

# **REPORT OF THE DIRECTOR OF COMMUNITY AND CULTURAL SERVICES**

## **LICENSING COMMITTEE – 7 SEPTEMBER 2009**

### **AMENDMENTS TO THE LICENSING ACT 2003 TO ALLOW MINOR VARIATIONS IN RESPECT OF PREMISES LICENCES AND CLUB PREMISES CERTIFICATES**

#### **1.0 PURPOSE OF THE REPORT**

- 1.1 To notify Members of the amendments made to the Licensing Act 2003 with respect to minor variations of premises licences and club premises certificates and to request that the Director of Community and Cultural Services be given the delegated power to decide such applications.

#### **2.0 DESCRIPTION OF DECISION**

- 2.1 Members are requested to note the contents of the report and delegate to the Director of Community and Cultural Services the power to decide applications for minor variations of premises licences and club premises certificates.

#### **3.0 INTRODUCTION/BACKGROUND**

- 3.1 On 29 July 2009 the Government amended the Licensing Act 2003 in order to allow operators to make small changes to their premises licences/club premises certificates. They made also commensurate changes to their guidance upon the Act.
- 3.2 The amendment was introduced as it was felt that the financial cost to operators of making minor amendments to their licences was disproportionate in view of the negligible impact such changes would have.
- 3.3 Only changes that would not undermine the licensing objectives are permitted under this procedure.

#### **4.0 CURRENT POSITION**

- 4.1 The Government envisages that there will be four main types of minor variation application, namely:
- Changes to structure/layout which do not:
    - Increase the capacity of the premises;
    - Effect access/egress at the premises; or
    - Impede the effective operation of noise reduction measures;

- Licensable Activities
    - Remove a licensable activity; or
    - Add a licensable activity (but not the sale of alcohol);
  - Amend Licensing Hours
    - Extend licensing hours (but not for the sale of alcohol); or
    - Reduce licensing hours; and
  - Conditions
    - Amend or remove existing conditions; or
    - Add volunteered conditions
- 4.2 Applications forms are required to be sent only to the Council and must be accompanied with an application fee of £89. The applicant must also advertise the application by placing a white notice outside the premises for a period of ten working days. Interested Parties may submit representations to the Council during this ten working day period
- 4.3 Once an application has been received the Council must process and determine it within fifteen working days. This involves the consideration of whether the application would adversely impact upon one or more of the licensing objectives. Should the application not be determined within this time period it is deemed to be automatically refused and the application fee must be refunded.
- 4.4 Should an application for a minor variation be refused for any reason there is no right of appeal against this decision. The applicant must submit an application to vary their licence in the ordinary manner should they wish to pursue the matter further. This method is now known as the 'full variation process'
- 4.5 There is no requirement for the Council to consult with Responsible Authorities in deciding upon minor variations. However, the Government, in their guidance, suggest that Councils 'must consult with 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.'
- 4.6 There is no requirement for a hearing in order that a decision may be made and the Government in their guidance suggest that Councils delegate the power to decide such applications to officers.
- 4.7 Should officers refuse an application for a minor variation any subsequent application for a full variation which attracts

representations from either a responsible authority or an interested party will be reported to a Licensing Sub-Committee as would have been the case before the law was amended.

## **5.0 REASONS FOR THE DECISION**

5.1 To comply with legislation and Government guidance.

## **6.0 ALTERNATIVE OPTIONS**

6.1 None

## **7.0 RELEVANT CONSIDERATIONS**

7.1 None

## **8.0 GLOSSARY**

8.1 No acronyms or abbreviations have been used in this report.

## **9.0 LIST OF APPENDICIES**

9.1 None

## **10.0 BACKGROUND PAPERS**

10.1 The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 (SI 2009/1772)

10.2 The Licensing Act 2003 (Premises Licence and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009 (SI 2009/1809)