

LICENSING AND SAFETY COMMITTEE
31 JANUARY 2008

LICENSING ACT 2003 – MINOR VARIATIONS
(Director of Environment and Leisure)

1 PURPOSE OF DECISION

1.1 The Government has proposed to amend the Licensing Act 2003 to introduce a simplified process for minor variations to premises licences and club premises certificates, as it believes that the current variations process represents an unnecessary burden on licence holders. The Department of Culture, Media and Sport (DCMS) has issued a consultation document and is seeking views from licensing authorities on the proposal.

1.2 There are three options available:

- a) Amend the Act to introduce a new process for minor variations, broadly defined as any variation that does not impact adversely on the promotion of the licensing objectives. Leave licensing authorities to decide whether a variation is ‘minor’ within the broad parameters above and having regard to general criteria and the statutory Guidance. Licensing authorities required to consult relevant responsible authorities as they judge necessary, depending on the individual circumstances.
- b) Amend the Act to introduce a new process for minor variations as above, but constrain licensing authority discretion by specifying within the Act which variations should be included in and excluded from a minor variations process. Licensing authorities required to consult relevant responsible authorities as they judge necessary, depending on the individual circumstances.
- c) No change.

The Government’s preferred option is (a).

2 RECOMMENDATION

2.1 That the Committee

- a) **notes the proposal to amend the Licensing Act 2003 to introduce a simplified process for minor variations, and**
- b) **approves a response to the DCMS consultation to support the option proposed in 1.2 (a) above.**

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

3.1 There relevant legal provisions are contained within the main body of the report..

Borough Treasurer

- 3.2 There are no financial implications arising from the recommendations in this report. Whilst the number of standard variation applications received would reduce as a result of this proposal, it is believed there would be a small increase in the number of applicants submitting variation applications.

Impact Assessment

- 3.3 There are no implications identified.

4 SUPPORTING INFORMATION

- 4.1 Sections 34 and 84 of the Licensing Act 2003 require that a premises licence or club premises certificate holder may apply to the licensing authority to vary the licence or certificate. A variation is required for any change to the licence or certificate, including amendments to the plan. The only exception is a variation of designated premises supervisor, for which there is a separate notification process.
- 4.2 The proposal outlined above would allow licence holders to make small alterations to their licences and certificates without having to advertise the variation or copy it to all responsible authorities. The fee for a minor variation would also be set at a lower level than the current variation fees, which vary according to the rateable value of the premises.
- 4.3 A significant number of applications to vary licences and certificates (approximately 30%) are for minor changes, such as relocating a bar or adding performance of dance as a licensable activity when all other regulated entertainment is already permitted on the licence. The average cost of a variation to the applicant (excluding the licence fee) is estimated to be between £385 and £950.
- 4.4 The Government recommends that the decision as to whether a variation is minor or not should be able to be taken by licensing officers rather than a panel or committee. It is suggested that there should not be any such thing as a 'borderline' case going through the minor variation process, as by definition there must be an absence of any risk to the promotion of the objectives for the procedure to apply. Guidance on the criteria and examples would be provided for officers.
- 4.5 If problems arose at the premises at a later stage in relation to the licensing objectives, interested parties or responsible authorities can request a review of the licence or club premises certificate.

Background Papers

Licensing Act 2003

DCMS Consultation Document on Minor Variations Process

Contact for further information

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