

<b>REPORT OF:</b>	HEAD OF ENVIRONMENTAL HEALTH SERVICES
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<b>TO:</b>	LICENSING COMMITTEE
<b>DATE:</b>	8 MARCH 2007

<b>AGENDA ITEM NO:</b>	6	<b>WARD(S) AFFECTED:</b>	ALL
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<b>SUBJECT:</b>	LICENSING ACT 2003; CONSULTATION ON THE REVISED SECTION 182 GUIDANCE ISSUED JANUARY 2007.
<b>PURPOSE OF THE REPORT:</b>	TO SEEK THE COMMITTEES RESPONSE TO THE REVISED GUIDANCE.
<b>RECOMMENDATIONS:</b>	
<p><b>1. The Head of Environmental Health Services in consultation with the Chairman submit the response to the Department for Culture, Media and Sport (DCMS) on the consultation document on behalf of the Committee.</b></p>	

## Background

1. The original Guidance was intended to aid licensing authorities to carry out their functions under the 2003 Act and to ensure the spread of best practice, ensuring consistent application of licensing powers by licensing authorities and promoting fairness, equal treatment and proportionality. In carrying out its licensing functions, a licensing authority must have regard to the Guidance issued by the Secretary of State.
2. The Guidance was first issued in July 2004, and a 2-stage review was announced in September 2005.
3. The initial review led to the publication of Supplementary Guidance in June 2006. At that time the DCMS decided that it was unnecessary to conduct formal public consultation, since the scope of that review was limited to;
  - i) providing clarification of, and additions to, the existing guidance in areas where there was broad consensus amongst stakeholders;
  - ii) consolidating advice given in official correspondence, 'Countdown' newsletter, etc. during the transitional period; and
  - iii) correcting simple factual errors and updating references .
4. This is the second stage of the review that includes reformatting the original document, and removing matters that dealt with the transitional period. The consultation document and draft revised guidance is available on the Department for Culture Media and Sport (DCMS) website at [www.culture.gov.uk/Reference\\_library/Consultations/](http://www.culture.gov.uk/Reference_library/Consultations/) Responses should be made by 11 April to the Licensing Guidance Review Team

5. In considering any revision of the current Guidance, it is important to understand that the Guidance cannot be used to attempt to amend the primary legislation or regulations made under the 2003 Act. Consultees are advised that the Government will be unable to take account of responses which deal with matters that can only be addressed through primary or secondary legislation.

### Factors for Consideration

6. The full review of Guidance, which was undertaken by a sub group of the DCMS Licensing Advisory Group, began in May 2006. It has addressed two areas: substantive policy issues and the format and style of the Guidance document.
7. The consultation document that highlights the proposals is reproduced at Annex 1. There are 31 questions covering 13 issues summarised in table below. It is suggested that the members may wish to focus their considerations on the areas in bold, as the others relate to administrative and operational matters to which the officers will respond.

1. SUBSTANTIVE ISSUES	Question
Definition of 'in the vicinity'	1, 2
Incidental music	3, 4
<b>Cumulative impact policy</b>	<b>5, 6</b>
<b>Pools of conditions</b>	<b>7, 8, 9, 10</b>
<b>Role of Cllrs in the licensing process</b>	<b>11, 12</b>
Role DPS	13, 14
Variations	15, 16,
<b>Nature of evidence</b>	<b>17, 18</b>
Representations; Discourse of identity	19, 20
<b>Control of nuisance/crime and disorder</b>	<b>21, 22</b>
<b>Presumption re Longer hours</b>	<b>23, 24</b>
Police powers	24, 26
Sale of alcohol to children	27, 28
2. FORMAT	
<b>Comments on Revised format</b>	<b>29, 30</b>

8. Where the consultation document makes reference to amended paragraphs in the revised guidance document, these have been reproduced in Annex 2 for ease of reference. The full draft revised guidance can be found at the website referred to in paragraph 4 above.
9. Although the consultative document covers the key issues that have been raised with the Government in connection with the Guidance, consultees are invited to raise any other issues that they would like to see addressed in the revised version (see question 31).
10. A summary of the consultation responses, as well as copies of all responses, will be made available on the DCMS website within three months after the

consultation has closed. It is assumed, therefore, that any reply can be made publicly available. In addition, all information in responses may be subject to publication or disclosure under freedom of information legislation.

### **Resource Implications**

11. There are no resource implications since the consultation seeks to consolidate existing best practice and does not place any additional burden on licensing authorities.

### **Conclusions**

12. The DCMS is inviting views on the consultation across the range of stakeholders. Members of the Licensing Committee have experience in a number of specific areas upon which comment is requested, and may wish to form a response.
13. In order to facilitate a response it is proposed that the Head of Environmental Health Services submit a response in consultation with the Chairman of the Licensing Committee on behalf of the Licensing Committee.

Background Papers:

### Documents

Annex 1 : Consultation on revised guidance made under Section 182 of the Licensing Act 2003.

Annex 2 : Extracts from the Revised guidance made under Section 182 of the Licensing Act 2003; January 2007