

LICENSING AND REGULATORY COMMITTEE

31 January 2023

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| Title: Revised Guidance issued under section 182 of the Licensing Act 2003 | |
| Report of the Operational Director of Enforcement and Community Safety | |
| Open Report | For Information |
| Wards Affected: All | Key Decision: No |
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| Accountable Director: Gary Jones, Operational Director, Enforcement and Community Safety | |
| Accountable Strategic Leadership Director: Alison Stuart, Strategic Director, Law and Governance (and Monitoring Officer) | |
| Summary This report provides an overview of the key changes to the new section 182 guidance issued under the Licensing Act 2003. | |
| Recommendation(s) The Licensing and Regulatory Committee is recommended to note the report. | |

1. Introduction and Background

- 1.1 This report provides an overview of the key changes to the new section 182 Guidance under the Licensing Act 2003 issued by the Home Office in December 2022. The guidance document is available online at [Revised guidance issued under section 182 of the Licensing Act 2003 \(December 2022\) \(accessible\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/1141222/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_(December_2022)_accessible.pdf)
- 1.2 Section 4 of the Licensing Act 2003 provides that, in carrying out its functions, a licensing authority must 'have regard to' the s.182 guidance and it is therefore binding on all licensing authorities and therefore needs to be considered by those involved in the licensing process.

2. Changes to section 182 Guidance

The key changes to the guidance are set out in this section.

Mobile, remote, internet and other delivery sales

- 2.1 The advice to persons operating an alcohol delivery service is strengthened to suggest they "should" (previously "may") consider contacting their licensing authority under paragraph 3.10.

Entitlement to Work in the UK

- 2.2 In terms of right to work and entitlement, the revised guidance substantially changed 4.21 onwards which need to be considered carefully when dealing with non-UK applicants. Much of these changes reflect the change in relationship between the United Kingdom and the European Union/European Economic Area.
- 2.3 Removal of "Annex A – documents which demonstrate entitlement to work in the UK"

Closure Notices

- 2.4 The revised guidance introduces section 19 of the Criminal Justice and Police Act 2001, dealing with closure notices. There is a new section on "Closure Notices" at paragraph 4.83.

Club Certificates

- 2.5 Paragraph 6.11 clarifies that Home Office Immigration is not a responsible authority in relation to club premises certificates.

Temporary Event Notices (TENs)

- 2.6 Paragraph 7.15 of the guidance updates the statutory limits for TENs. There is an increase in the allowance of temporary event notices from the year 2022 to 2023, which will increase from 15 to 20 per calendar year. This also increases for the same time period onwards, the total duration from 21 to 26 days per calendar year.
- 2.7 Paragraph 7.34 clarifies that there is no right of appeal in relation to a late temporary event notice, following objection by the Police or Environmental Health Officer. The event is invalid and cannot go ahead.

Full Variations Process

- 2.8 Paragraph 8.76 has been amended to clarify that full variations should not be used to "vary substantially the premises to which the licence relates". This suggests that if there is to be a substantial change to the premises, there should be a new licence application rather than a full variation.

Conditions Attached to a Premises Licence and club premises certificates

- 2.9 Paragraph 10.5 clarified that "it is not acceptable for licensing authorities to simply replicate the working from an applicant's operating schedule". A condition should be interpreted in accordance with the applicant's intention, and be appropriate and proportionate for the promotion of the licensing objectives.

Planning and Building Control

- 2.10 The "Agent of Change" principle has been included in paragraph 14.66. It states that "where there is an application for planning permission, the National Planning Policy Framework expects new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on a new development (including changes of use) in its vicinity, the applicant (or

“agent of change”) should be required by the local planning authority to provide suitable mitigation before the development has been completed.

Public Background Papers Used in the Preparation of the Report: None

List of appendices: None