

LICENSING AND SAFETY COMMITTEE

13 OCTOBER 2009

LICENSING ACT 2003 – AMENDMENT OF COUNCIL STATEMENT OF LICENSING POLICY TO INCORPORATE MINOR VARIATION APPLICATIONS

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Summary

The purpose of this report is to ask the Licensing and Safety Committee to approve the revision to the scheme of delegations at appendix A of the Statement of Licensing Policy to include reference to applications for minor variations.

1. Budget and Policy Framework

1.1 This is a policy framework document . The existing statement was approved for use by Council in November 2007 and remains in force for a period of 3 years, an in-depth review of this document will be required prior to December 2010.

2. Background

2.1 The ability to apply for a minor variation came into force on 27 July under The Licensing Act 2003 (Premises Licenses and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009.

2.2 The following timescales apply to applications for minor variations.

- The first working day after the day the licensing authority receives the application is day one and the council must then process the application and determine it within 15 working days.
- The first 10 working days of the 15 working days period constitutes a consultation period in which Interested Parties may make representations to the licensing authority.
- A determination cannot be made during the 10 working day period.
- If the authority refuses the application within the 15 days then the fee is non-refundable.

- If the authority fails to determine the application within 15 working days the application is deemed refused and the fee must be returned to the applicant.

2.3 Examples of the types of minor variation applications are as follows: -

- Minor changes to the structure or layout of a premises;
- Small adjustments to the licensing hours;
- The removal of out-of-date irrelevant or unenforceable conditions or adding volunteered conditions;
- The addition of certain licensable activities.

3. Risk Management

3.1 This policy statement is a key document in relation to the council's position in continuing to implement the Act's objectives and consideration of subsequent licensing applications.

4. Financial and legal implications

4.1 There are no direct financial implications for Medway Council concerning this matter at present. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.

4.2 The revision to appendix A has been made taking account The Licensing Act 2003 (Premises Licenses and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009 relating to Minor Variations.

4.3 According to the budget and policy framework rules contained within the Councils Constitution the responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or employees, area Committees or joint arrangements must be in line with it. No changes to any policy and strategy which makes up a policy framework may be made by those bodies or individual except those changes which are necessary to ensure compliance with the law, ministerial direction or government guidance.

4.4 As this amendment is to comply with a statutory requirement it can be made without any need for it to be referred under the policy framework procedures.

5. Recommendations

Members are required to approve the amendment to the scheme of delegations as shown on the document at Appendix B to enable the council to deal with applications for minor variations without reference to committee in all cases.

5.2 That appropriate publicity be given to the decision of the committee.

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Background papers

1. The Licensing Act 2003 (Premises Licenses and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009 Guidance issued under section 182 of the Licensing Act 2003
2. Budget & Policy Framework Rules – Council Constitution
3. Existing Gambling Act Policy (see Appendix A)
4. Revised Gambling Act Policy (see Appendix B)