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## **Application for a Minor Variation under the Licensing Act 2003**

### **What type of applications will be made under this process?**

The Guidance envisages 4 main types of minor variation application:

- Minor changes to the structure or layout of a premises – *please note it is recommended that you contact the Planning Department as any such changes may affect your Planning Permission.*
- Small adjustments to licensing hours
- Conditions: removal of out of date irrelevant or unenforceable conditions
- Licensable activities: adding certain licensable activities, including live music - *please note you are advised to contact the Planning Department if proposing to add licensable activities in case there are restrictions on your Planning Permission.*

### **Fees**

The fee per application is £89

Annual fees remain unaffected and fall due as per the original grant.

### **The application procedure**

Applications are made to the Licensing Authority. The application must be advertised on the white notice provided at the premises, and the notice must comply with the requirements set out in regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates).

The notice must be A4 or larger, and contain basic details such as a brief description of the proposed variation (s); name of the applicant or club; address of premises; and date by which an interested party may make representations. **This must be displayed for at least 10 working days, starting on the working day after the application was given to the Licensing Authority.**

There is no requirement for the applicant to advertise the application in a local newspaper.

Note: applicants can volunteer conditions as part of the minor variations process, whether from their own risk assessment of the variation, or from

informal discussions with the responsible authorities or the licensing authority. For more information see paragraphs 8.55 and 8.56 of the Guidance.

### **Hearings**

There are **no hearings** under the minor variation process.

### **Role of Responsible Authorities**

There is no requirement for applicants to notify responsible authorities of their application. Instead, responsible authorities are only involved at the request of the licensing officer. The Guidance suggests that licensing officers “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.” (8.37).

The Guidance envisages that “in many cases the licensing authority may be able to make a decision without consultation”, however.

### **Role of interested parties**

Interested parties may make representations based on the licensing objectives. Representations do not trigger a hearing under the Minor Variations process, but the Guidance states that licensing authorities must take any representations into account in arriving at a decision.

### **Minor Variations Timescale**

The timescale set out in the legislation is 15 working days. Day one is the “initial day”, i.e. the first working day after the day the licensing authority receives the application. The licensing authority must then process the application, and determine it within 15 working days of the initial day. 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.

The first 10 working days of the 15 working day period constitute a consultation period in which Interested Parties may make representations to the licensing authority. LAs may also wish to consider the application and consult relevant responsible authorities during this time. A determination cannot be made during the 10 working day period, leaving LAs with the remaining 5 working days to determine the application.

NB: If the application is rejected within the 15 days, the LA retains the fee in the usual way.

### **Determining minor variation applications**

“The key test is whether the proposed variation could impact adversely on any of the four licensing objectives.”

NB: Licensing officers have no power to impose conditions; only conditions volunteered by the applicant can be added to the licence under the minor variations procedure. The determination is therefore either to grant or to refuse an application.

**Notice requirements following determined applications**

Granted applications: the licensing authority must notify the applicant of any variation granted, together with the time that the variation will take effect. This will usually be as stipulated in the application, but if the applicant stipulates a date before the notice of determination is given, the licensing authority will specify a later time in the notice.

Refused applications: the licensing authority must give notice to the applicant that the application has been refused, together with the reasons for the refusal.

Applications that have been rejected under the minor variations process can then be the subject of a full variation application or of a revised minor variations application, and the minor variations refusal does not affect any subsequent variation application in respect of the same premises.

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