

**To:** Licensing and Gambling Acts Committee

**Date:** 8 February 2010 **Item No:**

**Report of:** Head of Environmental Development

**Title of Report:** Minor Variations – Scheme of Delegation

### Summary and Recommendations

**Purpose of report:** To detail the introduction of the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009.

**Report Approved by:**

**Finance:** Gillian Chandler

**Legal:** Daniel Smith

**Policy Framework:** Statement of Licensing Policy

**Recommendation(s):**

**Committee is requested to:**

- (a) Consider the information contained in this report in respect of the Legislative Reform Order and agree and confirm the necessary consequential changes to the Scheme of Delegations.
- (b) Recommend to Council to formally adopt the amended Scheme of Delegations.
- (c) Request the Head of Law & Governance to make any consequential amendments to the Constitution.

1. The purpose of this report is to detail the introduction of the 'Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009' (Statutory Instrument No.1772/2009) and the consequential amendments required to the scheme of delegations under the Licensing Act 2003.

## **2 INTRODUCTION**

- 2.1 The minor variations process allows for licence holders to make certain variations to their premises licence or club premises certificate, subject to specific restrictions. This enables the licence holder to make

relatively minor variations to their premises, and the licensable activities they carry out, without being required to go through the full variation process which would be more time consuming and costly to the applicant.

- 2.2 The Guidance issued by the Department for Culture, Media and Sport (DCMS) specifically excludes certain types of variation from the minor variation process. This includes variations to extend the hours during which alcohol may be sold beyond 11pm and before 7am and increasing the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.
- 2.3 The Guidance also specifies that where a minor variation application is received the Licensing Authority must consider whether it is likely to have a significant impact on the four licensing objectives.

### **3 THE ISSUES**

- 3.1 The minor variations process provides for a ten working day consultation period from the date the application is received by the Licensing Authority. The Licensing Authority consults those Responsible Authorities that it considers are relevant to the particular application. The applicant is required to display a white notice (in place of the blue notice required for a full variation application) at the premises to which the application relates to inform local residents living in the vicinity.
- 3.2 If no representations are received from any Responsible Authority or Interested Party, the application will be granted at officer level in line with the current scheme of delegations. However, if representations are received and remain outstanding, these must be considered before the application may be granted or refused.
- 3.3 The Legislative Reform Order requires that a determination as to the application must be made within 5 working days of the end of the consultation period. If the Licensing Authority believes that the minor variation application cannot be granted without the addition of further conditions to the licence, the Authority is required to refuse the application.
- 3.4 Due to the short timescales during which the application must be determined, Guidance issued by the DCMS recommends that minor variation applications are determined at officer level.

### **4 PROPOSED ACTION**

- 4.1 The committee is requested to thoroughly review the above information and the Guidance notes attached at **Appendix One** and determine whether it is appropriate to amend the current scheme of delegations to reflect the guidance issued by the DCMS.

## **5 FINANCIAL IMPLICATIONS**

- 5.1 There are no specific resource implications in respect of the changes to the scheme of delegations. Any increases in officer workload will be met within current staffing resources, already funded to enable the Authority to comply with the overall requirements of the legislation.

## **6 LEGAL IMPLICATIONS**

- 6.1 The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 came into effect on 29 July 2009. The Licensing Authority is required to accept applications under the minor variations process and must determine them within the specified time periods.

## **7 RECOMMENDATION**

- 7.1 The committee is **RECOMMENDED** to:
- (a) Consider the above information in respect of the Legislative Reform Order and agree and confirm the necessary consequential changes to the Scheme of Delegations.
  - (b) Recommend to Council to formally adopt the amended Scheme of Delegations.
  - (c) Request the Head of Law and Governance to make any consequential amendments to the Constitution.

### **Appendices:**

Appendix One Supplementary Guidance issued under Section 182 of the Licensing Act 2003 (July 2009)

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### **Background papers:**

**Version number: 1.0**