

Licensing Committee

Tuesday 22 September 2009 7.30 pm

**Council Chamber
Runnymede Civic Centre, Addlestone**

Members of the Committee

Councillors Mrs P I Broadhead (Chairman), R N Jones (Vice-Chairman), Mrs F J Barden, R J Edis, P A Francis, Mrs E Gill, Mrs M T Harnden, C Knight, D W Parr and Mrs M Roberts.

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

A G E N D A

Notes:

- i) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- ii) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss C. Pinnock, Administration and Leisure Department, Committee Section, Runnymede Civic Centre, Station Road, Addlestone (Tel. Direct Line: 01932 425627). (Email: clare.pinnock@runnymede.gov.uk).**
- iii) Agendas and Minutes are available on a subscription basis. For details, please ring Mr. B.A. Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on www.runnymede.gov.uk.
- iv) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

LIST OF MATTERS FOR CONSIDERATION

PART I

Matters in respect of which reports have been made available for public inspection

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PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

a) Exempt Information

(No reports to be considered under this heading).

b) Confidential Information

(No reports to be considered under this heading)

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire or other emergency.

2. MINUTES

To confirm and sign, as a correct record, the Minutes of the meeting of the Committee held on 10 June 2009 which were included in the July 2009 Minute Book, previously circulated.

3. APOLOGIES FOR ABSENCE

4. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

5. FINANCIAL MONITORING STATEMENT (DF)

(Ref: Minutes of the Licensing Committee, June 2009, page 46, para 61)

1. Purpose of Report

1.1 **The purpose of this report is to inform the Committee of the latest financial projections for the 2009/10 financial year for licensing services.**

2. Background Information

2.1 The Financial Monitoring Statement was introduced to all Committees in September 2006 to inform Members of the current financial position of the services under the remit of each Committee.

2.2 Each statement reflects an updated position based upon the 2009/10 original estimates approved by this Committee in January. The Financial Forecast previously approved by Council in December 2008 has now been updated to reflect changes made during the updating of the Council's Revenue Estimates.

3. Report

3.1 The statement attached at Appendix 'A' is split into three parts:

- Projected budget and forecast
- Savings still to be delivered
- Current year key budget indicators

3.2 The Projected budget and forecast sections show any anticipated variations in the current year's budget. These variations are categorised as approved changes and other potential changes. Implications for the following three years are included for completeness so that the full-year effect of any changes can be seen.

3.3 There are two changes to the approved budget in this first section. The first results from a new revenue reductions target approved by the Corporate Management Committee on 3 September which resets the budget for general office expenses to a level reflecting past spending patterns. The other change is a result of the potential new fee structure for minor variations as set out elsewhere on this agenda.

3.4 The achievement of the revenue reductions programme approved by the Council is one of the Council's key performance indicators. Savings targets are reported in the second section of each statement. These savings are all incorporated into the projected budget and forecast figures in section one.

- 3.5 The final section sets out the key budget indicators for the significant areas of this Committee's budget. This indicates the actual income received set against the amount expected (the budget) for the period covered by each statement. Whilst this shows some minor variations for the period, it is anticipated that these are purely timing issues and are not expected to affect the final outturn position.

(FOR INFORMATION)

Background Papers

None stated.

6. LICENSING ACT 2003 - NEW PROCESS FOR MINOR VARIATIONS (DTS)

1. Purpose of Report

1.1 **The purpose of this report is to:**

- i) **inform Members of forthcoming changes to the Licensing Act 2003 with regard to minor variations;**
- ii) **request delegated authority to Officers to grant or refuse minor variations;**
- iii) **seek approval to use the provisions for dealing with urgent actions under Standing Order 42; and**
- iv) **amend the Licensing Policy 2008- 2010 and the Council's Constitution to reflect these changes accordingly.**

2. Background Information

2.1 The Licensing Act 2003 ("the Act") has been amended by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 ("the Order") to introduce what the Government has described as a simplified process for minor variations to premises licences and club premises certificates.

2.2 The Order was made on 30 June 2009, published on 9 July 2009 and became effective from 29 July 2009.

3. Report

3.1 Currently, holders of licences and certificates who wish to amend their licences/certificates have to apply to the Licensing Authority, pay a prescribed fee, serve copies of the application on all the Responsible Authorities and advertise the application in the local press and at the premises. If a Responsible Authority or an Interested Party makes a valid objection within a period of 28 days, then the application is referred to a meeting of the Licensing Sub-Committee to determine.

3.2 A summary of the new process for minor variations is set out below:

- An applicant will still be required to submit an application to the Licensing Authority and pay a prescribed fee of £89;
- An applicant will not be required to advertise the application in the local press or copy it to the Responsible Authorities;
- An applicant will be required to display notice of the application at the premises on a white notice (to distinguish it from the blue notice used for full variations and new applications), for a period of 10 working days;
- On receipt of an application, the Licensing Authority must consult relevant Responsible Authorities if there is any doubt about the impact of the variation on the licensing objectives and take their views into account in reaching a decision.

