

11 November 2009

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## **Licensing issues**

### **Summary**

This paper updates members on recent licensing developments, including the Government's decision to take up the LGA amendment that would give councillors new licensing powers.

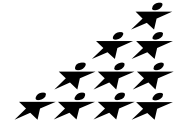
### **Recommendations**

That members note the report and endorse the ongoing lobbying positions set out at paragraphs 4 and 8.

### **Action**

1. Officers to continue to progress the suggested lobbying positions.
2. Subject to members' comments, officers to take forward any further actions.

Contact Officer: Steve Skelton  
Phone No: 020 7664 3074  
Email: [steven.skelton@lga.gov.uk](mailto:steven.skelton@lga.gov.uk)



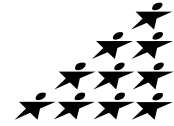
## **Licensing issues**

### **Alcohol licensing**

1. The CTS Board has supported amendments to the current Policing and Crime Bill (PCR) that, if enacted, would:
  - Abolish the proposed mandatory national licensing code;
  - Allow councillors and licensing authorities to make representations on Temporary Events Notice applications;
  - Give councillors the powers of “interested parties” – which would allow them comment on licence applications and reviews of premises in their vicinity.
2. These amendments were debated most recently in the House of Lords on 14 October 2009, where they were tabled by Baroness Hanham (Con) and spoken to by Lord Skelmersdale (Con). The Government spokesman, Admiral Lord West of Spithead, set out that he agreed with the principle of the third LGA amendment – to give councillors “interested party” status – and that the Government would return with a proposal on this issue at report stage.
3. On 29 October 2009 the Government tabled several amendments to the PCR bill, including amendments that will give councillors “interest party” status. In light of these new powers, the Government has also amended the Bill to remove the proposed new powers for licensing authorities, which the LGA Group had criticised for being overly prescriptive and be unlikely to be utilised.
4. This is a clear lobbying victory for the CTS board and LACORS. We will continue to work to put pressure on the Government to ensure councillors are put at the heart of the licensing regime and have the powers to act as local licensing champions.

### **Licensing of lap-dancing clubs**

5. The PCR Bill contains proposals to introduce a new category of licence for lap-dancing and similar clubs, called a “sex-encounter venue” (SEV) licence. The LGA Group has supported the introduction of this legislation and has been consulted on its development. If enacted the SEV licensing regime will, broadly:
  - allow local people to oppose an application for a sex establishment licence if they have legitimate concerns that a lap dancing club would be inappropriate given the character of an area because for example, the area was primarily a residential area.
  - require licences to be renewed at least yearly, at which point local people will have the opportunity to raise objections with their local authority.



## **Local Government Association**

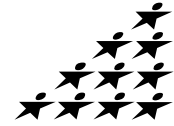
- allow a local authority to reject a licence application if they believe that to grant a licence for a lap dancing club would be inappropriate given the character of a particular area.
  - allow a local authority to set a limit on the number of sex encounter venues that they think is appropriate for a particular area.
  - allow a local authority to impose a wider range of conditions on the licences of lap dancing clubs than they are currently able to under the 2003 Act.
6. The Government is now consulting on the transitional arrangements that will apply if the PCR Bill gains Royal Assent. The consultation proposes that “grandfather rights” are not offered to existing club owners, and that a 12 month transition period is put in place, at the end of which all clubs must either have the new SEV licence, or must stop providing the relevant entertainment. The LGA Group supports these proposals.
7. The CTS board has previously discussed two proposed amendments to the PCR Bill: one, to place a duty on councils to adopt the new SEV powers; rather than giving them the power to do so, and the second to remove the frequency based exemption for premises that put on relevant entertainment fewer than eleven times a year. Members supported the amendment to remove frequency based exemption, but were divided on this issue of compelling, rather than empowering councils to employ the SEV licensing regime. Neither amendment has been taken up by government to date.
8. An amendment was put forward by Baroness Gould (Lab), at Lords’ report stage on 5 November, which reiterated both of these proposals. On the 3 and 5 November demonstrations were also held in Parliament Square to coincide with this and other debates on the PCR bill. The demonstrations were both in support of, and in opposition to, this amendment. Officers will provide an oral update at the Board describing the outcome of the Lords’ debate on this issue.

### **Live Music**

9. On 22 October 2009, licensing minister Gerry Sutcliffe MP, speaking at a Westminster debate, confirmed that the DCMS wishes to employ a legislative reform order (LRO) to introduce a *de minimis* live music exemption for premises with a capacity of less than 100. Details of the exact proposals and the required consultation process have not been published to date.
10. The LGA Group opposes *de minimis* exemptions for live music on the basis that crowd size is not a viable means of determining whether or not a particular performance of live music will contravene one of the licensing act objectives<sup>1</sup>. Officers will continue to explore the likely impact of these proposed changes, and

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<sup>1</sup> These are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.



**Local Government Association**

will work with partners to ensure councils retain the powers they need to represent the interests of all their residents.

## **Financial Implications**

11. This work can be managed from existing resources.

## **Implications for Wales**

12. 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.

Contact Officer: Steve Skelton  
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Email: [steven.skelton@lga.gov.uk](mailto:steven.skelton@lga.gov.uk)