

Questionnaire 1: Minor variations to premises licences and club premises certificates

QUESTION 1: Do you agree that this draft Order accurately reflects the new minor variation process described at Section 2, Chapter 1 of this Consultation Document? **Yes**
If No, please describe in detail how you think the draft Order should be amended.

QUESTION 2: Does this draft Guidance (Section 2, Chapter 3) provide sufficient advice to assist licensing officers in coming to a decision on whether a variation is minor? **No**

If No, please describe in detail what additional Guidance should be provided.

We are pleased to see that the Order specifically excludes the sale of alcohol, which we support and also calls attention to the need for the Licensing Officer to take account of whether the changes involve later opening or additional activities between 23:00 and 07:00.

However we believe that the scope for the licensing officer to make a mistake in considering the test is still too wide. The test given is stated as:

whether the proposed variation could impact adversely on the four licensing objectives.

However the intention of the change is to only allow minor changes which WILL NOT impact on any of the Licensing Objectives. Having been involved already in numerous applications and Licensing Panels we have seen that Licensing Officers and Panel members have widely differing views on what sort of thing “could impact” on the Licensing Objectives.

We believe that the test should instead be stated as:

Whether the proposed variation will **not** adversely affect on any of the Licensing Objectives.

The list of types of variation given above the definition in 8.4 could all pass this test. However we believe that substituting “will not” instead of “could” requires the applicant to justify the change more precisely.

The example of the form itself perhaps illustrates why this change is needed. The question in part 3 is currently phrased as :

Please describe the proposed variation (s) in detail in the box below and explain why you consider that they could not have an adverse effect on the promotion of any of the licensing objectives.

We think that using “could” allows the applicant to think “there is a possibility that there will be an increased noise but probably no-one will notice it so it isn’t actually nuisance”. We prefer that this is phrased more definitely as

Please describe the proposed variation (s) in detail in the box below and explain why you consider that they will not have an adverse effect on the promotion of any of the licensing objectives.

We also consider the fact that the guidance suggests that applicants may be able to make a variation appear minor by proposing conditions to mitigate the impact suggests that the variation is not minor at all.

QUESTION 3: Do you agree that there is no need for any specific action in the event that a licensing authority is unable to respond to the applicant within the statutory time period? (See Section 2, Chapter 3) **Yes**

QUESTION 4: Do you think the recommended fee (Section 2, Chapter 4) is a) right, b) too low, or c) too high?

c) too low

We think that 15 minutes of officer time is much too little for an officer to answer the question required to make the decision. There are at least 10 items for the officer to consider given in the guidance and to look at an application, understand it by comparison with the existing licence and then reach a decision on these 10 items will in most cases take at least 30 minutes rather than 15. We believe at the fee should therefore be set at £91 or higher.

We also do not believe that the costs per hour quoted are appropriate for the Licensing Authorities based in London, where there are a large number of licensed premises.

What we wish to avoid is that the fee is set so low that Licensing Officers are then given a target for how fast to reply, miss important information and allow the application to be treated as minor when it is not.

QUESTION 5: Do you think that applicants will be able to complete this form (Section 2, Chapter 5) easily without seeking legal advice? **Yes**

QUESTION 6: Does this form (Section 2, Chapter 5) provide sufficient information for a licensing officer to decide whether a variation is minor? **No?**

If No, please specify what additional information should be provided

We believe that the applicant should be required to list any elements of the operating schedule which he plans to introduce to minimise the impact of the changes in a section similar to section P of the full application form, ie listed by Licensing Objective.

QUESTION 7: Do you agree with the costings in this Impact Assessment? (Section 2, Chapter **No**

We believe that if the minor variations process is instituted as currently proposed then there is likely to be an increase in the number of reviews instituted by interested parties. The process is assumed to apply to 5,400 applications annually. If in 5% of cases the wrong decision is reached and a review is later needed which could have been avoided if the full process had been followed then there will be 270 additional reviews. We estimate the cost of a review to be £3,000 (£1,000 for each of the applicant, the licensing authority and the interested party) then the additional costs would be £870,000. This represents between ½ and 1/3 of the total saving assumed.

Questionnaire 2: Remove the Requirement for Designated Premises Supervisor

QUESTION 1: Do you agree that this draft Order accurately reflects the new process described at Section 3, Chapter 1 of this Consultation Document to allow the disapplication of mandatory conditions relating to the sale of alcohol in relation to community premises?

Yes

QUESTION 2: Does this draft Guidance (Section 3, Chapter 3) provide sufficient advice to assist licensing officers in coming to a decision on whether a premises meets the requirements set out in the proposed s25A(6) of the 2003 Act to allow the disapplication of the mandatory conditions relating to personal licence holder and DPS? **No**

We believe that there is one element missing from the guidance and that is the recognition that some community facilities, whilst having many other functions, have one area which mainly used for the purposes of providing licensable activities (usually the sale of alcohol) though having a bar which is open most of the time. We believe that in these cases there does need to be a DPS nominated.

We believe that an additional paragraph after 4.38 should be inserted which says:

It is also necessary to take into account whether any part of the premises is predominately used for the provision of a licensable activity, This could include a village hall which has a bar area in a side room which is open to local residents during the evening 6 days per week. In this case it is possible to take the view that the licensable activity in this area needs to have a qualified DPS but that if the hall area is a community facility and does not require one.

QUESTION 3: Do you think the recommended fee (Section 3, Chapter 4) is a) right, b) too low, or c) too high?

No view

QUESTION 4: Do you think that applicants will be able to complete this form (Section 3, Chapter 5 easily without seeking legal advice? Yes/No.

No view

QUESTION 5: Does this form (Section 3, Chapter 5) strike the right balance between providing sufficient information for a licensing officer to decide whether a hall is a community premises and has an adequate management structure and minimising burdens on applicants? **No**

There should be a question asking “if any part of the premises is predominately and regularly used for a licensable activity and if so does the application include this part of the premises.”