

**BABERGH DISTRICT COUNCIL**

**FROM:** Head of Natural and Built Environment

**REPORT NUMBER:** **J64**

**TO:** LICENSING AND APPEALS COMMITTEE

**DATE OF MEETING:** 6 AUGUST 2009

**LICENSING ACT 2003 - 'MINOR VARIATION' PROCEDURES**

**1. PURPOSE OF REPORT**

- 1.1 This report refers to arrangements for integrating the recently passed 'Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009' (Statutory Instrument No:1772 of 2009) into Babergh District Council's duties and procedures under the Licensing Act 2003.
- 1.2 Specifically this report is recommending that the delegation scheme be updated to incorporate the necessary addition, and delegate determination of matters relating to minor variations to officers. The legislative changes and guidance accompanying the order assume that this will be an officer function.

**2. RECOMMENDATIONS**

- 2.1 That an amendment to the existing delegation scheme relating to determination of 'minor variation' applications under the Licensing Act 2003, in accordance with the proposed updated scheme attached as Appendix 1 be approved.

The Committee is able to resolve this matter.

**3. FINANCIAL IMPLICATIONS**

- 3.1 This is a statutory function, and failure to make responsive changes prompted by legislative reform of the Licensing Act 2003 may leave the Council open to legal challenge and loss of efficiencies.
- 3.2 Due to the strict fifteen working day deadline for determining minor variation applications made under sections 41a or 86a of the Licensing Act 2003, failure to delegate responsibility to officers may make the system unworkable and result in unnecessary hearings, refunding of prescribed fees and increased risk of legal challenge.

**4. RISK MANAGEMENT**

- 4.1 Key risks are set out below:

<b>Risk Description</b>	<b>Likelihood</b>	<b>Seriousness or Impact</b>	<b>Mitigation Measures</b>
Failure to respond to legislative changes or set delegations at an appropriate level may result in unworkable or avoidable licensing processes, and have a financial and efficiency impact on the Council.	High	Critical	Member review of legislative changes and assessment of the impacts these may have. Reviewing delegation scheme in appropriate cases.

5. **KEY INFORMATION**

- 5.1 In accordance with section 7(1) of the Licensing Act 2003, all matters relating to the discharge of the Licensing Authorities' functions under the Licensing Act 2003 lie with the Licensing and Appeals Committee. There are certain exceptions to this - mainly relating to the Statement of Licensing Policy which require a full Council resolution.
- 5.2 The Licensing and Appeals Committee may delegate some of its functions under the Act to its sub-committee or officers, and an officer delegation can apply to determinations arising from 'Minor Variations' reform order. Indeed it is the intention of the reform that these matters be dealt with in a speedier, less onerous or costly manner for the benefit of the licence/certificate holder.
- 5.3 The scheme of delegations under the Licensing Act 2003 is attached as Appendix 1, and this incorporates the suggested update to include a delegation to officers for 'Minor Variations' determinations.
- 5.4 The Principal Licensing Officer intends to conduct a short powerpoint training session, prior to the Committee meeting on 6 August 2008, for the benefit of members and key officers on the detail of the 'Minor Variations' Legislative Reform Order. That being the case, this report does not go into detail of the reform.

6. **APPENDICES**

Appendix 1: Licensing Act 2003 - Scheme of Delegations (Updated Draft).

7. **BACKGROUND PAPERS REFERRED TO:**

None

**CONTACT:** Lee Carvell  
(Principal Licensing Officer)

**EMAIL:** [lee.carvell@babergh.gov.uk](mailto:lee.carvell@babergh.gov.uk)

## LICENSING ACT 2003: SCHEME OF DELEGATIONS (UPDATED DRAFT)

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/ club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If police objection	All other cases
Application to review premises licence/ club premises certificate		All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc			All cases in consultation with a member of the Licensing Committee
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police representation to a temporary event notice		All cases	
<b>Determination of minor variation applications for premises licences and club premises certificates</b>			<b>All cases</b>