

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

**Licensing and Public Protection Committee
17 January 2023**

Report Title: To update Section 182 Guidance to make reference to Spiking – Licensing Act 2003 Consultation

Submitted by: Head of Regulatory Services & Licensing Administration Team Manager

Portfolios: Finance, Town Centres & Growth

Ward(s) affected: All

Purpose of the Report

To inform the Committee of a Home Office consultation as to whether the Section 182 guidance should be updated to include references specifically to spiking in licensed premises.

Recommendation

That Members note the content of the report and consultation response submitted

Reasons

The Home Office have consulted upon on whether the Section 182 Licensing Act 2003 guidance should be updated to include references specifically to spiking in licensed premises. The consultation has closed and a response has been submitted on behalf of the Council.

1. **Background**

- 1.1 The Home Office issue statutory guidance under section 182 Licensing Act 2003. Where the Home Office seek to make amendments to the guidance they often consult with relevant stakeholders in advance, however this is not always the case.
- 1.2 In October 2021 the Home Office launched an inquiry following a sudden increase in the number of spiking incidents across the country. During the inquiry the Home Office received response from 1,895 victims and 1,413 witnesses of spiking incidents.
- 1.3 On 26th April 2022 a Home Affairs Select Committee (HASC) published a report in relation to Spiking following the results of the inquiry. The HASC report included twenty two (22) conclusions and recommendations for Government to act upon with two (2) being specific to local authorities and the Licensing Act 2003:
 - Recommendation 1 “We recommend that all staff working at music festivals, including vendors, be given compulsory safeguarding training, and this be a requirement that licensing authorities consider when approving events. This might be done along lines similar to training provided in voluntary schemes in other licensed premises, such as Ask Angela or the licensing security and vulnerability initiative (Licensing SAVI). We believe that a more formal and higher standard is required for outdoor music festivals owing to the comparatively younger age of festival-goers and the additional vulnerability that arises from their camping over at such festivals”; and

- Recommendation 6 - *“We are concerned that the Government is not doing enough to monitor licensing authorities’ use of powers to regulate the night-time economy, both with specific regard to spiking incidents and more generally in relation to violence against women and girls. Within three months the Government should:*
 - (i) *collect data on local licensing authorities’ use of their powers to impose conditions or revoke premises licenses, where venues do not take sufficient measures to protect and provide support to customers in spiking incidents;*
 - (ii) *work with local authorities to develop an anti-spiking strategy which encourages local licensing authorities to make better use of these powers; and*
 - (iii) *as part of this, review guidance issued under section 182 of the Licensing Act 2003 with a view to requiring licensing authorities to consider the prevalence, prevention and reporting of sexual harassment and misconduct and gender-based violence in statements of local licensing policy.”*

2. Issues

2.1 Within the consultation document the Government offered their responses to the two recommendations:

- Recommendation 1 - *The Government agrees with the Committee that safeguarding training for staff is vital to ensure people attending events such as festivals can do so safely. The Government welcomes initiatives such as Ask Angela and LSAVI and would encourage local areas to consider how they can be used or replicated where necessary.*

The Government believes that the devolved nature of decision making on licensing matters ensures local areas have the flexibility they need to address matters of public safety whilst also supporting a thriving local economy. It is a fundamental premise of the Licensing Act 2003 that any conditions imposed on a licence – whether for a permanent premises or an event such as a festival – are necessary and proportionate. The Government does not intend to mandate training for all staff at events such as festivals however we will review the section 182 guidance which accompanies the Licensing Act 2003 to reflect that when licensing committees are approving a licence for a festival, they should consider that staff are adequately trained in safeguarding.

Separately, the Government would like to highlight ongoing discussions with the festival sector to ensure that they, alongside local authorities, law enforcement, and hired security staff are taking appropriate action to protect potential victims and deter potential offenders. This includes opportunities for joint communications and sharing the emergency service response to spiking incidents with festival and security personnel; and

- Recommendation 6 - *The Government continues to work with local areas to ensure that everyone is safe and secure in the night time economy. Our work to tackle violence against women and girls is continuing to drive momentum to improve the response to issues such as spiking and more widely. Since October 2021, there has been £30 million investment to date for projects with a particular focus on protecting women in their communities through Round Three of the Safer Streets Fund and the Safety of Women at Night Fund. An additional £50 million for 111 projects has been invested through Round Four of the Safer Streets Fund, which has a focus on tackling violence against women and girls in public places, as well as neighbourhood crime and anti-social behaviour.*

We welcome the Committee’s suggestions on what more Government could do to augment ongoing work with local authorities. We currently collect statistics from local

authorities every other year on authorisations and licensing authority powers under the Licensing Act 2003.

Specifically, these include premises licences, club premises certificates, personal licences, late night refreshment, 24-hour alcohol licences, temporary event notices, early morning alcohol restriction orders, late night levies, and late-night refreshment exemptions. It also includes statistics on cumulative impact areas, reviews, hearings and appeals. We will explore with local authorities, licensing stakeholders and the Local Government Association whether data on licence reviews and revocations could be added to this report.

