

Section 182 Guidance (Environmental Services, Robert Smith)

Synopsis of report:

This is an information only report to update Members on the revised Section 182 Guidance for The Licensing Act 2003.

Recommendation(s):

None. This report is for information

1. Context and background of report

- 1.1 Section 182 Guidance (the 'Guidance') for The Licensing Act 2003 is routinely updated every few years, this latest update was published on 22 December 2022; the previous update was in April 2018.
- 1.2 This 'Guidance' is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

2. Report

- 2.1 The key changes to the 'Guidance' are set out below:
 - i) Entitlement to work in the UK for personal license holders. Changes from paragraphs 4.8 through to 4.49 (was 4.19) Criminal Record. Clarifying post Brexit right to work arrangements and how the Licensing authority check the individual has a right to work in the UK by using a weblink.
 - ii) Persons operating an alcohol delivery service. It is now suggested that they may consider contacting their licensing authority for its view on whether this form of alcohol sale is permitted, where previously it said they should contact their licensing authority.
 - iii) Paragraphs 4.82 - 4.84 are new and clarify the circumstances when a closure notice may be served and when an application may be made to a court to close the premises.
 - iv) Paragraph 6.11 now has an additional sentence to clarify that Home Office Immigration Enforcement is not a responsible authority in relation to club premises certificates.
 - v) Paragraph 7.15 updating the TENS statutory limits. An increase in the number of TENS applied for by a premise increases from 15 to 20 and

the maximum total duration of the events increases from 21 days per calendar year to 26 days in the 2022 to 2023 calendar years. There is some speculation that this increase may become permanent from 2024.

- vi) Change 6 – Paragraph 7.34 clarifying that there is no right to appeal if a late TENs application has an objection from the police or Environmental Health. In this case the event is invalid and cannot go ahead.
- vii) Paragraph 8.76 stating that full variations should not be used to vary substantially the premises to which the license relates. If there is a substantial change to the premises there should be a new license rather than use a variation.
- viii) Paragraph 10.5 a change in wording to clarify that conditions should be interpreted in accordance with the applicant’s intentions and should be appropriate and proportionate for the promotion of the licensing objectives. This is important as an applicant’s conditions will often be unenforceable and ambiguous.
- ix) Paragraph 14.66 has been added to bring licensing more in line with planning and refers to the agent of change. This means that someone responsible for a change in a vicinity, for example a developer, is also responsible for the impact of that change. This principle, which exists to a degree in planning policy already, is relevant to existing pubs, bars and other venues that host and play music but find themselves subject to complaints by residents who have moved into residential developments that were built since the licensed premises was established.
- x) Removal of Annexe A – documents that demonstrate entitlement to work in the UK. This has now been covered in change (i) by using embedded links to government websites.

3. Policy framework implications

- 3.1 No changes to our existing Statement of Licensing Policy are required.

4. Legal implications

- 4.1 Licensing Authorities must “have regard to” guidance issued by the Secretary of State under Section 182. To this effect, the guidance is binding on all Licensing Authorities. To depart from the guidance could give rise to an appeal or judicial review, and therefore any reasons for departure need to be given clearly.

5. Equality implications

- 5.1 None Identified.

6. Environmental/Sustainability/Biodiversity implications

- 6.1 None identified.

7. **Other implications (where applicable)**

7.1 None identified.

(For information)

Background papers

Section 182 Guidance Licensing Act 2003

[Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/section-182-guidance-licensing-act-2003)

Runnymede Statement of Licensing Policy

<https://www.runnymede.gov.uk/downloads/file/886/statement-of-licensing-policy-2021-to-2026>