

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

Agenda Item No. 7

meeting date: 12 JUNE 2018
 title: REVISED GUIDANCE UNDER SECTION 182 LICENSING ACT 2003
 submitted by: CHIEF EXECUTIVE
 principal author: MAIR HILL - SOLICITOR

1 PURPOSE

1.1 To inform Committee of the revision of the guidance issued under Section 182 of the Licensing Act 2003.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives - }
- Corporate Priorities - } The Council aims to be a well-managed authority these proposals support that objective.
- Other Considerations - }

2 BACKGROUND

2.1 Section 182 of the Licensing Act 2003 provides that the Secretary of State must provide guidance to licensing authorities on the discharge of their functions under this Act. A copy of the guidance can be found at:

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

3 ISSUES

3.1 The Home Office revised this guidance in April 2018 in the following respects:

- Additional paragraphs have been added at 8.3.8 -8.40 headed "Entitlement to Work in the UK". These give guidance as to the evidence that needs to be adduced to satisfy Licensing Authorities that individuals applying for premises licences for the sale of alcohol or late night refreshment are entitled to work in the UK.
- Additional paragraphs (8.35-8.37) have also been added to remove the inconsistency surrounding what happens with outdoor areas when applying for beer gardens or other outdoor spaces. The new paragraphs read as follows:

"Beer gardens or other outdoor spaces

8.35 Applicants will want to consider whether they might want to use a garden or other outdoor space as a location from which alcohol will be consumed. The sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. In scenarios where drink orders are taken by a member of staff in the garden or outdoor space and the member of staff then collects the drinks from the licensed premises and returns to deliver them to the customer this would be treated as an off-sale and any conditions that relate to off-sales would apply.

8.36 In such cases it will be not necessary to include the garden or other outdoor space on the plan as part of the area covered by the premises licence. However, it will be necessary for the applicant to include the garden or other outdoor space on the plan as part of the area covered by the premises licence if the intention is to provide a service whereby drinks are available for sale and consumption directly from that area (i.e. the provision of on-sales). This would apply in the case of an outdoor bar or a service whereby a member of staff who is in the garden or outdoor space carries with them drinks that are available for sale (without the need for the staff member to return to the licensed premises to collect them).

8.37 If the beer garden or other outdoor area is to be used for the consumption of off-sales only, there is no requirement to show it on the plan of the premises, but the prescribed application form requires the applicant to provide a description of where the place is and its proximity to the premises.”

- Paragraph 9.12 of the guidance has been amended so that the police no longer have heightened status in making representations under the crime and disorder licensing objective. The heading “representations from the police” has now been incorporated into the section “the role of responsible authorities”. It appears that all responsible authority representations are to be considered in a similar light.

- An additional paragraph has been added at 13.11 in the appeals section of the guidance. It provides:

“It is important that licensing authorities also provide all parties who were party to the original hearing, but not involved directly in the appeal, with clear reasons for any subsequent decisions where appeals are settled out of court. Local residents in particular, who have attended a hearing where the decision was subject to an appeal, are likely to expect the final determination to be made by a court.”

- Finally, there has been considerable redrafting of the section of the guidance dealing with cumulative impact policies and a new section has been introduced entitled “reviewing the CIA”. These are contained in section 14 of the guidance.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications

- Resources – No implications identified.
- Technical, Environmental and Legal - No implications identified.
- Political - No implications identified.
- Reputation – No implications identified.
- Equality & Diversity – No implications identified.

5 CONCLUSION

5.1 Committee is asked to note the contents of the report.

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BACKGROUND PAPERS

None

For further information please ask for Mair Hill, extension 3216.

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