.

5.7 DETERMINING A MINOR VARIATION APPLICATION

- 5.7.1 The key test is whether the proposed variation could impact adversely on any of the four licensing objectives. Licensing officers have no power to impose conditions; only conditions volunteered by the applicant can be added to the licence under the minor variations procedure. The determination is therefore either to grant or to refuse an application.

5.8 NOTICE REQUIREMENTS

- 5.8.1 Granted applications: the licensing authority must notify the applicant of any variation granted, together with the time that the variation will take effect. This will usually be as stipulated in the application, but if the applicant stipulates a date before the notice of determination is given, the licensing authority will specify a later time in the notice.
- 5.8.2 Refused applications: the licensing authority must give notice to the applicant that the application has been refused, together with the reasons for the refusal.
- 5.8.3 Applications that have been rejected under the minor variations process can then be the subject of a full variation application or of a revised minor

variations application, and the minor variations refusal does not affect any subsequent variation application in respect of the same premises.

5.8.4 Licences and summaries need to be reissued on the grant of a minor variation application.

5.9 RECORDING MINOR VARIATIONS

5.9.1. Applications under the minor variations procedure are likely to feature in future DCMS statistical bulletins so all applications and decisions will need to be recorded.

6. RISK MANAGEMENT

RISK	IMPACT	COMMENTS
Time	High	Statutory time limits for the determination of the minor variation application apply if the licensing authority does not determine the application in this time period the application is deemed refused and the application fee is returned to the applicant
Viability	Low	Minor variation applications will be dealt with from existing staffing resources
Finance	Med	There is an application fee of £89 per minor variation application
Profile	Med	The types of applications for minor variations are unlikely to have a high profile
Equality and Diversity	Low	None identified

7. CONCLUSIONS

7.1 The introduction of the minor variations system is intended to make the application process for variations that have little impact on the operation of the licensed premises quicker, simpler and less expensive to the premises licence holder. Safe guards to prevent applications that should be dealt with as an ordinary variation being dealt with under this procedure, are built into the system.

Background Papers

Rutland County Council Statement of Licensing Policy
Guidance issued under section 182 of the
Licensing Act 2003 Supplementary guidance on:
a simplified process for minor variations to premises
licences and club premises certificates

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A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.