

Guidance Notes to Applicants for Minor Variations

Introduction

A Minor Variation is a simplified process to make small variations to premises licences and club premises certificates, which will not impact adversely on the licensing objectives.

This guidance is for applicants for minor variations to existing Premises Licences and Club Premises Certificates. It tells you the information you need to make an application.

These Guidance Notes are not comprehensive, or a substitute for reading the legislation. For more detailed, technical, or legal advice, you should consult professional advisors.

The East Herts Council Statement of Licensing Policy is currently under revision to include reference to the Minor Variation Procedure.

What is excluded from being a Minor Variation?

Variations

- to add the sale or supply of alcohol, and;
 - to extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
 - to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises, and;
- to extend a time limited licence; or
- to transfer a licence from one premises to another.

are excluded from the minor variations process and must be treated as full variations or new applications in all cases.

What can I apply for as a Minor Variation?

You can apply for:

- minor changes to the structure or layout of a premises;
- small adjustments to licensing hours;
- the removal of:
 - out of date,
 - irrelevant or
 - unenforceable conditions, or;
- addition of volunteered conditions;
- removal of licensable activities; and
- the addition of some licensable activities.

Minor changes to structure/layout

E.g. removal of a partition wall, changing the position of a bar or checkout, or erection of a smoking shelter.

These must also have no adverse impact on the licensing objectives. For example, the change should not:

- increase the capacity for drinking on the premises ;
- block or lengthen emergency exits, or routes to emergency exits;
- create slip, trip, or collision hazards;
- stop noise control measures (such as an acoustic lobby) from working properly;
- reduce the fire separation between areas of different fire risk;
- make structural alterations to a stage or gantry;

You will also need to consider whether your structural change requires Planning Consent.

Adding licensable activities – live and recorded music

You will have to show that the addition of live or recorded music does not create any new risk of public nuisance, for example by showing there are no residential areas in proximity, or by adding noise control conditions.

Adding licensable activities – plays and exhibition of films

You will have to show that the circumstances are such that the addition of performance of plays or exhibition of films, to your licence will have no adverse impact on the licensing objectives.

Small adjustments to licensing hours

Applications to reduce licensing hours for the sale or supply of alcohol or to or move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.

Applications to vary the time during which other licensable activities take place will be considered. It may help your application if you show;

- any additional conditions you will include to prevent an adverse impact on the licensing objectives;
- the extent of additional hours sought and whether it will involve later opening or opening between 23.00 and 07.00;
- arrangements for dispersal, i.e. when people leave the premises is there potential for noise and disturbance near the venue? Is the only means of dispersal a single route through residential areas?
- whether the proposed extension applies only on the weekend or also during week days;
- whether there will be new admittances during that period;
- any evidence of good practice in carrying on the licensable activity, e.g. under temporary event notices;
- whether the premises is already open during the extended period for other licensable activities;
- proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.

Do I have to advertise the application?

You do not have to advertise the Minor Variation in a newspaper, or copy it to responsible authorities.

But, you must display it on a **white** notice at the premises (different from the blue notice used for full variations and new applications) for ten working days starting on the working day after the Minor Variation application is given to East Herts Council.

The notice must include—

in font size point 32 or bigger;

- A heading at or near the top of the notice: “Licensing Act 2003: Minor Variation of Premises Licence”, or; “Licensing Act 2003: Minor Variation of Club Premises Certificate”;

And in font size point 16 or bigger;

- a brief description of the proposed variation or variations,
- the name of the applicant or club,
- the postal address of the premises or club premises, if any, or if there is no postal address for the premises a description of those premises sufficient to enable the location and extent of the premises or club premises to be identified,
- the postal address and, where applicable, the worldwide web address where the register of the relevant licensing authority is kept and where and when the record of the application may be inspected,
- the date by which an interested party may make representations to the relevant licensing authority,
- that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence;

How is the application decided?

