

Appendix 2



Home Office

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Councillor Rachael Robathan, Leader, Westminster City Council
Councillor Ian Ward, Leader, Birmingham City Council
Councillor Judith Blake, Leader, Leeds City Council
Sir Richard Leese, Leader, Manchester City Council

By email only
via cleader@westminster.gov.uk

01 October 2020

Dear All,

Thank you for your letter of 19 August requesting a two year pause of the statutory requirements to review statements of licensing policy and cumulative impact assessments (CIA).

COVID-19 is causing disruption to all businesses across the country and I appreciate that those in the hospitality sector have been particularly hard hit. I am grateful for the measures that your councils and others across England and Wales are taking to support the recovery of this sector.

I do understand and am sympathetic to your concerns about the difficulties of undertaking a five-yearly review of the statement of licensing policy and the three-yearly review of relevant CIAs during this pandemic. These review requirements are statutory ones set out in the Licensing Act 2003 and, I am afraid they cannot be altered by regulations. Section 5(7) of that Act, which applies only in respect of statements of licensing policy under section 5, would not cover altering the review period. Primary legislation would be necessary in order to pause these reviews and, given other competing demands for legislation, I do not believe there is an imminent prospect of that, but I will of course consider acting should a suitable opportunity arise.

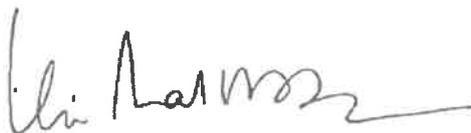
It is, of course, a matter for you as licensing authorities to determine how you exercise these duties and to satisfy yourselves that whatever approach you adopt is compatible with your legal obligations, including under the Licensing Act 2003, taking into account the statutory guidance under section 182 of that Act. However, you may want to explore whether you can adopt a pragmatic approach to reduce the burden on already hard-pressed stakeholders and to reflect the exceptional circumstances in which we currently find ourselves.

In particular, when consulting on your statement of licensing policy, you could consider if it would be appropriate to undertake the statutory consultation on the basis that you propose to roll forward your existing statement of licensing policy in its current form and consider any representations that you receive in response. As you know, statements of licensing policy last for a maximum of five years but you are required to keep your statement under review during that period, and to make revisions if appropriate before that period has expired. You may, therefore, want to consider committing to a further review when it is feasible to do so after the pandemic has passed.

You could also consider if a similar approach would be appropriate in respect of CIAs. CIAs do need to take account of all the evidence and, of course, the evidence from the last six months may paint a rather different picture to the preceding two-and-a-half years. It will be up to the authority how much weight it should ascribe to any particular evidence bearing in mind the disruption to the hospitality sector which has occurred as a result of COVID-19 and the fact that it may only be temporary.

As the statutory guidance (paragraph 14.44) makes clear, CIAs are not absolute. Each application for a licence should be treated on its merits, notwithstanding the existence of a CIA, taking account of the particular circumstances.

I do appreciate that this position is not ideal, but I believe that the legislation, which was clearly enacted without consideration to the kind of events that we are now experiencing, and the guidance allows you to adopt a light touch and pragmatic approach which reflects the current circumstances in which we find ourselves.

A handwritten signature in black ink, appearing to read 'Kit Malthouse', with a long horizontal flourish extending to the right.

Kit Malthouse MP
Minister of State for Crime and Policing