

**READING BOROUGH COUNCIL
REPORT BY DIRECTOR OF ENVIRONMENT**

TO	LICENSING APPLICATIONS COMMITTEE		
DATE:	29 SEPTEMBER 2009	AGENDA ITEM:	5
TITLE:	PROPOSAL TO DELEGATE ADDITIONAL POWERS TO THE HEAD OF ENVIRONMENT AND CONSUMERS SERVICES FOR THE PROCESSING OF MINOR VARIATIONS OF PREMISES LICENCES AND CLUB PREMISIES CERTIFICATES.		
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1. PURPOSE AND SUMMARY OF REPORT

- 1.1 To allow you to consider delegating powers to the Head of Environment and Consumer Services with regard to minor variations to premises licences and club premises certificates.

2. RECOMMENDED ACTION

- 2.1 That you delegate powers to the Head of Environmental and Consumer Services to:
- (a) Determine applications for minor variations when representations have been received.
 - (b) Refuse applications where it is considered that a full variation is required.

3. POLICY CONTEXT

- 3.1 According to the current delegations register, (delegation 354). Applications for the variation of a premises licences and club premises certificates may be determined by the Head of Environment and Consumer Services, when no objections have been received.

4. CURRENT POSITION

- 4.1 At present premises wishing to vary a premises licence/club premises certificate must apply for a full variation, other than when they are applying for a transfer of a premises licence/club premises certificate or a change of designated premises supervisor.
- 4.2 Current delegations permit officers to determine applications if no relevant representations are received. Should a relevant representation be received and not be resolved the application must go before a licensing sub committee for determination.
- 4.3 On the 29 July 2009 the government introduced a new simplified variation procedure, to sit alongside the existing procedure, which permits holders of a premises licence or club premises certificates to apply for minor variations of licences using a simplified quicker process. The process is designed to enable premises licence holders and club certificate holders to make small changes to their licences or certificates quickly and cheaply.
- 4.4 Under the new minor variation process, when an application is received, if the Authority is of the opinion that the proposals may impact adversely on the licensing objectives, it must decide which of the statutory bodies need to be consulted. For example, where a minor variation is applied for that may impact on the crime and disorder licensing objective, the Police would be consulted.
- 4.5 Those statutory bodies then have ten working days from the first day after the date that the application is received at the council offices, to respond. Unless the Licensing Section are able to notify the appropriate statutory bodies on the day of receipt of the application, the statutory bodies time for response is eaten away. It is therefore in the interests of the applicant to ensure those statutory authorities that may have an interest in their proposals are well informed in advance of the submission of the application, as, if the application is not approved, it is automatically deemed refused.
- 4.6 The Authority then has a further five working days at the end of the ten days period to make a decision. Should the Authority fail to determine the application within that period, it is deemed to be rejected and the application fee of £89 must be returned in full.
- 4.7 In addition to the notification of appropriate statutory authorities, the applicant must place a notice on the premises in public view detailing the minor variation application for 10 working days. Interested parties similarly have 10 working days to make an representation.
- 4.8 The very tight time scales for determining applications mean that it is important that the authority is able to deal with applications quickly and efficiently. This necessitates officers being given delegated authority to deal with these minor variations, and the Government recommends that decisions on minor variations should be delegated to licensing officers.

4.9 Minor variations cannot not be used to, amongst other things;

- a) Increase the capacity on the premises.
- b) Affect access between the parts of the premises e.g. fire routes.
- c) Impede the effective operation of noise reduction measures.
- d) Add the sale by retail of alcohol or the supply of alcohol to a licence.
- e) Extend the licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 2300hrs and 0700hrs.
- f) Increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.
- g) Extend a time limited licence.
- h) Transfer the licence from one premises to another.

4.10 Minor Variations can be used to, amongst other things;

- a) Add or remove a licensable activity, other than the sale of alcohol.
- b) Make small adjustments to extend or reduce the hours of licensable activity.
- c) Amend the plan of a premises.
- d) Remove or amend conditions e.g. out of date conditions.
- e) Add conditions that have been volunteered.

4.11 When considering a minor variation the Authority must consider, amongst other things;

- a) The nature of the licensable activity.
- b) Track record of the premises (good and bad).
- c) Proximity of residential areas.
- d) Proposed time of the activity e.g. weekends only.
- e) Existing conditions attached to the licence.
- f) Additional conditions volunteered by the applicant.
- g) Whether the premises is already open for other licensable activities
- h) Proximity of other licensed premises and the effect of attracting large numbers of persons.

4.12 In all cases, the overall test is whether the proposed minor variation could impact adversely on any of the four licensing objectives.

4.11 In the event that an application were made and an objection received, which could not be resolved through negotiation, officers would decide whether or not to refuse the application. In the event that an application was refused the applicant would have the opportunity to apply for a full variation, which could then be considered by Committee.

5 THE PROPOSAL

5.1 It is proposed that the Head of Environment and Consumer Services, be delegated powers, in line with government recommendations, authorising him to approve and process applications to;

a) Determine applications for minor variations when representations have been received.

b) Refuse an application if he considers that a full variation is required.

6. CONTRIBUTIONS TO STRATEGIC AIMS

6.1 Community Safety Implications - The primary purpose of licensing premises is to ensure that they comply with the four licensing objectives.

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance; and
- The protection of children from harm

6.2 Equal Opportunities - Any member of the general public can apply for a premises licence.

6.3 Sustainability Implications - The licensing of premises for licensable activities forms a valuable part of a vibrant and living town. Most members of the public appreciate the opportunity to enjoy the permitted activities on premises. However, we must protect people who live near to these premises to prevent any deterioration in their quality of life.

7. COMMUNITY ENGAGEMENT & INFORMATION -

7.1 The primary purpose of issuing licences is to regulate the trade and meet the requirements of the four licensing objectives.

8. LEGAL IMPLICATIONS

8.1 As stated above.

9. FINANCIAL IMPLICATIONS

9.1 There is no right of appeal to the Magistrates Court.

9.2 Any appeal must be by way of judicial review proceedings to the High Court.

Appendix I - additional information on minor variations.