

LICENSING ACT COMMITTEE

LICENSING ACT 2003 – NEW PROVISION FOR MINOR VARIATIONS OF PREMISE LICENCES AND DISAPPLICATION OF THE PROVISION FOR A DESIGNATED PREMISES SUPERVISOR IN COMMUNITY PREMISES

08 OCTOBER 2009
Report of Licensing Manager

PURPOSE OF REPORT

To inform the Committee of amendments to the Licensing Act 2003 to introduce a simplified process for minor variations to premises licences and club premises certificates and to enable the removal of the requirement for a designated premises supervisor and personal licenceholder at community premises.

This report is public

RECOMMENDATIONS

That the report be noted, and that the Committee delegate to the Head of Legal and Human Resources, the Licensing Manager and any staff he/she designates in writing, the authority to determine applications for minor variations to Premises Licences/Club Premises Certificates, and that the Monitoring Officer be requested to implement the necessary consequential amendment to Part 3 Section 14 of the Constitution.

1.0 Report

- 1.1 The purpose of the report is to inform members of the recent amendments to the Licensing Act 2003 in respect of the introduction of two new procedures designed to simplify the application process for premises licences. Firstly by introducing a process by which an application to vary a licence may be submitted through a fast track system without the need to submit the application to all the responsible authorities and without the need to advertise in a newspaper. This is called a minor variation and can only be done if the variation will not impact adversely on any of the licensing objectives. Secondly, a process by which community or village halls may apply to have alcohol provision on their licence without the need for a designated premises supervisor. The Secretary of State's Guidance under Section 182 of the Act has been amended to take account of these changes, and the Guidance is summarised in this report.

Minor Variations

- 1.2 Small variations that will not impact adversely on the licensing objectives are subject to a new simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must remain on the premises for 10 days in which time representations may be made in the usual manner.
- 1.3 In considering the application, the licensing authority 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. For instance, they may need to consult the environmental health officer on an application with possible public nuisance implications. But there is no requirement to consult all responsible authorities on each application and in many cases the licensing authority may be able to make a decision without consultation. The government guidance recommends that decisions on minor variations should be delegated to licensing officers.
- 1.4 Minor variations will generally fall into four categories: minor changes to the structure or layout of a premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. **In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.**
- 1.5 An application to remove a licensable activity should normally be approved as a minor variation. 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. Applications to extend the hours for the sale or supply of alcohol between 23.00 and 07.00 hours, or to increase the amount of time in any day during which alcohol may be sold or consumed on or off the premises, are also excluded from the minor variations process, although any application to reduce the hours for the sale by retail or supply of alcohol can be accepted as a minor variation.
- 1.6 The arrangements for applying for or seeking to vary club premises certificates are extremely similar to those for a premises licence. Clubs may also use the minor variation process to make small changes to their certificates as long as these could have no adverse impact on the licensing objectives.

Community Premises and Village Halls

- 1.7 The amendments to the 2003 Act allow certain community premises which have, or are applying for, a premises licence that authorises the sale of alcohol to also apply to include an alternative licence condition to enable them to authorise the sale of alcohol without the need for a Designated Premises Supervisor. An application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises (the "management committee"). If such an application is successful, the effect of the alternative licence condition will be that the licence holder (i.e. the management committee) is responsible for the supervision and authorisation of all alcohol sales made pursuant to the licence. All such sales will have to be made or authorised by the licence holder. There will be no requirement for a Designated Premises Supervisor or for alcohol sales to be authorised by a personal licence holder. The Order defines

community premises as premises that are or form part of a church hall, chapel hall or other similar building or a village hall, parish hall or community hall or other similar building.

- 1.8 A committee should have the capacity to provide sufficient oversight of the premises to minimise any risk to the licensing objectives that could arise from allowing the responsibility for supervising the sale of alcohol to be transferred from a personal licence holder/designated premises supervisor.
- 1.9 As the premise licence holder, the management committee will collectively be responsible for ensuring compliance with licence conditions and the law. While overall responsibility will lie with the management committee, where the premises are hired out the hirer may be clearly identified as having responsibility for matters falling within his or her control (e.g. under the contract for hire offered by the licence holder), much in the same way that the event organiser may be responsible for an event held under a Temporary Event Notice. Where hirers are provided with a written summary of their responsibilities under the 2003 Act in relation to the sale of alcohol, the management committee is likely to be treated as having taken adequate steps to avoid liability to prosecution if a licensing offence is committed.

2.0 Conclusion

- 2.1 The Committee is asked to note the recent amendments summarised above, and, in accordance with the statutory Guidance, to authorise the Head of Legal and Human Resources and the Licensing Manager and any staff he/she designates in writing to determine applications for minor variations.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None.

FINANCIAL IMPLICATIONS

There are no financial implications.

LEGAL IMPLICATIONS

The legal implications are included in the report.

BACKGROUND PAPERS

None.

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