



LEGAL: How will the Licensing Act's revised guidance affect you?



David Clifton, director of Clifton Davies Consultancy Limited, explains how the newly published section 182 Guidance focuses on cumulative impact assessments

On 24 April, the Home Office published revised Guidance under section 182 of the Licensing Act 2003, which has taken immediate effect.

Section 182 requires the Secretary of State to issue and, from time to time, revise guidance to licensing authorities on the discharge of their functions under the 2003 Act.

This statutory guidance also provides important information about licensing to magistrates' courts hearing appeals against licensing decisions, those who run licensed premises, their legal advisers and the general public.

The principal changes within the newly published revised guidance relate to cumulative impact assessments (CIAs) that were given a statutory footing on 8 April, when section 141 of the Policing and Crime Act 2017 came into force, introducing new provisions in the 2003 Act about CIAs that were designed "to strengthen the ability of authorities to control the availability of alcohol and reduce alcohol-related crime and disorder, as well as providing industry with greater clarity about how they can be used", according to the Home Office's Modern Crime Prevention Strategy, published in March 2016.

Paragraphs 14.24 to 14.48 of the revised guidance deal with CIAs, including the expanded steps that now have to be followed by a licensing authority in considering whether to publish a CIA and the new statutory obligation on the part of a licensing authority to consider, within three years from publishing a CIA, whether it remains of the same opinion as it did when it first published it.

However, the following other paragraphs within the revised section 182 Guidance are worth noting too:

- 8.35 to 8.37 under the heading Beer Gardens or Other Outdoor Spaces, clarifying whether such areas need to be included within the premises licence plan
- 8.80 to 8.87 under the heading Advertising Applications in relation to the requirements imposed on applicants and licensing authorities regarding the advertisement of applications for the grant, variation or review of premises licences and club premises certificates (including particular reference to the advertising of such applications in Wales)
- 13.11 under the heading Giving Reasons for Decisions dealing with reasons where a licensing appeal is settled out of court, as happened last year with the Fabric nightclub appeal against revocation of its premises licence.

This new paragraph within the revised Guidance states as follows:

“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”.

POSTED ON 26 APRIL 2018 BY ROSANNA SPENCE