In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives. Each application will be considered case by case, taking into account;

- the nature of the licensable activity;
- proximity of the premises to residential areas;
- any new licence conditions offered by the applicant;
- whether alcohol is sold at the premises when the licensable activity is taking place;
- whether alcohol will continue to be sold during any extended period;
- the track record of the premises – whether positive or negative;
- The density of existing licensed premises in the area;
- The potential for customers to be attracted in large numbers;
- whether the premises will open later, or between 23.00 and 07.00;
- arrangements for dispersal from the premises when it closes;
- whether there will be new admittances during any extension of hours;
- whether the premises is already open during any extension of hours for other licensable activities;

Minor variation applications to add live music will be approved unless there is an arguable case that it will cause an adverse impact on the licensing objectives.

New conditions that you propose as part of your application will be taken into account.

If we consider that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, the application will be refused. We cannot impose conditions under this process.

How do I know if the application is complete?

Incomplete applications will be dealt with in one of two ways. If the application is simply missing a few details, we will contact you by letter or telephone to request the missing documents, and the application will be kept on hold. If more than one or two simple details are missing, the application will be rejected and returned to you. The application must be resubmitted. If you have notified us of your intention to re-submit, and only one or two pages have changed, then you only need to send us those pages, and the last page, re-signed and re-dated (we will have kept the rest).

Making the application

The form is available on our website in Word and Portable Document Format (.pdf) at <http://www.eastherts.gov.uk/index.jsp?articleid=2416>

You must send us the application form and the fee (currently £89).

If you are sending the application through the post we **strongly recommend** that either;

You send it by recorded delivery, and keep the proof of postage, or;

Make the payment by telephone on day of posting, write the 6 figure receipt number across the top of the application, and fax the application to us on 01992 531638, before posting it to us.

Do I need to serve a copies on anyone?

You do not need to serve copies.

What happens next?

We will look at the application and decide whether, in our view, the application will have a negative impact on one or more of the licensing objectives. If there are, we will reject the application and keep the fee. There is no right of appeal against the refusal, and if you still wish to make the proposed changes, you will need to submit a full variation.

If there is no obvious negative impact, but there is a potential, and we decide we need to be advised on the actual negative impact by an expert, then we may consult with one or more of the responsible authorities.

If we think the proposed variation is minor, and there are no representations within the 10 working days, a complete application form has been submitted with the appropriate fees and relevant documents, and an appropriate notice has been placed on the premises, the licence will be granted.

If interested parties or Responsible Authorities relevant make representations we will attempt to arrange a mediation meeting between the relevant parties to try and find a reasonable compromise. If this informal process is unsuccessful we will make a decision in the light of the new information whether or not the proposed variation is minor, and will not have an adverse impact on the licensing objectives.

Need Help?

Community Safety and Licensing Service staff are available to offer help and guidance, if you have difficulty making a licence application. Alternatively, you may wish to pay a reputable licensing professional such as a solicitor or consultant to make your application.

Fee

There is a single statutory fee of £89.

Contact Details

Community Safety and Licensing
Wallfields, Pegs Lane
Hertford SG13 8 EQ

Tel No. – 01992 531467

Email – 'community.protection@eastherts.gov.uk'

Advertising minor variation applications:

See white notice template on next page. The point size must be kept to 32 and 16 as shown, delete alternatives, and insert information where shown. There is **no requirement** to publish this notice in a newspaper.

[Licensing Act 2003: Minor Variation of Premises Licence]

[Licensing Act 2003: Minor Variation of Club Premises Certificate]

Brief description of the variation: [Insert description of proposed variation]

Proposed by [insert applicant or club]

At [address of premises **or** where there is no address, a description sufficient to allow the location and extent of the premises to be identified].

The application may be inspected at East Herts Council Offices, Wallfields, Pegs Lane, Hertford, SG13 8EQ between 09:00 and 17:00 on weekdays.

Interested parties may make representations in writing to East Herts Council by [date 10 working days from the date the application was given to the Council].

It is an offence knowingly or recklessly to make a false statement in connection with an application and on summary conviction for the offence a person is liable to a maximum fine of £5000.