

## POLICE REFORM AND SOCIAL RESPONSIBILITY BILL

### 1. Introduction

- 1.1 The purpose of this report is to inform members of proposed changes to the Licensing Act as a result of the Police Reform and Social Responsibility Bill, and also on certain other of the Bill's proposals that will affect areas within the terms of reference of this Committee. The report also seeks to ascertain whether the Committee wishes to submit views to the Public Bill Committee.

### 2. Background

- 2.1 The Home Office has now produced its response to the consultation on 'Rebalancing' the Licensing Act, together with the formal amendments which are set out as promised in the Police Reform & Social Responsibility Bill.
- 2.2 The Bill was originally presented to Parliament on 30 November 2010. This is known as the First Reading and there was no debate of the Bill at this stage.
- 2.3 On 13 December 2010 the second reading of the Bill was held in the House of Commons. That gave the first opportunity for Members of Parliament to debate the general principles and themes of the Bill. The Bill passed on a vote and will now be considered by a Public Bill Committee, probably commencing on 18 January 2011 and completing its work towards the end of February 2011.

### 3. Impact on the Licensing Act 2003

- 3.1 Part 2 of the Bill deals with the reform of the Licensing Act. It includes proposed amendments to the 2003 Licensing Act with the following effects:
- Licensing authorities and Primary Care Trusts to be "responsible authorities". ("Responsible authorities" can make representations based on the licensing objectives in relation to applications for the grant or variation of a premises licence or club premises certificate, to request the review of such authorisations or to make representations in relation to other discrete processes);
  - Representations in regard to applications for the grant or variation (including minor variation) of a premises licence or club premises certificate, or applications for review, and other discrete processes, will not be restricted to 'interested parties', elected members of the licensing authority (the District Council) and responsible authorities. The "vicinity" requirement will be removed, with the result that any person will be able to make representations. This is a significant departure from the current arrangements;
  - Applications will have to be advertised by the licensing authority in 'a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it'. The Bill does not contain details of how this is to be achieved, but is clear that there will be additional burdens on licensing authorities in this respect;

- The necessary test in relation to the licensing objectives will now refer to the licensing authority taking such steps as are ‘appropriate’ (as opposed to “necessary”) to promote the licensing objectives;
- Environmental Health will be able to object to a temporary event notice. This will mean that both the Police and Environmental Health may object to a TEN. Objections can be made on any of the licensing objectives and not just on crime & disorder grounds as at present;
- Licensing authorities will be able to impose (transfer from the premises licence or club premises certificate) conditions on a temporary events notice in limited circumstances;
- Provisions will also enable premises users, in any calendar year, to hold a single event under a temporary event notice for up to seven days (four days at present), use a single premises for up to 21 days (15 days at present) and to give a limited number of notices later than the existing process permits (10 clear working days at present);
- Provisions for doubling the maximum fine for premises which persistently sell alcohol to those under 18, and increasing the period of suspension which can be imposed on such premises;
- Gives licensing authorities greater flexibility in making early morning restriction orders - they will be able to make such orders for the whole, or part, of their areas for a period of any duration between midnight and 6 am, and will be able to impose different restrictions on different days;
- Gives licensing authorities power to suspend a premises licence or club premises certificate for non-payment of an annual fee;
- Licensing authorities will be able to introduce a levy in their areas which will be payable by premises which supply alcohol as part of the late night economy, between midnight and 6am. Some premises may benefit from an exemption or discount but at least 70% of the funds generated by the levy will be paid to the police and other agencies which are affected by alcohol related crime and disorder;
- Statements of licensing policy will have to be reviewed every 5 years rather than every 3 years.

#### **4. Election of Police Commissioners**

4.1 The Bill provides for an election of Police and Crime Commissioners for all Police areas to be held in 2012. Elections will then be held in each subsequent fourth year.

4.2 The following provisions will apply to the election of Police Commissioners:

- Local government electors will be entitled to vote;
- There will be a Returning Officer for the Police area, with provision for Local Returning Officers.

- A Returning Officer will be able to recover charges in respect of the election provided they are necessarily rendered or incurred in the effective and efficient conduct of that election, subject to an overall maximum recoverable amount set by the Secretary of State. This is the same procedure as applies at Parliamentary or European Parliamentary elections, although there is provision for the Returning Officer's account to be "taxed" or assessed in the County Court.
- An election is to be by simple majority where there are less than three candidates, but where there are three or more the election will be by the supplementary voting system.

