

## **Policing and Crime Bill - Alcohol licensing**

### **Summary**

This paper updates members on recent developments to the alcohol licensing sections of the Policing and Crime Bill.

### **Recommendations**

That members note the update and draft lines of response to the Home Office consultation.

### **Action**

Officers to submit LGA Group response to the Home Office consultation following any member comments, and in consultation with Lead Members.

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## Policing and Crime Bill - Alcohol licensing

### Background

1. The Culture, Tourism and Sport Board last received an update on the Policing and Crime Bill at its 16 March 2009 meeting. This paper highlights key developments in the Bill's progress since then.
2. The Home Office have also launched their mandatory public consultation on the Bill, which closes on 5 August 2009. The consultation is open to all members of the public, and the LGA is also keen for councils to respond. Full details of the consultation, including regional events, can be found at <http://www.homeoffice.gov.uk/documents/cons-2009-alcohol/>

### Progress

3. The Policing and Crime Bill is now in its Lords committee stage. At the time of writing the sections relating to alcohol were due to be debated on 6 July. As in the Commons committee stage, the LGA has sought to lay amendments designed to empower Councillors and local licensing authorities to take action to tackle alcohol-related harm. Conservative frontbench Peers have agreed to table these amendments for the LGA. Officers will provide an **oral update** on the Lords' debate at the board meeting on 14 July.
4. The Home Office continues to consult with key stakeholders. Through this process, concern has grown around the issue of appeals to magistrates by licensees. The power to apply local conditions to more than one premises simultaneously is at the heart of the PCR Bill's alcohol measures. However, there is potential for high costs to be incurred fighting multiple independent appeals from licencees that have had conditions applied collectively, which may deter councils from employing the new powers. At a recent meeting attended by licensing managers, LGA, LACORS, and ACPO, Home Office officials received a very strong message that the discretionary local powers may ultimately be unused, as if the case with the previously enacted Alcohol Disorder Zones.
5. This issue was raised in a letter from the Chair to Vernon Coaker on 7 May. We received a response dated 19 May and both letters are attached to this report (**annex A and B**). We are at present progressing a meeting with Alan Campbell.
6. The other issue raised in the letter was that of new burdens that could be imposed on licensing authorities by the mandatory code. This part of the

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code has been substantially toned down since earlier drafts. Many of the suggested conditions outlaw uncommon practices, such as dispensing alcohol directly into a customer's mouth, which play only a small role in driving alcohol related disorder. LACORS are currently working to capture where the burdens from the mandatory code might fall on councils.

## **Parliamentary lobbying against the mandatory code**

7. On 24 June, Cllr White represented the LGA at an event hosted by All Party Parliamentary Groups with an interest in the licenced trade. The event was designed to oppose the introduction of the mandatory alcohol code. The LGA messages reflected that whilst we agreed with the trade that a mandatory code would be burdensome, we did support enhanced local powers for Councillors to tackle alcohol-related harm.
8. Messages from the on and off-trades at the event were largely in favour of local discretion to license problem premises, rather than blanket prescription from the centre. A small minority of licensees and retailers however did support the "consistency" of a national approach. There was also support for the idea that councils would require additional resources to meet the new burden of regulating and enforcing the mandatory code.

## **Recommendations**

9. Members are asked to note the update report and, should they wish, to offer a steer with regard to the draft response to the Home Office consultation outlined in **annex C**.

## **Financial Implications**

10. This work can be managed from existing resources.

## **Implications for Wales**

11. The Policing and Crime Reduction Bill provisions apply to Wales. Specific issues of concern to Welsh Authorities will be raised as the bill proceeds through Parliament.

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## Annex A

*promoting better local government*



Vernon Coaker MP  
Minister of State for policing, security and crime  
Home Office  
2 Marsham Street  
London, SW1P 4DF

7 May 2009

Dear Vernon

I write to raise serious concerns with the current Policing and Crime Bill's proposed changes to the licensing regime.

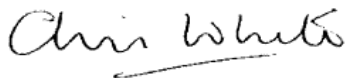
The LGA believes that some mandatory licensing conditions currently being considered would require increased enforcement and regulation activity by councils, and therefore trigger the New Burdens doctrine. As these new licensing conditions are not declared on the face of the Bill we cannot guarantee that this will be the case, but the draft versions seen so far have all contained clauses that we believe would amount to a new burden on councils. The LGA has shared details of where we believe this is the case with your Bill team.

The assumption that the Category "B" local conditions would allow councils to make savings is also open to challenge. It assumes that costs to councils lie mainly in applying the conditions, when in fact the greatest costs lie in fighting appeals by licensees. The potential for increased appeals by multiple licensees against category B conditions make it likely that these powers will not be widely used by councils.

Local licensing authorities are already subsidising the implementation of the Licensing Act 2003 by £100m, which amounts to £5 per council tax payer. In doing so they are making a massive contribution to tackling alcohol-related harm. We are very concerned that new burdens that might be imposed by the Policing and Crime Bill could further stretch local resources, with the possibility that the best, pro-active measures that councils take in this area might be put under threat.

The LGA has set out a clear vision as to how local action to tackle alcohol-related harm could be promoted. I would very much welcome the chance to meet with you to discuss how we might ensure that the Policing and Crime Bill does not become a missed opportunity.

