

**BROMSGROVE DISTRICT COUNCIL**

**LICENSING COMMITTEE**

**7TH SEPTEMBER 2009**

**LICENSING ACT 2003 MINOR VARIATIONS – DELEGATED AUTHORITY**

Responsible Portfolio Holder	Councillor Peter Whittaker
Responsible Head of Service	Dave Hammond, Head of Planning & Environment Services

**1. SUMMARY**

- 1.1 This report updates members on the Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009 which came into force on 29 July 2009 and recommends that, as a result of these Regulations, the Scheme of Delegation be revised.

**2. RECOMMENDATION**

It is recommended that:

- 2.1 Members note the new process by which minor variations to Premises Licences and Club Premises Certificates can be determined; and
- 2.2 Authority be delegated to the Head of Planning & Environment Services to determine applications for minor variations to Premises Licences and Club Premises Certificates as defined by the Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009.

**3. BACKGROUND**

- 3.1 Until now, a Premises Licence holder who wished to make a minor amendment to a Premises Licence was required, in most cases, to make an application to vary the licence, however minor the proposed amendment. This follows a very similar procedure to that that required for an application for a new Premises Licence and, in the case of very minor amendments, was found to be disproportionately cumbersome and costly.
- 3.2 The Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009 (“the Regulations”) now provide that minor variations that do not impact adversely on the licensing objectives can be made under a 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 but must display it in a specified form for a period of ten working days;
- on receipt of an application, the licensing authority must consider whether the variation could impact adversely on the licensing objectives;
- 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, but in many cases the licensing authority may be able to make a decision without consultation;
- interested parties may make representations within 10 working days and these must be taken into account by the licensing authority; and
- the licensing authority must wait until the 10 working day period has elapsed before determining the application, but must do so at the latest within 15 working days, and the licensing authority may either:
  - grant the minor variation; or,
  - refuse the application.

### 3.3 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.

3.4 Detailed guidance has been produced by the Department of Culture, Media and Sport to assist local authorities in deciding these applications, including guidance on what might constitute a minor variation. This guidance also recommends that authority be delegated to an appropriate officer to determine applications for minor variations, and it is recommended in this report that such authority be delegated to the Head of Planning & Environment Services.

## 4. **FINANCIAL IMPLICATIONS**

4.1 None

## 5. **LEGAL IMPLICATIONS**

5.1 Applications for Premises Licences are made in accordance with the requirements of the Licensing Act 2003 and the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 and 2009.

5.2 Section 182 of the Licensing Act 2003 requires licensing authorities to take into account any guidance issued by the Secretary of State when making decisions, and the s182 guidance has been updated to include guidance on the minor variations process introduced by the Regulations.

## 6. **COUNCIL OBJECTIVES**

6.1 N/a

## 7. **RISK MANAGEMENT**

No significant risks arising from this report have been identified, but any minor risks arising are being managed as follows:

Risk Register: *Planning & Environment Services*

Key Objective Ref No: 8

Key Objective: *Effective, efficient and legally compliant Licensing Service*

## 8. **CUSTOMER IMPLICATIONS**

8.1 The recommendations will ensure that applications for minor variations can be taken efficiently and within the required timescales without the need to convene emergency meetings of the Licensing Sub-Committee.

## 9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

9.1 None

## 10. **VALUE FOR MONEY IMPLICATIONS**

10.1 None

## 11. **OTHER IMPLICATIONS**

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

**12. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	<b>No</b>
Chief Executive	<b>No</b>
Executive Director - Partnerships and Projects	<b><u>No</u></b>
Executive Director - Services	<b><u>No</u></b>
Assistant Chief Executive	<b><u>No</u></b>
Head of Service	<b><u>Yes</u></b>
Head of Financial Services	<b><u>No</u></b>
Head of Legal, Equalities & Democratic Services	<b><u>Yes</u></b>
Head of Organisational Development & HR	<b><u>No</u></b>
Corporate Procurement Team	<b><u>No</u></b>

**13. WARDS AFFECTED**

All wards

**14. APPENDICES**

None

**15. BACKGROUND PAPERS**

None

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