## **5. Issues not included in the Bill**

- 5.1 In its response to the 'Rebalancing' the Licensing Act 2003 consultation, the Home Office shows a significant number of retreats from positions set out in the initial consultation published in July. For example, in response to the consultation, significant concerns were expressed about the amendments to the appeals process and the proposal to make decisions of licensing authorities apply immediately. It is no longer proposed to take these forward.
- 5.2 Similarly, the proposal that licensing authorities would be obliged to accept all representations, notices and recommendations from the Police, unless there was clear evidence that these were irrelevant, has also not appeared in the Bill. Instead the Government proposes to amend the Guidance issued under section 182 of the Act to make it clear to licensing authorities that there should be a presumption that all reasonable recommendations from the Police should be accepted unless there is clear evidence to the contrary.

## **6. Submission of Views to the Public Bill Committee**

- 6.1 The Public Bill Committee is now accepting written submissions in relation to the draft Bill. Given the changes proposed by the Bill, and in particular the potential costs consequences of those proposals, the Committee is asked whether it wishes to submit any comments on the contents of the Bill to the Public Bill Committee. Whilst any views to be submitted will, of course, be a matter for the Committee to decide, the officers have concerns about the following:
- (a) The removal of the principle that only "interested parties" (i.e. those who have a particular relationship to the premises, for example by living in the vicinity or being involved in a business in the vicinity), elected members of the Licensing Authority and responsible authorities may make representations in regard to premises licences and club premises certificates. While the extension of the right to object to applications to a wider pool of citizens could be welcomed, the officers' view is that extending the right to the world at large is a step too far. It is considered that it is reasonable to expect that only those with some interest in the site or who may be affected by activities at the site should be entitled to make representations. The proposal in the Bill could open the floodgates to representations from people who would not be affected by the application. The officers' view is that it should be a prerequisite that the person making the representation will in some way be affected by the application, and that the current "vicinity" principle is appropriate. The proposal could mean a significant increase in the number of applications in respect of which representations are

made and consequently in the numbers of hearings by the Sub-Committee, all at additional cost to the licensing authority.

- (b) The additional burdens to be placed on licensing authorities in regard to advertising applications. The Bill provides for the Secretary of State to make regulations governing who should advertise applications for premises licences and club premises certificates. Regulations will require the applicant to advertise the application in a way which ensures that it comes to the attention of persons in the licensing authority's area who it may affect; while the licensing authority must advertise the application in a way that ensures that it comes to the attention of "those persons who are likely to be affected by it".

The requirements for the form this "advertising" is to take are not known, but it appears that there could be substantial resourcing and financial implications for the Council if, for example, the Council was required to place public notices in the Press.

- 6.2 Members might have other concerns about the Bill's provisions on which they might wish to comment and are invited to raise and discuss these.
- 6.3 If the Committee decides that it wishes to make submissions to the Bill Committees, these submissions should be made at the earliest opportunity.

## **7. Conclusion**

- 7.1 The Police Reform and Social Responsibility Bill overhauls the Licensing Act to give more powers to local authorities and the police to tackle any premises that are causing problems; doubling the maximum fine for persistent under-age sales; and permitting local authorities to charge more for late night licences to contribute towards the cost of policing the late night economy. It also widens the pool of people who are able to make representations in regard to premises licences and club premises certificates, and places additional responsibilities on licensing authorities to advertise applications.

## **8. Financial Implications**

- 8.1 The impact of some of the proposals could have significant financial implications. The removal of the "vicinity" principle for persons to make representations on premises licences and club premises certificates could lead to an increase in the numbers of Licensing Sub-Committee hearings. The inclusion of Environmental Health as one of the parties who may object to a Temporary Event Notice and allowing the Police to object to notices on the grounds of any of the licensing objectives might also increase the number of hearings. The advertising requirements to be imposed on the licensing authority could increase costs. None of these costs can be quantified at this stage.

## **9. Environmental Implications**

- 9.1 Environmental Health will be given the power to object to temporary event notices.

## **10. Crime and Disorder Implications**

- 10.1 The Bill intends to strengthen existing Police powers in dealing with crime and disorder problems and also provide additional financial assistance to combat problems with the night time economy.

## **11. Equality and Diversity Implications**

- 11.1 There are no equality and diversity issues directly arising from this report.

## **12. Recommendation**

- 12.1 That the contents of this report are noted and that the Committee expresses to the Public Bill Committee concerns at:
- (1) the removal of the requirement for representations to be made only by interested parties or persons "in the vicinity". This will give carte blanche for representations to be made by individuals or groups who would not be directly affected by the applications;
  - (2) the advertising requirements to be imposed on licensing authorities.
- 12.2 That the Committee indicates whether it wishes to express views of any other of the Bill's contents;
- 12.3 That future updates be brought to the Committee as appropriate.

### **For Further Information Please Contact:**

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### **Background Papers:**

Home Office response to the Consultation  
on Rebalancing the Licensing Act  
Police Reform & Social Responsibility Bill

### **Or, on the proposals for the election of Police Commissioners:**

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