Yours sincerely,



CLlr Chris White  
Chair, LGA Culture, Tourism and Sport Board

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Annex B



## Home Office

**Vernon Coaker MP**  
**MINISTER OF STATE**  
2 Marsham Street, London SW1P 4DF  
[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

Councillor Chris White  
Chair, LGA Culture, Tourism and Sport Board  
Local Government House  
Smith Square  
London  
SW1P 3HZ

19 MAY 2009

*Dear Chris,*

Thank you for your letter of 7<sup>th</sup> May 2009 regarding the changes to the licensing regime in the Policing and Crime Bill. Let me assure you that in introducing the new code of practice for alcohol retailers we want to avoid imposing unnecessary burdens on local authorities. I recognise that local authorities are already making a significant contribution to tackling alcohol related crime and disorder and I would encourage them to continue to act proactively to tackle this important issue.

As you may well be aware, on the 13<sup>th</sup> May we launched a public consultation on the content of the new code of practice as well as on some of the processes around the code. I have enclosed a copy for your information. I do not believe that the mandatory conditions we are proposing will impose a significant burden on local authorities because increased awareness of these national conditions will mean that breaches would be easily identified and hence should be less widespread. Furthermore, we believe that tackling these irresponsible practices and promotions will have a significant impact on alcohol related problems which will result in real savings for local authorities.

That said, I recognise your concerns around the potential costs of appeals by premises and our consultation is specifically seeking views on this issue. We believe that allowing licensing authorities to impose conditions on groups of premises at once will significantly help them to deal with the types of problems we see in many town centres which are simply the result of there being a number of premises in an area. I therefore take your concerns that these costs could limit the use of these powers seriously and I would welcome your views on how we can reduce this potential cost without limiting premises' fair rights of appeal.

Finally, I firmly believe that the provisions in the Policing and Crime Bill will significantly improve the ability of local authorities to tackle alcohol related

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problems. The Bill not only allows for licensing conditions to be imposed on multiple premises at once, but it also allows licensing authorities to instigate that action themselves, something which I know many local authorities have been asking for.

Alan Campbell MP, Home Office Minister who leads on this would be happy to meet with you to discuss the issues you have raised further, please contact his Diary Secretary, Tanisha Rahman, on 020 7035 8768 to arrange a meeting.

*Yours ever,*

*Vernon*

**VERNON COAKER**

## Home Office consultation – proposed lines of response

### The proposed mandatory licensing conditions

Do you have any suggestions that will improve the proposed mandatory licensing conditions and requirements to reduce crime and disorder?

- Do not agree with the need for the code – would like it removed
- It will not tackle the causes of the problem, and will impose burdens on trade and councils
- No funding will be provided

Is the drafting of these mandatory licensing conditions explicit enough to capture the intended activities? If not, can you provide alternative wording that may be more effective?

- Technical question – LACORS response

Would you support the requirement for licensed premises to have to display unit and health information? Are there types of licensed premises that you feel should be exempt from these requirements? If so, which types and why?

- We would support this in principle as it leads more information being available for the consumer.
- But councils will be required to monitor and enforce this, which could lead to a new burden.

Are there any types of licensed premises that you feel should be exempted from one or more of the mandatory conditions? If so, which types and why?

- Only premises which are contributing to alcohol related harm should be further restricted.
- It is only at the local level that these judgements can be made – as it recognised by the government.
- We therefore support maximising local powers and removing blanket national conditions to ensure important small businesses are not further regulated, especially during an economic downturn.

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## The proposed discretionary local conditions:

Do you have any suggestions that will improve the impact of the proposed conditions in reducing nuisance and disorder in your area?

- **The LGA Group strongly advocates the draft code be replaced with legislation that will clearly and explicitly empower elected Councillors and licensing authorities to lead local action in partnership with other agencies.**
- **This legislation should contain those key powers which the LGA has supported legislators to lay as amendments during committee stage.**

Is the drafting of these proposed local conditions explicit enough to achieve the intended impact? If not, can you provide alternative wording?

- Whilst we are opposed to the prescriptive nature of the local conditions, and the need for them to be sanctioned by the SoS, we will provide a full technical response focusing on the proposed local conditions.
- LACORS lead technical response.

Are there any of the proposed conditions that seem disproportionate or that you do not think licensing authorities should be able to use with groups of two or more premises?

- Applying criteria to several premises appears like a positive step. Likewise, we support the role of licensing authorities in instigating this process, rather than waiting for direction from a responsible authority.
- BUT we don't have details of the appeal process yet so need to be careful about being too positive
- And the process needs to ensure that it is worth the financial and time costs to councils.
- We are at present unconvinced that Home Office assurances of new guidance to magistrates will result in a clear incentive for councils to pursue this route.

If limits are to be placed on supermarkets, convenience stores, etc. for discounting large volumes of alcohol, what levels do you consider should be set? Should it differ for different types of drinks (beer, wine, spirits etc)?

- As with the on-trade, the local circumstances of off-licences and supermarkets vary.
- Were any such limits proposed local discretion to set limits would mean that such measures were not tokenistic (is the national level was set too low) or too high as to be under-utilised.
- Local action linked to specific premises would make it easier to justify limiting people's consumption habits in this way.



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**There follows a series of questions about the mechanisms of employing local criteria focused on:**

- Training - How might a training requirement applied by licensing authorities to two or more premises work in practice? In particular: what should it contain; how should it be enforced; and should different schemes be available to the on-trade, off-trade and clubs?
- Seating - What are the appropriate levels of seating that should be imposed on 'high volume vertical drinking establishments' in order to reduce the risk of nuisance and disorder?
- Background music - Would a restriction on the level of background music contribute to a decrease in nuisance and disorder? If so, how might it be enforced?
- Harassment/intimidation in premises - What more can be done to protect people from harassment and intimidation in and around licensed premises?
- Door Staff - Do you think that there should be a discretionary local condition to require groups of premises to have door staff in operation during times associated with nuisance and disorder?

**There are also three questions looking at enforcement, appeals and likely uptake. It is recommended that these two final sections be completed as part of the LACORS technical response.**