

## Appendix B

### LICENSING ACT 2003 – APPLICATIONS FOR MINOR VARIATION APPLICATIONS MADE UNDER SECTIONS 41A TO 41C OF THE ACT

#### Process and officer protocol for determining applications

1. Applications for minor variation of premises licences and club premises certificates will be received by the administrative support team.
2. Within 24 hours of receipt of the application, the unit support officer (USO) will record the application on APP and the necessary fee of £89 on SAP in accordance with normal procedures.
3. The application, together with the premises case file, will then be passed to the area principal licensing officer (PLO).
4. Within 24 hours of receipt of the application, the PLO will consider in consultation with a team leader (TL) or in the TL's absence the unit manager (UM) whether any part of the application has any potential impact on any of the four licensing objectives, being:
  - a) The prevention of crime and disorder;
  - b) Public safety;
  - c) The prevention of nuisance; and
  - d) The protection of children from harm.
5. This decision will be reached having regard to the content of the supplementary guidance issued by the Department of Culture Media and Sport (DCMS) under section 182 of the 2003 Act (copy appended) and to the operating history of the premises concerned. If the view is taken that any part of the application has potential impact on any one or more of the licensing objectives then all relevant named responsible authorities must be consulted:
  - a) In the case of the crime and disorder licensing objective, the police licensing office must be consulted as a minimum;
  - b) In the case of the public safety licensing objectives, the health and safety team and the fire brigade must be consulted as a minimum;
  - c) In the case of the nuisance licensing objective, the environmental protection and environmental enforcement teams must be consulted as a minimum; and
  - d) In the case of the protection of children licensing objective the trading standards; the safeguarding children; and the police licensing teams must be consulted as a minimum.
6. The PLO will make a note of this decision and the reasons for it on APP.
7. Within 24 hours of receipt of the application the PLO will inform the USO of the view taken and the USO will ensure that a copy of the application form is forwarded electronically to each responsible authority identified as having an interest. Each authority will be asked to provide electronically, within 10 working days:

- a) Whether they consider that any part of the application has any adverse impact on the licensing objectives;
  - b) If so, to comment upon the licensing objectives that may be adversely affected and how; and
  - c) If not, to confirm that in the view of the authority the application has no adverse impact on the licensing objectives and may be granted.
8. Within 48 hours of receipt of the application relevant ward councillors will be provided with notification of the application for their information. Detail of the application will also automatically be generated on the licensing web site.
9. Within the first 5 working days from the day after the date of receipt of the application, the area enforcement officer (EO) will visit the premises concerned to ensure that one or more copies of the notice of application, complying with the requirements of regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (S) 2005/42, are displayed outside of the premises in a position where they may be easily read (at all times) by passers by. If the notice is correctly displayed, the EO will take a photograph of the notice and place this on record. If the notice is incorrectly displayed the EO will contact the applicant with a view to having the matter rectified and the consultation period will be extended by an appropriate number of days. The notice must give interested parties 10 working days to provide any representations concerning the application to the licensing team.
10. Representations received from either responsible authorities or interested parties will be acknowledged by the USO and recorded on APP.
11. Between the 11<sup>th</sup> and 15<sup>th</sup> working day following the date of receipt of the application, the PLO will check on APP whether any representations have been received within the permitted timescale. The PLO will confirm with the USO that he / she is in possession of all / any representations and will check that each representation received is relevant (i.e. clearly relates to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives).
12. Between the 11<sup>th</sup> and 15<sup>th</sup> working day following the receipt of the application, the PLO will arrange to formally meet with one of the TLs (or the UM if no TL is available) to review the application and any representations received within the permitted timescale. At this stage, the PLO and TL will consider, with reference back to the DCMS guidance and the premises case history, whether the application has any potential adverse effect on any one or more of the licensing objectives. The view reached should be recorded on APP together with the reasons for that view.
13. Notes for officers reviewing applications:
  - a) If any responsible authority concludes in their representation that the application has a potential adverse impact on one or more of the licensing objectives and that the application should not be approved as a minor variation, then officers should normally reach the same conclusion;
  - b) If any responsible authority concludes in their representation that the application has a potential adverse impact on one or more of the licensing objectives, but that the impact may be wholly removed or

reduced by taking a simple stated measure, then the officers should consider whether the proposed measure is sufficient to meet the needs of all parties involved or whether the measure continues to leave potential impact for others. It should be recognised, in particular, that the licensing authority has no power to impose conditions on a premises licence as a result of a minor variation application. If the application requires conditions to be placed on a licence in order to control the potential impacts of the application proposal then the application should be refused and a full variation invited ;

- c) If an interested party concludes in their representation that the application has a potential adverse impact on one or more of the licensing objectives and that the application should not be approved as a minor variation, and this view is not supported by any relevant responsible authority, then officers should give careful consideration to the personal situation of that individual in reaching their view; and
- d) If no representations are received, officers should recognise that this does not lead to an automatic grant of the application and that consideration must continue to be given to the question as to whether the application has potential to adversely impact on one or more of the objectives.

14. Before the 15<sup>th</sup> working day from the date of receipt of the application the TL will recommend to the UM whether the application may be granted or whether the application has potential and unresolved adverse impact on the licensing objective and should be refused. The UM will review the case and make a final decision on the matter and record that decision. The decision will be either that

- a) The application is considered not to have any adverse impact on the licensing objectives and is agreed with immediate effect; or
- b) The application or part of the application is considered to have adverse impact on the licensing objectives and is refused.

15. Before the 15<sup>th</sup> working day from the date of receipt of the application the USO will inform the applicant and all other involved parties of the decision.