

TITLE OF REPORT: UPDATE TO LICENSING ACT STATUTORY GUIDANCE**REPORT OF: Anneliese Hutchinson - Service Director, Climate Change,
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SUMMARY

The Home Office has issued updated Statutory Guidance under s.182 of the Licensing Act 2003 to include a definition of "spiking".

Background

1. Section 182 of the 2003 Act provides that the Secretary of State must issue and, from time to time, may revise guidance to licensing authorities on the discharge of their functions under the 2003 Act.
2. This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public.
3. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
4. Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182.
5. The Guidance sets out that the legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.
6. The licensing objectives are:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
7. Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

Government approach to spiking

8. On the 18 December 2023 the Government announced a raft of new measures to tackle spiking. The measures include changes to legislation, research, training for door staff and raising awareness amongst young people of the threat that spiking presents.
9. As part of these measures the statutory guidance issued under section 182 of the Licensing Act 2003 has been updated to include information about spiking and to clarify that it should be a consideration under the crime and disorder licensing objective
10. Paragraph 2.7 of the guidance now states:

"The objective to [prevent] crime under the Licensing Act 2003 would include taking measures to prevent incidents of spiking which would usually be prosecuted under section 23 and 24 of the Offences Against the Person Act 1861, and section 61 of the Sexual Offences Act 2003. The following examples are within the range of behaviours that would be considered spiking. This list is not exhaustive:

- *Putting alcohol into someone's drink without their knowledge or permission*
- *Putting prescription or illegal drugs into an alcoholic or non-alcoholic drink without their knowledge or permission*
- *Injecting another person with prescription or illegal drugs without their knowledge or permission*
- *Putting prescription or illegal drugs into another person's food without their knowledge or permission*
- *Putting prescription or illegal drugs into another person's cigarette or vape without their knowledge or permission"*

11. Gateshead Licensing Authority will have immediate regard to this new provision of the guidance when carrying out its functions under the Licensing Act 2003 and the issue of spiking as a specific consideration under the prevention of crime and disorder objective will be incorporated into the next version of the Council's Statement of Licensing Policy.

Recommendations

12. It is recommended that Members note the content of this report