However, there is no requirement to consult all Responsible Authorities on each application and, according to the Government's guidance, in many cases the Licensing Authority may be able to make a decision without consultation;

- The Licensing Authority must also consider any relevant representations received from Interested Parties which have been submitted within the period for making objections (10 working days from the day after the Licensing Authority receives the application);
- The Licensing Authority must determine the application no later than 15 working days (calculated from the first working day), after the Authority received the application. However, the Authority cannot determine the application earlier than the 11th working day because the Authority has to wait for the objection period to lapse;
- The Licensing Authority either grants the application for the minor variation or it is refused. The Licensing Authority cannot impose any conditions. There are no rights of appeal; and
- If the Licensing Authority fails to make a decision in time then the application is deemed to be refused and the application fee must be returned to the applicant.

3.3 The Order does not define what a "minor variation" is. The Government's guidance states that minor variations will generally fall into 4 categories: (1) minor changes to the structure or layout of a premises; (2) small adjustments to licensing hours; (3) the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and (4) the addition of certain licensable activities. The Order states that the minor variation process cannot be used if the application:

- is to extend the period for which a premises licence has effect;
- varies substantially the premises;
- is to change the Designated Premises Supervisor;
- is to add the sale of alcohol as a licensable activity; or
- is to authorise the sale of alcohol at any time between 2300 and 0700hrs or to increase the amount of time on any day during which alcohol may be sold.

3.4 There is no requirement for a hearing. The very short time allowed for completing the process suggests that the only practical way of determining applications is by an Officer considering the application and any relevant representations without a hearing taking place. The Government's guidance, which the Licensing Committee must have regard to, recommends that decisions on minor variations should be delegated to Licensing Officers. This view is endorsed and recommended because the process relates to minor variations, as opposed to major ones, and the time for completing the process is very short (3 weeks).

3.5 The need to bring this matter to the Committee highlights the case that on occasion it may be necessary to obtain a decision at short notice or in case of urgency, for which there is presently no procedure available, such as the Council's Standing Order 42 procedure. Officers consider it would be useful for such a procedure to be available for matters under the Licensing Act 2003 and accordingly Officers recommend that matters of urgency be dealt with under Standing Order 42 and the necessary delegation be approved.

4. Council Policy

4.1 The Council is required to have a Licensing Policy. This is reviewed at least every three years and will need to be updated to reflect any changes made as a consequence of this report.

4.2 The amended policy is attached at Appendix 'B' and has also been updated to reflect the new procedure for dealing with film licensing following the demise of the Surrey County Districts Film Licensing Joint Committee as reported to this Committee in April this year.

5. Resource Implications

- 5.1 As with all fees payable under the Licensing Act 2003, the current fees for variations are prescribed by regulation and the licensing authority has no discretion over them. The fee charged depends upon the non domestic rateable value of the premises and ranges from £100 to £1,905 depending upon the band in which it lies. The majority of licensed premises within the borough are in bands B (£190) and C (£315).
- 5.2 The Government has set the fee for a minor variation at £89 regardless of banding.
- 5.3 It is difficult to forecast the income that the Council will receive for variations as it depends upon the number of applications; what percentage of these applications are minor and what fee band they are in. In the unlikely event of every variation being 'minor', based on the current number of applications to vary, the maximum potential loss of income would be £800.
- 5.4 However, there is a counter-possibility that more applications might be made for minor variations as the cost would previously have persuaded applicants to leave things as they were. Some may also apply to add or vary conditions as an alternative to being subject of an application for Review.
- 5.5 Officers estimate that the Council may suffer a loss of income of around £800. At a time when the Council is looking for revenue reductions in the region of £1.6 million, this is an unwelcome development, and additional savings will need to be found elsewhere to compensate.

OFFICERS' RECOMMENDATION that –

- i) the power to grant or refuse applications for minor variations of a premises licence or club premises certificate be delegated to the Director of Technical Services;**
- ii) in the case of urgent action which would ordinarily need decision or authority of the Licensing Committee or a Sub-Committee of it but which cannot reasonably be delayed until the next meeting of the Licensing Committee or sub-committee, the discharge of the functions exercisable by the Licensing Committee or a sub-committee of it be delegated to Officers to be exercised in accordance with Standing Order 42 of the Constitution of the Council; and**
- iii) the Licensing Policy and Constitution be amended accordingly**

(TO RESOLVE)

Background Papers

None stated.

7. LICENSING SUB-COMMITTEE – MINUTES (DAL)

Attached at Appendix 'C' are the Minutes in respect of one matter determined by the Licensing Sub-Committee in accordance with the Licensing Act 2003.

	Date	Premises	Ward	Application type	Decision
1	21/07/09	The Queen's Arms	Addlestone Bourneside	premises licence variation	approved with conditions

(FOR INFORMATION)

Background Papers

None.

8. EXCLUSION OF PRESS AND PUBLIC

If Members are minded to consider any of the foregoing items in private, it is the

OFFICERS' RECOMMENDATION that -

where appropriate the press and public be excluded from the meeting during discussion of the report(s) under Section 100A(4) of the Local Government Act 1972 on the grounds that the report(s) in question would be likely to involve disclosure of exempt information of the description specified in the appropriate paragraphs of Part 1 of Schedule 12A of the Act.

(TO RESOLVE)

PART II

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