

PROTOCOL (E) – MINOR VARIATIONS

Purpose

1. The purpose of this Protocol is to explain how the Council will deal with minor variations to premises licences and club premises certificates.

Why is this Important?

2. There is a streamlined procedures for dealing with minor variations:-
 - a. The Applicant has to display details of the application at the Premises on a WHITE notice (to distinguish from blue notices for full variations and new applications).
 - b. The Notice has to be displayed only for 9 working days (as opposed to 28 consecutive days).
 - c. There is no requirement for a press notice.
 - d. The Council only notifies Responsible Authorities direct if there consider it necessary to do do.
 - e. The Council is not required to include details on its website.
 - f. The Council is required to consult those Responsible Authorities as it considers appropriate. This will be done if there is any doubt about the impact of the proposed variation on the licensing objectives and specialist advice is needed. The views expressed will be taken into account.
 - g. Other Persons have 10 working days to make representations (as opposed to 28 consecutive days) beginning on the first working day after the day on which the Council receives the application.
 - h. The Council must grant the minor variation if the variation could not have an adverse effect on the promotion of the licensing objectives.
 - i. Otherwise the Council must reject the applications.
 - j. There is no provision for a hearing.
 - k. The decision must be made within 15 working days. If it is not determined within 15 working days, the application is deemed to be rejected.
 - l. A fee of £89 is payable (as opposed to the one of the higher scale fees).

- m. There is no right of appeal to the magistrates' court against the grant or rejection of an application for a minor variation.
3. Notwithstanding these streamlined procedures, it is the Council's practice to include details on its website. The Council will notify ward councillors, if applications raise any particular issues that may interest them.

What is a Minor Variation?

4. A Minor Variation is a variation of a Premises Licence or a Club Premises Certificate which could not have an adverse effect on the promotion of any of the licensing objectives. The legislation uses the words "could not" rather than "will not" or "does not". The Licensing Authority does not have to be satisfied that there will not be an impact on the licensing objectives before rejecting a minor variation but rather that there could not be an adverse effect on the promotion of the licensing objectives.
5. The following changes cannot be dealt with as a minor variation (instead they must be dealt with as a full variation except in the case of (a) and (b)):
 - a. An application to extend the period for which the licence has effect (must be a new application);
 - b. An application to vary substantially the premises to which the licence/certificate relates (must be a new application);
 - c. An application to specify an individual as the premises supervisor;
 - d. An application to add the supply of alcohol as an authorised activity;
 - e. An application to authorise the supply of alcohol at any time between 11pm and 7am;
 - f. An application to authorise an increase in the amount of time on any day during which alcohol may be supplied;
 - g. An application to include the alternative licence condition.

Delegations

6. The determination of Minor Variations has been delegated to Officers, whether or not "relevant representations" are made.
7. "Relevant Representations" are representations which are about the likely effect of the grant of the application on the promotion of the licensing objectives.
8. If relevant representations are made, Applicants should be aware that it is more likely that the application will be rejected or not-determined within 15 working days. Instead the Applicant will have to make an application for a full

variation that may result in a hearing. Applicants are encouraged to have discussions with the Licensing Authority and appropriate Relevant Authorities prior to making applications for Minor Variations, if the application might raise any issues.

9. If there is any doubt, Applicants should make an application for a full Variation.

Examples of Minor Variations

10. Statutory Guidance suggests that minor variations will generally fall into one of four categories:

- a. Minor changes to the structure or layout of premises:
 - i. Must have no adverse impact on the licensing objectives.
 - ii. Changes that could potentially have an adverse impact include:
 1. Increasing the capacity for drinking on the premises;
 2. Affecting access between the public part of the premises and the rest of the premises or the street or public way, block emergency exits or routes to emergency exits;
 3. Impeding the effective operation of a noise reduction measure such as an acoustic lobby.
 - iii. The impact may come from the cumulative effect of a successive number of small layout changes.
- b. Small adjustments to licensing hours:
 - i. Extension of hours for the supply of alcohol to between 11pm and 7am will never be a minor variation;
 - ii. An increase in the amount of time during which alcohol may be supplied will never be a minor variation;
 - iii. Applications to reduce licensing hours for the supply of alcohol will normally be a minor variation;
 - iv. Applications to move (without increasing) licensing hours between 7am and 11pm for the supply of alcohol will normally be a minor variation
 - v. Other applications to vary the licensing hours will be considered on a case by case basis.

- c. The removal of out of date, irrelevant or unenforceable conditions or additional of volunteered conditions;
 - i. The Licensing Authority cannot impose conditions in the case of a minor variation. If the Council feels that the minor variation would impact on the licensing objections unless conditions are imposed, the application will be refused.
 - ii. Applicants may volunteer conditions as part of the minor variation process. They arise from their own risk assessment or informal discussions with Responsible Authorities or the Licensing Authority.
 - iii. Amendments of conditions because of a change in the circumstances that led to the conditions being attached or a change in legislation that invalidates conditions or clarification of unclear or unenforceable wording.

- d. The addition of certain licensable activities:
 - i. Removal of a licensable activity will normally be a minor variation;
 - ii. The addition of the supply of alcohol as a licensable activity will never be a minor variation;
 - iii. Other licensable activities will be considered on a case by case basis and in the light of licence conditions put forward by the Applicant.