

Bray , Melanie (COUNCIL GOVERNANCE OFFICER)

From: Bailey , Debbie (SENIOR OFFICER (LICENSING))
Sent: 07 June 2023 11:50
To: Piers.Warne@TLTsolicitors.com
Subject: Statement of Licensing Policy Consultation Response

Good afternoon Piers,

I hope you are well.

Thank you very much for responding to our Statement of Licensing Policy Consultation, following your feedback we have amended the draft policy to include links to policies, strategies and initiatives to assist applicants to understand what resources are available.

In shaping our policy, we have demonstrated best practise and given due regard to the Section 182 guidance as well as giving appropriate weight to the views of the local community. Whilst there is a certain amount of flexibility around setting an approach to making licensing decisions as an authority, we are very much aware that we cannot be inconsistent with the provisions in the Licensing Act.

You can be assured that the statement of Licensing Policy will not create new requirements for applicants outside of the Act or override the right of anyone to make an application under the Act, make representations or seek a review of a licence but aims to promote good practise and promote the licensing objectives. When forming their decisions, Members will have due regard to the Policy and will also have the option to depart from it if there is good reason do to do.

As landlords to 13 licensed premises in the Barnsley Borough from your own experience I know you will appreciate that each case will always be dealt with on its own merits and conditions will only ever be attached to licences where it is necessary and proportionate.

As a Licensing authority we recognise the importance of the hospitality sector however our focus will always be on the promotion of the licensing objectives.

Whilst we appreciate that Public Health is not detailed as a specific licensing objective, the Statutory Guidance recognises that they have a role to play especially in relation to policy making and we believe that the current policy gives a fair and balanced approach in respect of the issues surrounding Alcohol. As you have stated in your response there are references to the positivity surrounding Alcohol consumption as well as reference to Alcohol harm. The promotion of public health specifically deals with categories relating to Alcohol harm under the relevant section of the licencing policy. You will have noted within the policy the wording "Although 'protecting and improving public health' is not a licensing objective, alcohol-related harm is a particular cause for concern in Barnsley". To clarify, Local authorities must adapt their policies to reflect the main issues which are present and cause for concern within their jurisdiction. Hence any reference to

Alcohol harm in particular and the intentions to reduce it is entirely reflective of the prevalent issues and not an attempt to focus or isolate one particular category of licenses over others.

Addressing your concerns regarding CCTV /GDPR implications – In the ordinary course of investigations Police Officers routinely request CCTV. Police enquiries into potential criminal conduct are governed by legislation regarding the investigation of offences as well as their own code of conduct relative to same. Licencing officers in practice request CCTV in circumstances where there has been a crime and/or evidence of anti-social behaviour or circumstances which may potentially give rise to a breach of licensing conditions – you will note sale of Alcohol to underage persons was one of the examples quoted.

It is understood according to GDPR that licence holders operating CCTV/surveillance etc within public houses in this respect are categorised as Data Controllers. It would be for those licence holders to ensure that they are complying with GDPR and to make patrons aware (for example via the premises privacy notice) of CCTV in operation and who it may be provided to etc.

It may be the case that provision of CCTV footage to assist Police and licencing officers be characterised under the legitimate interest provisions and in some circumstances to ensure compliance with a legal obligation in terms of Article 6(1) of GDPR.

Ultimately any challenge to the lawfulness of conditions imposed with depend on the individual merits of each case.

In response to your concerns regarding Local Area Risk Assessments, whilst is not compulsory I hope you would agree that it is good practise and to the benefit of all applicants who can use it to their advantage, particularly when demonstrating in their application how they intend to promote the licensing objectives.

If I can be of any further assistance or you would like to discuss this matter further please do not hesitate to contact me,

Kindest Regards,
Debbie

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