

LICENSING COMMITTEE: 9 September 2008

Report of the Chief Strategic Planning and Environment Officer

**MINOR VARIATIONS AND REMOVAL OF PERSONAL LICENCE HOLDER
REQUIREMENTS FROM COMMUNITY PREMISES**

1. Background

- 1.1 On 4 August 2008 the Department of Culture Media and Sport (DCMS) issued a Licensing consultation document seeking views on the making of a Legislative Reform Order to implement proposals to introduce a new minor variations process and to remove certain requirements at community premises.
- 1.2 The Consultation Document is concerned with two proposals which are aimed at simplifying the licensing process under the Licensing Act 2003 and removing unnecessary burdens on Premises Licence and Club Premises Certificate holders. The first proposal seeks to introduce a new, simplified process for making minor variations to premises licences and club premises certificates. The second proposal seeks to remove the requirement for a Designated Premises Supervisor and personal licence for community halls. The Government has previously consulted on policy options.
- 1.3 The Legislative and Regulatory Reform Act 2006 (the 2006 Act) enables the Crown, with the approval of Parliament, to make a legislative reform order remove or reduce a burden falling directly or indirectly on any person. In this case the consultation document provides details of the draft order that will amend the Licensing Act 2003.

2. Details.

- 2.1 The authority as a Scrutiny Council providing advice to the DCMS has made representations that a minor variation procedure be adopted and that village halls and community centres be excused from the need to have a Designated Premises Supervisor (DPS) at the premises, in the interests of effective administration. The Government as part of its legislative simplification review had taken these concerns and consulted on the issues widely. It is now proposing to put the two proposals into effect.

2.2 Introduction of a Minor Variation Procedure

The government is proposing that premises licence holders may apply for a minor variation to their premises to the licensing authority providing it does not

'substantially vary the premises', extend the period during which the licence has effect, change the premises supervisor (for which there is a separate process), or authorise or extend the hours for the sale of alcohol.

The licensing authority would be under a duty to consult the statutory responsible authorities under the Act, take account of their comments relating to the application, and to respond to the applicant within ten working days either allowing the variation or requiring the applicant to undertake the full variation procedure.

Advice to licensing authorities will be published in amended guidance issued under section 182 of the Act. An application fee of £73 has been proposed.

2.3 Disapplication of Personal Licence Holder.

This part of the consultation looks at an amendment to the Licensing Act which would allow the management committees of community premises to seek the disapplication of the mandatory conditions requiring a personal licence holder to be present to authorise the sale of alcohol and to be named as the DPS on a Premises Licence.

Community premises are defined within the draft regulations as church halls, chapel halls or similar buildings; village halls, parish halls, community halls or other similar buildings. The proposal would only apply to community premises with a formal management or executive committee. Such premises do not normally have permanent staff who could qualify as a DPS and so they are unable to apply for a Premises Licence. They therefore have to rely on Temporary Event Notices which restricts the number of events that can be held at the premises.

It is therefore proposed that the draft Legislative Reform Order will amend the Licensing Act to allow community premises to seek the disapplication of the mandatory conditions relating to personal licence holders and the DPS. The authority would consider the application in the usual way and could impose the requirements should this be thought necessary following an application for Review. The proposed order would also enable the statutory Guidance to local licensing authority's to be supplemented and an appropriate fee to be charged to applicants to recover the full costs of administering the disapplication process where this is not part of an application for a new premises licence or variation of an existing premises licence.

3. Achievability

This report contains no equality personnel or property implications.

4. Legal Implications

- 4.1 This report is for information only, as at this stage there are no legal implications arising directly from it.

5. Financial Implications.

- 5.1 The permitted fees under the Licensing Act 2003 are set nationally by the Government which has indicated that it will set fees at a level that would achieve full recovery of the administrative, inspection and enforcement costs falling on any licensing authority associated with their licensing functions. They have recommended that the fee for an application for a Minor Variation should be set initially at £73.00 with the fee for the disapplication of the requirement for a DPS be set at £23.00.
- 5.2 It is anticipated that at this level the fees would be adequate to cover the provision of the function at the expected level.

6. Recommendation

It is recommended that the report be noted.

SEAN HANNABY **12 August 2008**
CHIEF STRATEGIC PLANNING AND ENVIRONMENT OFFICER

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: None