

For the attention of Nigel Wakelin  
Licensing Team  
Sport & Leisure Directorate  
2-4 Cockspur Street  
London  
SW1Y 5DH

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
Our ref: JM12/20594.9999/MCPHE

Your ref:

27 August 2008

When telephoning please ask for: Joanne McPherson

Dear Sirs

### **Licensing Consultation - Proposals to Introduce a New Minor Variations Process**

We refer to the above consultation and respond in relation to the proposals set out at Section 2 of the consultation, on minor variations to premises licenses and club premises certificates. We respond on behalf of Bristol City Football Club.

We welcome the proposals for a new simplified minor variations process under the Licensing Act 2003 ("the Act").

#### **1 Draft Order**

We agree that the draft order reflects the new minor variation process described at Section 2 Chapter 1 of the consultation document. However in addition to the provisions as currently drafted we suggest that section 41B includes wording to the effect that, where an authority rejects the application for a minor variation, the full variation process will apply as set out at sections 34-40 and 84-86 of the Act. We also suggest that the draft order specifically states that there is no right of appeal against a decision to reject an application for minor variation.

#### **2 Draft Supplementary and Revised Statutory Guidance on Variations**

We welcome the introduction of detailed guidance in relation to the minor variations process particularly as the draft order leaves the definition of a minor variation at the discretion of each individual licensing authority. Although we would have preferred more detailed guidance to be included in the amended Act itself, we welcome the further assistance provided in the guidance note.

#### **Minor Variations Process**

At paragraph 8.37 we note that the guidance states that in considering an application, the licensing officers should consult relevant responsible authorities as appropriate. In some cases the licensing officer may be able to make a decision without consultation. We suggest that it may be useful to include more information on the specific cases where it would be considered unnecessary to consult with other authorities.

WORK\8177605\w.1

[REDACTED]  
[REDACTED]  
[REDACTED]



INVESTOR IN PEOPLE

## Four Categories of Minor Variations

### Changes to Structure/Layout

One example of a category of minor variation provided is changes to structure/layout. In relation to this, at paragraph 8.41, the guidance states that changes to layout should normally be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives. Examples are then provided of increasing the capacity for drinking on the premises, affecting access and impeding noise reduction.

We would point out that **increasing the capacity of drinking on the premises may not always have an adverse impact on the promotion of the licensing objectives if this is for a relatively small increase of capacity or if the change to structure/layout is to merely make the space available larger to increase comfort for users.** We would therefore suggest that paragraph 8.41 be amended to state that the examples provided do not automatically adversely impact on the licensing objectives and would suggest that wording be added to state that the examples listed **must produce a "substantial" adverse effect.** Thus, the first example would read "including the capacity for drinking on the premises so as to produce a substantial adverse impact".

### Further Detail

We note that in relation to the four categories of minor variations, two of those categories (Licensable Activities and Licensing Hours) have more detailed bulleted points for licensing officers to consider as factors to take into account when deciding whether there is a minor variation. We would welcome the more detailed approach and information contained in the bullet points to be added in relation to the other two categories of minor variations (Changes to structure/layout and Licensing conditions) as we believe this would provide assistance. We also suggest that the provision of both positive and negative examples, in relation to the categorisation of minor variations, would aid in interpretation of a minor variation.

### **Statutory time period**

We note that at present the draft order provides that a determination must be made within the period of ten working days. The consultation document states that the recommendation is that there is no formal requirement on the licensing authority to take any specific action if they do not respond within ten working days. However, there is a recommendation that where a licensing authority fails to respond within the statutory time limit the applicant must re-apply and no further fee will be chargeable. In addition, where the licensing authority consistently fails to respond within ten working days, the matter could be referred to the Local Government Ombudsmen, the Public Services Ombudsmen for Wales or the Local Better Regulation Offices that will come into force during 2008.

We note that these provisions are not included in the actual guidance note at present and therefore would suggest that the suggested procedures should be specifically set out in any guidance accompanying the Act. We suggest that where a licensing authority fails to respond within the statutory time limit and the applicant must re-apply, the fact that the further application fee should not be chargeable should be specifically included in the guidance, or else the applicant runs a risk of prejudice from a licensing authority's inertia.

## **3 Proposed Application Fee**

We believe that the recommended fee is set at the correct level.

#### 4 Application Form

We feel that the form contains all of the information that would be necessary to identify a minor variation. We feel that the degree of information that is required would still require the input of legal advisors in a number of cases.

In the "Notes for Guidance" we would point out as we have previously noted, in terms of variations to premises/club layout (as at point 2b)) the examples should state that they would have a "substantial adverse effect".

We believe that the form would provide sufficient information for a licensing officer to decide whether a variation is minor.

#### 5 Impact Assessment

We agree that a substantial costs saving would be made by making a minor variation under the procedure as set out in the consultation compared to a full license variation under the previous provisions. We cannot however comment on the administrative and other associated costs as set out in the impact assessment.

We thank you for the opportunity to respond to this consultation.

Yours faithfully

