

LEGISLATIVE REFORM (MINOR VARIATIONS TO PREMISES LICENCES AND CLUB PREMISES CERTIFICATES) ORDER 2009

Portfolio: Community

Ward(s) Affected: All

Purpose

To consider changes made to the Licensing Act, 2003 by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 and to approve the procedure for dealing with applications for minor variations to premises licences and club premises certificates.

Background

1. All applications for premises licences and club premises certificates are made in accordance with the provisions of the Licensing Act 2003. The Act and the Regulations made under the Act made no distinction between applications for a substantial variation to a premises licence or a club premises certificate or an application which sought to make minor changes which were intended to rectify minor anomalies or authorise minor works.
2. The procedure for dealing with minor changes as set out in the Licensing Act 2003 has been open to various interpretations by different local authorities and in order that there should be a consistent approach to minor variations the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009. This Order allows the holders of Premises Licences and Club Premises Certificates to make small changes to their licences and certificates without incurring the financial cost of a full application. The full procedure was considered to be disproportionate in view of the negligible impact that minor changes could have.

Current Positions

3. The Order does not define what is meant by a minor variation but Government guidance states that minor variations will generally fall into four categories, (1) minor changes to the structure of layout of a premises; (2) small adjustments to licensing hours; (3) the removal of out of date, irrelevant or unenforceable conditions; and (4) the addition of certain licensable activities.
4. The Order states that minor variations cannot be used if the application seeks to;
 - extend the period for which a premises licence has effect;
 - make substantial changes to the premises;
 - change the Designated Premises Supervisor;
 - add the sale of alcohol as a licensable activity; or
 - Authorise the sale of alcohol at any time between 23:00 and 07:00 hours the following morning, or to increase the amount of time on any day during which alcohol may be sold.
5. Licensing Officers must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and specialist advice is required. Any views that are expressed must be taken into account when reaching a decision.
6. Applications which do not meet the criteria for a minor variation cannot be accepted and the applicant advised to submit a full application.

7. Minor variation applications do not have to be advertised in a local newspaper but notice of the application must be displayed on the premises. The procedure for submitting applications for minor variations does not make provision for the submission of representations by “Interested Parties”
8. Applications for minor variations must be determined within 15 days after the day of receipt.

Proposal

9. The criteria for minor variation applications is intended to preclude the submission of proposals which would be controversial and allows officers to consult “Responsible Authorities” when considered necessary. Whether or not the criteria for a minor variation have been met is a matter of fact and the determination of applications and the issue of amended licences and certificates a formality. The Order is intended to simplify and speed up the procedure for determining minor variations and in view of this and the short timescale allowed for the of applications it is proposed that delegated authority be granted to the Head of Corporate Services, the Legal Manager and the Licensing Officer.

Resource Implications

10. There are no additional resource implications arising from this proposal.

Financial Implications

11. The current fees for variations are prescribed by regulation and the licensing authority has no discretion in relation to the amount that may be charged. The Order has specified the fee for a minor variation to be £89.

Recommendation

12. The Committee is advised to RECOMMEND that the Scheme of Delegation of Functions to Officers be amended as follows:

FUNCTION	OFFICER
To grant or refuse applications for minor variations of a premises licence or club premises certificate	The Director of Corporate Service, Head of Corporate Governance, the Legal Services Manager and the Licensing Officer.

Background Papers: None

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