

TO: LICENSING AND SAFETY COMMITTEE
13 JULY 2017

HOUSE OF LORDS SELECT COMMITTEE REVIEW OF LICENSING ACT 2003
Public Protection Manager

1 INTRODUCTION

- 1.1 On 25 May 2016, the House of Lords appointed a Select Committee to “consider and report on the Licensing Act 2003”. The report of this Committee, “The Licensing Act 2003: post-legislative scrutiny” was published on 4 April 2017.
- 1.2 The introduction to the report concludes that ‘while the implementation of the Act leaves a great deal to be desired, to a large extent this is caused by an inadequate statutory framework whose basic flaws have, if anything, been compounded by subsequent piecemeal amendments. A radical comprehensive overhaul is needed, and this is what our recommendations seek to achieve’.

2 SUPPORTING INFORMATION

- 2.1 Key conclusions and recommendations in the report include the following:
- The Government made a substantial error in creating new committees for local authorities to deal with licensing. The evidence received about the poor operation of licensing committees was convincing and the committee was extremely concerned by what it heard. Planning committees are more effective and reliable, and are well-equipped for making licensing decisions. They should take over the licensing function. Coordination between the licensing and planning systems should begin immediately.
 - Licensing appeals should no longer go to magistrates' courts but should, like planning appeals, go to the planning inspectorate.
 - The Late Night Levy does not pay for the cost of policing as intended, and in its current form is fundamentally wrong in principle and in practice. Unless amendments already made prove effective, the Late Night Levy should be repealed. So should Early Morning Restriction Orders, which no local authority has yet introduced.
 - Fees for licensing should be set locally, not nationally. In doing so, local authorities must bear in mind that there are doubts about the legality of any element of a fee which goes beyond what is needed to process the application.
 - There is no justification for the Licensing Act not applying to sales airside at airports.
 - The legality of Minimum Unit Pricing is still under consideration by the Supreme Court. If it is found to be lawful and is introduced in Scotland, and is found to be effective in cutting down excessive drinking, England and Wales should follow Scotland's lead.
 - Scotland's example should also be followed in helping disabled people to access licensed premises by requiring an application for a premises licence to include a disabled access statement
 - There is not presently a case for further deregulation
 - Creation of a national database for personal licence holders

- An 'Agent of Change' principle be adopted in both planning and licensing guidance to help protect both licensed premises and local residents from consequences arising from any new development in their nearby vicinity
- Notices of application should not need to be given by an advertisement in a local paper.

2.2 The Chairman of the Committee, Baroness McIntosh of Pickering, said:

"It was a mistake and a missed opportunity to set up new licensing committees when the planning system was already available to regulate the use of land for many different purposes. The planning system is well suited to dealing with licensing applications and appeals, and the interests of residents are always taken into account.

The Committee was shocked by some of the evidence it received on hearings before licensing committees. Their decisions have been described as 'something of a lottery', 'lacking formality', and 'indifferent', with some 'scandalous misuses of the powers of elected local councillors'."

2.3 The Berks and Bucks Licensing Group are compiling a response to an Institute of Licensing Survey on the report to inform further discussions with bodies such as the Local Government Association.

2.4 The Government is obliged to respond to the Select Committee's report and recommendations, and further updates on this matter will follow in due course.

3 EQUALITIES IMPACT ASSESSMENT

3.1 None.

4 STRATEGIC RISK MANAGEMENT ISSUES

4.1 None.

Background Papers

None

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