

Item No. 10.	Classification: Open	Date: October 8 2009	Meeting Name: Licensing Committee
Report title:		Addendum Report – Minor Variations	
Ward(s) or groups affected:		All	
From:		Strategic Director of Environment & Housing	

RECOMMENDATIONS

1. That the committee notes the additional information set out in this report.
2. That a further report be presented to the licensing committee on the implementation of the new minor variations process.

BACKGROUND INFORMATION

3. This addendum report provides information in respect of Item 10 on minor variations, which was circulated on September 29 2009.
4. Draft constitutional changes were presented to the constitutional steering panel on October 6 2009 for comment. The constitutional steering panel asked officers to seek the views of licensing committee and in particular for officers to clarify the legal situation regarding the changes and the scope of minor variations.
5. It was originally envisaged that these constitutional changes, if approved, would be presented at Council Assembly on November 4 2009. However officers are recommending that members might wish to consider receiving further information on the implementation of these new arrangements.

KEY ISSUES FOR CONSIDERATION

6. In order to put the amended legislation into effect the council needs to do two things:
 - Make a constitutional change
 - Develop the officer protocol setting out the parameters for delegated authority, which must be based on the amended legislation and guidance.
7. A draft protocol will be produced for discussion at a future meeting, in order to provide the licensing committee with the necessary information on the process, how it would operate in practice and to enable members to comment on the protocol and the proposed constitutional amendment. This report seeks the licensing committee's initial views for officers to take into account in preparing the protocol.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

8. The legal position is that with effect from the 1 July 2009 there is a new statutory

framework for the determination of applications for a minor variation of a premises licence. Section 41 of the Licensing Act 2003 (the Act) is amended with effect from 1 July 2009 by the provisions of the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 (SI 1772/2009). This Order amends S41 of the Act by bringing in to force S41A, 41B and 41C. Although these new provisions do not contain a definition of a 'minor variation' they identify the scope of such a variation and in particular state what cannot amount to a minor variation (S41A(3)).

9. In July 2009 the DCMS issued Supplementary Guidance under S182 of the Act in relation to the new minor variations process. The Guidance emphasises that this is intended to be a simplified process (para 8.34) and recommends that decisions on minor variations should be delegated to licensing officers (para 8.36). This latter is a recommendation which reflects best practice but is not a statutory obligation.
10. The council is required to give effect to the new minor variations process, because this is a statutory process. Delegation of this process to licensing officers will require an amendment to the constitution.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 The Licensing Act 2003 (Premises Licences and Club Premises Certificates)(Miscellaneous Amendments) Regulations 2009 Supplementary guidance issued under section 182 of the 2003 Act The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005(b) The Southwark Statement of Licensing Policy 2008-2011	Health Safety & Licensing Unit, The Chaplin Centre, Thurlow Street, London, SE17 2DG	Name: Mrs Kirtikula Read Phone number: 020 7525 5748

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment & Housing	
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Version	Final	
Dated	October 8 2009	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	No	No
Executive Member	No	No
Date final report sent to Constitutional/Community Council/Scrutiny Team		