Home Office

Additional guidance for health bodies on exercising new functions under the Licensing Act 2003

What role can health bodies now play in the licensing process?

The Police Reform and Social Responsibility Act 2011 added Primary Care Trusts (PCTs) in England and Local Health Boards (LHBs) in Wales to the list of responsible authorities under the Licensing Act 2003. This measure was commenced on 25 April 2012. Health bodies – PCTs and LHBs – can now have a say in local decisions about alcohol licensing. This means health bodies can present health-related evidence, such as data on alcohol-related ambulance callouts and hospital admissions, to licensing authorities and must be notified about new licence applications. Making PCTs and LHBs responsible authorities recognises the role health bodies can play in decisions about licensing.

This guidance sets out what this means in practice and gives examples of the sorts of information health bodies can provide for licensing authorities to consider.

The content of this guidance broadly reflects but is not the statutory guidance (or any part of the statutory guidance) issued by the Secretary of State under section 182 of the Licensing Act 2003. This good practice guidance should be viewed as indicative and may be subject to change. Revised statutory guidance issued under section 182 of the Licensing Act 2003 was laid in Parliament on 25 April 2012 and is available on the Home Office website.

How can health information help with licensing decisions?

Health bodies may hold information which licensing authorities would not have access to from other organisations. This might include analyses of data on attendances at emergency departments and the use of ambulance services following alcohol-related violent incidents. Some of these incidents will be reported to the police, but many will not.

What is a responsible authority?

Responsible authorities are public bodies which must be fully notified of licence applications and are entitled to:

- Make relevant representations to the licensing authority relating to new licence applications and licence variations;
- Request that the licensing authority review an existing licence;
- Make representations to the licensing authority regarding the potential cumulative impact of an application in an area where there is a special policy in place regarding cumulative impact.

Representations must be considered relevant by the licensing authority (see Chapter 9 of the statutory guidance and relate to one or more of the licensing objectives.

Because there is a requirement to notify them, responsible authorities would be expected to provide a contact point for the licensing authority. This may be the Director of Public Health, or any other contact they nominate.

What happens when PCTs are abolished following changes introduced in the Health and Social Care Act 2012?

Responsible authorities are defined in primary legislation in the 2003 Act and therefore to amend this definition changes are needed in primary legislation. The Health and Social Care Act 2012 included an amendment which will replace the definition of Primary Care Trusts as a responsible authority and will define "each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable" as responsible authorities. In practice this is likely to mean that the role of responsible authority will be fulfilled by the Director of Public Health in each (upper tier or unitary) local authority area. However, this amendment is yet to be commenced.

What licensing objectives are representations from the PCT or LHB likely to relate to?

For heath bodies, the most likely licensing objective representations will relate to is public safety which includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. For example, drunkenness can lead to accidents and injuries from violence resulting in attendances at emergency departments and the use of ambulance services. In some cases, these will also involve breaches of the objective to prevent crime and disorder or to the objective to protect children from harm.

What data could the PCT or LHB use to support their representation?

The types of data that might be used to support a representation could include anonymised data on A&E attendances, ambulance journeys and hospital admissions following alcohol-related accidents, fights, glassings, other injuries and alcohol poisoning.

Some areas will already have data sharing protocols in place. Other areas may want to decide how best to gather and coordinate evidence from others such as emergency departments and the ambulance services.

When making a representation, the PCT or LHB will need to be able to collect anonymised information about incidents relating to specific premises or premises in a particular area such as a cumulative impact zone (see chapter 13 of the statutory guidance for more information on cumulative impact policies).

As part of the Government's commitment to require hospitals to share non-confidential information on gun and knife crime with the police, the Department of Health has promoted College of Emergency Medicine guidance for information sharing to reduce community violence, based on the 'Cardiff Model'. This sets out the importance of sharing non-personal data with the police, particularly core information on the date, location and type of assault. It highlights the important role of senior clinical, police and local authority leadership in promoting active use of the intelligence to target policing and tackle problem premises. Such action may include licence reviews.

The guidance is available on The Alcohol Learning Centre website which also includes further case studies, examples and advice (http://www.alcohollearningcentre.org.uk).

How would the PCT or LHB find out about a new licence application, an application for review or other licensing decision they may be able to input into?

If the licence application is made electronically it is the responsibility of the licensing authority to ensure that each responsible authority (including the PCT or LHB) receives a copy of the application. If the licence applicant submits any part of the application in writing, it is their responsibility to ensure that each responsible authority receives a copy of the application.

Do PCTs and LHBs have to make representations regarding licence applications or reviews?

The PCT or LHB is entitled to make a representation in its role as a responsible authority, but there is no obligation to do so. It is for the PCT or LHB to decide if and how to get involved in making representations. However, the Government encourages PCTs or LHBs holding information relevant to the licensing process, particularly in areas of significant harm from alcohol misuse, to exercise this function.

Where can I find further guidance?

Full guidance on licensing processes under the 2003 Act is contained in the **statutory guidance issued under section 182 of the 2003 Act**. This guidance can be found on the Home Office website. Chapter 8 of this guidance sets out the role of responsible authorities and Chapter 9 provides further guidance on making representations.

We will be working with representatives from health bodies over the next couple of months to develop further guidance on this process and provide examples of best practice.

Any enquiries regarding the process should be directed to the Alcohol Policy Team at the Home Office at: alcoholstrategy@homeoffice.gsi.gov.uk

Home Office Alcohol Policy Team
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