

MEETING

Date of Meeting	Thursday, 28 June 2018
Report Subject	Revised Guidance Issued Under Section 182 of the Licensing Act 2003
Report Author	Gemma Potter

EXECUTIVE SUMMARY

For Members to have regard to the Home Office revised guidance issued under Section 182 of the Licensing Act 2003

RECOMMENDATIONS

1	For information only
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REPORT DETAILS

1.00	EXPLAINING THE CHANGES
1.01	Section 182 of the Licensing Act 2003 provides that the Secretary of State must issue, and from time to time may revise guidance to licensing authorities on the discharge of their functions on the 2003 Act. The revised guidance takes effect as soon as it is published. The guidance does not apply retrospectively, however, all applications received by the licensing authority on or after the date the revised guidance was published should be processed in accordance with the revised guidance.
1.02	The Home Office published revised guidance in April 2018. A link to the document is shown in section 6 of this report.
1.03	There are many changes for Members to familiarise themselves with, and due regard should be given to the document.

1.04	Members attention is drawn particularly to the following paragraphs.
1.05	On page 73 (paragraph 9.31), the guidance provides that the authority can determine, even when all parties say otherwise, that it is necessary to hold a hearing
1.06	<p>Page 74 addresses hearing regulations.</p> <p>Paragraph 9.32 states that time limits provided by the regulations can be extended when it is in the public interest. (The period following the end of consultation and not the consultation period itself).</p> <p>Paragraph 9.33 confirms that it is the Hearings Regulations that oblige a hearing to proceed if representations are withdrawn within the last 24 hours.</p> <p>Paragraph 9.34 adds local residents to the list of persons to whom applicants are encouraged to have contact before formulating an application / submission.</p> <p>Paragraph 9.37 makes clear that strict time limits / strict adherence to time limits is not to be encouraged. Attendees should be allowed sufficient time to do so within reasonable and practicable limits.</p>
1.07	<p>Page 100 addresses review.</p> <p>The licensing authority must consider what steps are appropriate for the promotion of the licensing objectives.</p> <p>Paragraph 12.29 indicates that at review, following a summary hearing, the licensing authority must consider what steps are appropriate for the promotion of the licensing objectives. This must take into account any change in circumstances since the interim steps were imposed, considering any relevant representations and reviewing the interim steps taken already (if any).</p>
1.08	<p>Page 104 addresses appeals.</p> <p>Paragraphs 13.10/13.11 are centred around giving reasons for decisions and suggest the following:</p> <ul style="list-style-type: none"> • It is important that the licensing authority gives comprehensive reasons for its decision in anticipation of any appeals. • It is important that the licensing authority should also provide all parties with a part of the original hearing 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.
1.09	This summary of changes is not exhaustive, and once again, Members are urged to consider the document in its entirety.

2.00	RESOURCE IMPLICATIONS
2.01	None

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None. The guidance came in to force when it was published in April 2018.

4.00	RISK MANAGEMENT
4.01	Members will need to be aware of the content of the guidance for appearances in Sub Committee.

5.00	APPENDICES
5.01	None

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>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</p> <p>Contact Officer: Gemma Potter – Team Leader Telephone: 01352 703371 E-mail: gemma.potter@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	<p>Licensing Act 2003 – referred to as the Act.</p> <p>Premises Licence – means a licence granted under the Act, in respect of any premises, which authorises the premises to be used for one or more licensable activities.</p> <p>Licensing Objectives - the Act sets out four licensing objectives. These are the prevention of crime and disorder, public safety, prevention of public nuisance, and the protection of children from harm.</p>