Government Ministers wrote recently to remind licensing committees of their responsibilities and the powers that both licensing committees and the police have available to them to ensure licensed premises are managed responsibly and safely, and to encourage collaboration between local agencies to ensure that spiking is considered when assessing licence applications. We will continue to work with partners to ensure that education, awareness, and dissemination of new initiatives and existing good practice are shared widely. The Government accepts part three of the Committee's recommendation and will review the guidance issued under Section 182 of the Licensing Act 2003 to consider whether we should require licensing authorities to consider the prevalence, prevention and reporting of sexual harassment and misconduct and gender-based violence in statements of local licensing policy.

- 2.2 The Government's conclusion was that the Licensing Act 2003 already contained satisfactory powers and safeguards to take appropriate steps to keep customers safe but committed to exploring whether amendments to the section 182 guidance may assist in "raising awareness of spiking, encouraging those applying for licences to thoroughly consider what, if any, measures they need to put in place to deter spiking, and to ensure that licensing authorities are giving due regard to issues around spiking when considering applications."
- 2.3 The Home Office opened their consultation on 16th December 2022 and it closed on 13th January 2023.
- 2.4 The consultation document provided an introduction to the proposals, what the proposals are, the background to them and the consultation questions. There were four (4) questions:
- Q1. Do you support updating the Section 182 guidance to make specific reference to spiking? Yes or No. Please provide rationale and recommendations
 - Q2. Do you agree with updating the Section 182 guidance to encourage local licensing authorities to consider placing additional conditions on licences to safeguard patrons against spiking? Yes or No. Please provide rationale and examples or recommendations
 - Q3. Do you support updating the Section 182 guidance to encourage licensing authorities to consider the prevalence, prevention and reporting of sexual harassment and misconduct and gender-based violence in statements of local licensing policy? Yes or No. Please provide rationale and examples or recommendations
 - Q4. Do you support the collection of data on local licensing authorities' use of their powers to impose conditions or revoke premises licenses, where venues do not take sufficient measures to protect and provide support to customers in spiking incidents? Yes or No. Please provide rationale and examples or recommendations

Officers' have submitted a response to the consultation following a review carried out with Chair of the Licensing & Public Protection Committee and Portfolio Holder. The response submitted answered all 4 questions 'Yes' and provided the below 'rationale and examples or recommendations':

- Q1. The reporting of spiking appears to have increased in prevalence over the past 18 months. The Borough Council are of the view that the issue of spiking falls within the licensing objectives of Public Safety and the Prevention of Crime and Disorder and as such is a relevant consideration for businesses and licensing authorities to consider under the Licensing Act 2003.
- Q2. As the Borough Council are of the view that spiking falls within the licensing objectives it would be appropriate for each applicant and licence holder to consider what measures they can take to safeguard their patrons from spiking. Upon application for the grant or variation to a licence these measures would then form part of the operating schedule of the licence, similarly to the provision of CCTV etc. Example conditions may include 1. *"The Premises Licence Holder or Designated Premises Supervisor must record each incident and allegation of spiking in a register, which may be physical or electronic in nature, and provide the register to any authorised officer from a responsible authority. The register must be kept on, or be accessible at, the premises at all times."* 2. *"The aforementioned register must include the date, time, and nature of the incident or allegation, as well as the details of the reporter and what action was taken by the staff at the time."*
- Q3. The Borough Council are of the view that the Statement of Licensing Policy (SLP) is to be used to guide applicants and licence holders on how to best promote the licensing objectives. Sexual harassment and misconduct, and gender based violence are prevalent within wider society but are often associated with licensed premises and the night time economy. It would be a sensible and practical approach to reference these matters within the SLP.
- Q4. The Government already collects an array of data from licensing authorities biennially in relation to licensed premises. There is no reason why collecting data as proposed would not be viable. On the contrary the data if collected may support wider Government policy in relation to their work around ensuring everyone who uses the night time economy can do so in a safe and secure manner.

A copy of the consultation document is attached as **Appendix A** and the Council response is attached as **Appendix B**.

3. **Proposal**

3.1 That Members note the content of the report and consultation response submitted

4. **Reasons for Proposed Solution**

4.1 To inform Members of amendments to the Licensing Act 2003 and matters of local and national significance.

5. **Options Considered**

5.1 Not applicable

6. **Legal and Statutory Implications**

6.1 Not applicable

7. **Equality Impact Assessment**

7.1 Not applicable

8. **Financial and Resource Implications**

8.1 Not applicable

9. **Major Risks**

9.1 Not applicable

10. **Sustainability and Climate Change Implications**

10.1 Not applicable

11. **Key Decision Information**

11.1 Not applicable

12. **Earlier Committee Resolutions**

12.1 Licensing & Public Protection Committee – 28th June 2022 – Letter to Licensing Committees on Drink Spiking

13. **List of Appendices**

13.1 Appendix A - Consultation: To update Section 182 Guidance to make reference to Spiking
Appendix B – Council response to Consultation 6th January 2023

14. **Background Papers**

14.1 [Home Affairs Select Committee \(HASC\) Ninth Report of Session 2021-22, Spiking \(HC967\) – Dated 26th April 2022](#)