

#### 4. Introduction

- 4.1 The Government (DCMS) carried out a consultation in 2008 on amending the Licensing Act 2003 to provide for a new 'minor variations' process and relaxing the supervision of alcohol sales in Community Premises. The aim is to reduce the administrative burden on businesses and non commercial organisation, and the changes fit around the Governments 'Better Regulation' in terms of simplifying the regulatory oversight of business activities and with the general thrust of the Hampton review recommendation of reducing the administration burden of regulation.
- 4.2 This Authority did make a response to the consultation process requesting that no changes be made to the system and highlighted the disadvantage that residents will be placed at particularly if a premises decided to add live music to their licence without any need for consultation with people living in the vicinity that may be affected.
- 4.3 The Government has chosen to amend the 2003 Act using powers conferred by the Legislative Reform Act 2009, to create a new minor variations process and to remove the requirement for Community Premises to have a Designated Premises Supervisor.
- 4.4 A minor variation is described as being a variation that will not impact adversely on the licensing objectives. It will be the responsibility of the licensing officer to make the decision whether there could be an impact.
- 4.5 A 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 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.
  - Add the alternative licence condition relating to Community Premises.
- 4.6 Conditions on a licence will normally have been volunteered or imposed to mitigate any possible adverse impact on the licensing objectives, In most cases therefore, any application to remove or change the wording of a condition will be treated as a full variation. It may be acceptable to use a minor variation if the wording of a condition requires revising as it is unclear and or unenforceable, but the overall effect would need to remain unchanged.

- 4.7 There may be circumstances when the licence holder and a responsible authority mutually agree that a new condition should be added to a licence. If such a change would not impact adversely on the licensing objectives then the minor variation process may provide a less costly and onerous means of amending the licence than a responsible authority bringing forward a review.
- 4.8 In considering an application the licensing officer will consult such responsible authorities as they believe to be appropriate as regards any adverse impact but there is no requirement to consult all Responsible authorities on each application.  
The process will be monitored to ensure consistency in decisions made and 6 monthly reports will be tabled to the Licensing Committee.
- 4.9 An officer must make a determination of an application within 15 working days and either give notice to specify the variation that is granted or rejected and give reasons for rejecting. There is no right of appeal by the applicant.
- 4.10 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 provision for a hearing.
- 4.11 The proposed application fee has been set at £89 which is higher than previously anticipated. The normal process would have brought in an average fee of £190 per application for these applications under the current system.

## **5.0 Community Premises**

At present Community centres are required to have a DPS if they are carrying out the sale of alcohol. Under the new process the DPS requirement will be removed and instead the management committee of the community premises will have the responsibility.

## **6.0 Considerations**

The licensing committee to delegate powers to licensing officers to grant or refuse minor variations.

These changes are updated in the Statement of Licensing Policy when it is next reviewed.

## **7. Appendices to this report.**

- 7.1 Appendix 1 to this report shows the amendments proposed to the officer scheme of delegation to include powers to determine applications for minor variations.
- 7.2 Appendix 2 to this report shows the matters already reserved to Members of the Licensing Committee/Licensing Sub-Committees which are not proposed to be changed.

## APPENDIX 1

(The text of this Appendix is already part of the officer scheme of delegation for the Directorate of Urban Environment. The text proposed to be added in order to grant new delegated powers to determine minor variation applications is shown in bold italics and underlined)

<b>Licensing Act 2003</b>	<b>Limited Delegation:</b> The delegations to officers under this Act exclude all the matters reserved by law to the Licensing Committee and Licensing Sub-Committees as set out in Appendix 2 below	
Section 5	Power to consult about the Statement of Licensing Policy or revisions but excluding the final adoption of the Statement of Licensing Policy or revisions to it	H-Enf
Section 8 and Schedule 3	Duties in relation to the register of prescribed licensing information	H-Enf
Sections 13, 69, 108 and 179	Power to appoint authorised persons or officers for purposes of this Act	AD-FS H-Enf - only
Part 3 and Schedule 5 Part 1	Powers in relation to Premises Licences including applications for, and the grant, duration, variation, updating, transfer and review of, licences and provisional statements, interim authority notices and inspection of premises. <b><u>This includes powers in relation to applications for minor variations of premises licences.</u></b> Powers in relation to the conduct of appeals and the enforcement of these provisions	H-Enf
Part 4 and Schedule 5 Part 2	Powers in relation to Club Premises Certificates including applications for, and determinations relating to, the grant, duration, variation, updating, withdrawal and review of, certificates. <b><u>This includes powers in relation to applications for minor variations of premises club premises certificates.</u></b> Powers in relation to the conduct of appeals and the enforcement of these provisions	H-Enf
Part 5 and Schedule 5 Part 3	Powers in relation to Permitted Temporary Activities including Temporary Event Notices and objections, modifications, rights of entry and copies. Powers in relation to the conduct of appeals and the enforcement of these	H-Enf

	provisions	
Part 6 and Schedule 5 Part 3	Powers in relation to Personal Licences, Including applications for, and the grant and renewal of, licences including notification of changes and convictions. Powers in relation to the conduct of appeals and the enforcement of these provisions	<b>H-Enf</b>
Parts 7, 8 & 9 and all Regulations made under the Licensing Act 2003	Powers in relation to offences, closure of premises and miscellaneous and supplementary matters, including special events and exemptions, and all procedural or operational matters excluding final decisions on applications <b><i>requiring hearings</i></b> which are reserved to Members.	<b>H-Enf</b>

**APPENDIX 2 – MATTERS WITHIN THE TERMS OF REFERENCE OF THE LICENSING COMMITTEE AND LICENSING SUB-COMMITTEES EXCLUDED FROM DELEGATION TO OFFICERS**

(This Appendix is already part of the officer scheme of delegation for the Directorate of Urban Environment. No changes are proposed to it.)

<b>Licensing Act 2003</b>	<b>Function</b>
Section 5(1) & (4)	Adopting the Council's Statement of Licensing Policy and any revisions to it
Section 18(3)	Determination of applications for premises licences where relevant representations have been made
Section 31(3)	Determination of applications for provisional statements where relevant representations have been made
Section 35(3)	Determination of applications for variations of premises licences where relevant representations have been made
Section 39(3)	Determination of applications to vary designated premises supervisors following police objection
Section 44(5)	Determination of applications for transfer of premises licences following police objection
Section 48(3)	Consideration of police objection made to interim authority notices
Section 52(2) or (3)	Determination of valid applications for review of premises licences where relevant representations have been made
Section 72(3)	Determination of applications for club premises certificates where relevant representations have been made
Section 85(3)	Determination of applications to vary club premises certificates where relevant representations have been made
Section 88(2) or (3)	Determination of valid applications for review of club premises certificates where relevant representations have been made
Section 105(2)	Decisions to give counter notices following police objection to temporary event notices
Section 120(7)	Determination of applications for grants of personal licences following police objection
Section 121(6)	Determination of applications for renewals of personal licences following police objection
Section 124(4)	Decisions on revocation of personal licences

	where convictions come to light after grant
Section 167(5)	Determination of statutory review following closure order in any case where relevant representations have been made

