

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Licensing and Gambling Acts Committee

17th October 2022

Report of the Head of Legal Services – Craig Griffiths

Matter for Decision

Wards Affected: All

Licensing Act 2003 - Minor Variations

Purpose of the Report

1. To obtain member approval for officers to determine minor variation applications which remove conditions from premises licences and club premises certificates in respect of Security Industry Authority ("SIA") registered door supervisors.

Executive Summary

2. Members are being asked to consider whether conditions attached to premises licences and club premises certificates in respect of SIA registered door supervisors, should be removed utilising the minor variation process.
3. It is proposed that such removals are only carried out, where there are no objections received in relation to the application.

Background

4. The Licensing Act 2003 requires that any person wishing to vary their premises licence, submits an application to the Licensing Authority.

5. There are two processes whereby an applicant can vary a licence; the full variation process and the minor variation process.
6. Both types of variation must be advertised in the prescribed manner and allows "Responsible Authorities" or "Other Persons" to submit representations in respect of the application.
7. A full variation must be advertised in the local newspaper, attach a notice to the premises for 28 days, and submit the application to all the responsible authorities. Where representations are received in respect of the application, the Licensing Authority must hold a hearing to consider the representations before determining the application.
8. A minor variation allows variations to a premises licence through a simplified procedure. Advertising of the application is only by way of a notice on the premises for 10 working days and the Licensing Authority determines which responsible authorities to consult with. Where there are representations in respect of the application, there is no provision for a hearing, the application is determined by officers.
9. Where an application for a minor variation is refused and the applicant still wishes to pursue the variation, then this must be done through the full variation process.

Officer Report

10. The night-time economy restarted following the end of the pandemic, however, there has been many reports of shortages of staff in certain industries; one sector particularly affected has been the availability of SIA registered door supervisors.
11. Most alcohol licensed premises with late operating hours, will have a condition attached to the licence requiring that the premises provides SIA registered door supervisors between certain times.
12. SIA registered door supervisor conditions are usually requested by the Police during the application period and then either agreed with the applicant or imposed by the Licensing and Gambling Acts Committee at a hearing.
13. Ordinarily, officers would not remove conditions from a licence under the minor variation process where the conditions have been imposed by

members; licence holders would usually be directed to use the full variation process.

14. It is considered however, that due to the difficulties being experienced by the trade in obtaining the services of SIA registered door supervisors and consequently their compliance with licence conditions, the minor variation process should be used to amend the wording of door supervisor conditions.
15. In addition, information from the Police Licensing Officer supports the move towards a risk assessed system of when SIA registered door supervisors are required at premises. A letter containing the information received from the Police is attached at appendix 1.
16. It is proposed therefore that officers will determine minor variation applications to remove / amend SIA registered door supervisor conditions, currently attached to premises licences and club premises certificates. This would be the case whether such conditions were attached voluntarily by the applicant during the application process or imposed by the Licensing Committee at a hearing.
17. Officers will however only make such determinations where there are no representations in respect of the application from any of the responsible authorities.

Legal Impacts

18. There is no right of appeal against the decision to approve or refuse a minor variation application. Where a minor variation application is refused, the applicant must submit a new application, using the full variation process.
19. There is a right of appeal to the Magistrates' Court against a decision made in respect of a full variation.

Risk Management

20. Not Applicable

Consultation

21. Consultation for specific applications is carried out in accordance with the Licensing Act 2003.

Recommendation

22. That members support the proposal for officers to determine minor variation applications to remove / amend SIA registered door supervisor conditions attached to premises licences and club premises certificates.
23. That officers only make such determinations where there are no representations in respect of the application from any of the responsible authorities.

Reasons for Proposed Decision

24. To assist the licensed trade to comply with licence conditions and to ensure that the licensing objectives are not undermined.

Implementation of Decision

25. The decision is for immediate implementation

Appendices

26. Appendix 1 - Letter from Police

List of Background Papers

27. Neath Port Talbot Licensing Policy

<https://www.npt.gov.uk/media/14952/licensing-act-2003-draft-licensing-policy-2021.pdf?v=20210923150929>

28. Secretary of State's Guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Officer Contact

29. Neil Chapple
Legal Regulatory Manager
Tel (01639) 763050
Email n.chapple@npt.gov.uk