

**LICENSING ACT 2003 – MINOR VARIATIONS TO PREMISES LICENCES AND CLUB PREMISES CERTIFICATES AND THE SUPERVISION OF ALCOHOL SALES IN COMMUNITY PREMISES.**

**Portfolio Area:** Environment  
**Report Presented by:** Mrs Rachel Crouch

**Background Papers:**

1. Guidance issued under Section 182 of the Licensing Act 2003 to Licensing Authorities by the Secretary of State for Culture, Media and Sport (28 July 2009). (Appendix 1).  
  
Letter from DCMS in respect of minor variations (Appendix 2)
3. LACORS Flyers for responsible authorities (Appendix 3).

**Corporate Implications:** Please refer to table at end of report

**Options:** To authorise Officers of the authority to grant or refuse minor variations under the Licensing Act 2003 and to amend the Scheme of Delegation in the Constitution.

**Risks:** There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters.

### **Executive Summary**

The purpose of this report is to advise Members of changes to the Licensing Act 2003 with regard to minor variations and the supervision of alcohol sales in community premises.

### **Decision**

That it be **Recommended to the Council** that the Licensing Manager be authorised to grant or refuse minor variations to premises licences and club premises certificates under the Licensing Act 2003 and that appropriate amendments be made to the Scheme of Delegation in the Constitution.

## **1. Introduction**

- 1.1 The Department of Culture, Media and Sport (DCMS) carried out enquiries in 2008 about amending the Licensing Act 2003 to provide for a new 'minor variations' process and to relaxing the supervision of alcohol sales in community premises. The aim is to reduce the administrative burden on businesses and non-commercial organisations. The changes fit around the Government's drive for 'Better Regulation' in terms of simplifying regulatory oversight of business activities. This is also in line with the general thrust of the 'Hampton Review' recommendation of reducing the administrative burden of regulation.
- 1.2 The Government has amended the 2003 Act using powers conferred by the Legislative Reform Act 2006, to create a new minor variations process and to remove the requirement for community premises to have a Designated Premises Supervisor (DPS).

## **2. Background**

### **3. Minor Variations**

- 3.1 A minor variation is considered to be a variation that will not impact adversely on the licensing objectives. It will be the responsibility of the Licensing Officer to decide whether there could be an impact.
- 3.2 An application may not be made as a minor variation to:
- Extend the period for which the licence has effect;
  - Vary substantially the premises to which it relates;
  - Add or alter a Designated Premises Supervisor (DPS);
  - Add the sale by retail or supply of alcohol as an activity authorised by the licence;
  - Authorise the supply of alcohol at any time between 11pm and 7am or increase the amount of time on any day during which alcohol may be sold by retail or supplied; or
  - Add the alternative licence condition relating to community premises.
- 3.3 In considering a minor variation application, Officers will consult such Responsible Authorities as they believe to be appropriate as regards any adverse impact. However, there is no requirement to consult all Responsible Authorities on each application.
- 3.4 An Officer must determine an application within 15 working days and either give notice to specify that the variation is granted, or rejected and give reasons for rejecting. There is no right of appeal by the applicant.
- 3.5 The applicant will be required to advertise the variation outside the premises for 10 clear working days after making the application. Any relevant representations made by Responsible Authorities or an Interested Party must be taken into account by the Licensing Officer in making their decision, but there is no requirement for a Hearing.
- 3.6 The proposed minor variation application fee has been set by the DCMS at £89, which is higher than previously anticipated.

## **4. Community Premises**

- 4.1 At present a premises licence that authorises the supply of alcohol includes the mandatory condition requiring a Designated Premises Supervisor (DPS) to be specified and, that every sale of alcohol at such premises is to be authorised by a personal licence holder.
- 4.2 The modifications to the 2003 Act permit the Management Committee of a community premises to include in its application for a premises licence authorising the sale of alcohol, an application for an alternative licence condition to apply instead of the normal mandatory conditions. The alternative licence condition is the condition that every supply of alcohol under the premises licence must be made, or authorised, by the Management Committee.
- 4.3 Community Premises are defined as any church or chapel hall (or similar building), any village, parish or community hall (or similar building).
- 4.4 The Police may make representations if they believe the inclusion of the alternative condition instead of the mandatory condition would undermine the crime prevention objective.
- 4.5 If no representations are made, and the Licensing Authority is satisfied that the arrangements for the management of the premises are sufficient to ensure adequate supervision of the supply of alcohol, then the alternative licence condition is to be included.
- 4.6 Premises that currently hold a licence that includes the mandatory conditions may make an application for variation to include the alternative licence condition instead. This has to be a full variation application and cannot be done via the new minor variation process.
- 4.7 Forms have been prescribed to implement the changes in relation to community venues and there will be an additional fee of £23.
- 4.8 When asked to consider a review of a premises licence for community premises with the alternative licence condition, the Licensing Authority may determine that the normal mandatory licence condition should apply instead of the alternative condition if it is necessary for the promotion of the licensing objectives.

## **5. Matters for Consideration**

- 5.1 With regard to community venues and alcohol, the Licensing Authority will need to be satisfied that the arrangements put in place by the Management Committee will be sufficient to ensure adequate supervision of the supply of alcohol. With this in mind, the Licensing Team will be recommending the following measures to Management Committees in order to ensure adequate supervision:
- Challenge 21 scheme
  - Policy relating to accepted proofs of ID
  - Staff training
  - Staff training logs
  - Refusal registers
  - Detailed and appropriate hiring agreements

- 5.2 The flyers issued by LACORS for all responsible authorities will be issued to all our responsible authorities and guidance given. (Appendix 3).
- 5.3 When the Council's Statement of Licensing Policy is next reviewed, reference will be made in the revised Policy to the new community premises and minor variations processes.

<b>Corporate Implications</b>			
<b>Financial:</b>	<p>For a number of applicants the minor variation process will offer a cheaper method of applying for variation of a premises licence. The change in minor variation applications is likely to reduce the annual levels of income – however, not to a significant degree. Fee income will be closely monitored in order to ascertain any trend in relation to reduced income.</p> <p>If a large number of community venues decide to take advantage of the new arrangements in relation to alcohol then this could in the long-term have an effect on the number of Temporary Event Notices (TENs) received by the Authority. A large number of TENs received by this Authority relate to the authorisation of a bar at a community event or venue – each TEN costs £21.00. At this point in time it is difficult to quantify how many community premises are likely to take advantage of the new procedures. Again the situation will be monitored in order to ascertain any trend in relation to reduced income.</p>		
<b>Legal:</b>	Orders under the Legislative Reform Act 2006 that will amend the Licensing Act 2003 as indicated by this report will come into effect shortly and the Licensing Authority will be required to give these effect.		
<b>Equalities &amp; Diversity:</b>	Not Applicable		
<b>Customer Impact:</b>	The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the District's residents, visitors and business community.		
<b>Environment &amp; Climate Change:</b>	Not Applicable		
<b>Consultation/Community Engagement:</b>	Not Applicable		Not Applicable
	Public		Staff
<b>Key Decision:</b>	No		
<b>Public/Private Report:</b>	Public		
<b>Officer Contact:</b>	Rachel Crouch		
<b>Designation:</b>	Licensing Officer		
<b>Ext No:</b>	2647		
<b>Email:</b>	raccr@braintree.gov.uk		