

# Safer and Stronger Communities Board

## Agenda

Monday 14 January 2013  
11.00am

Westminster Suite 8.1  
Local Government House  
Smith Square  
LONDON  
SW1P 3HZ

**To:** Members of the Safer and Stronger Communities Board  
**cc:** Named officers for briefing purposes

[www.local.gov.uk](http://www.local.gov.uk)

## **Guidance notes for visitors**

**Local Government House, Smith Square, London SW1P 3HZ**

### **Welcome!**

Please read these notes for your own safety and that of all visitors, staff and tenants.

### **Security**

All visitors (who do not already have an LGA ID badge), are requested to report to the Reception desk where they will be asked to sign in and will be handed a visitor's badge to be worn at all times whilst in the building.

### **Fire instructions**

In the event of the fire alarm sounding, vacate the building immediately following the green Fire Exit signs. Go straight to the assembly point in Tufton Street via Dean Trench Street (off Smith Square).

DO NOT USE THE LIFTS.

DO NOT STOP TO COLLECT PERSONAL BELONGINGS.

DO NOT RE-ENTER BUILDING UNTIL AUTHORISED TO DO SO.

### **Members' facilities on the 7th floor**

The Terrace Lounge (Members' Room) has refreshments available and also access to the roof terrace, which Members are welcome to use. Work facilities for members, providing workstations, telephone and Internet access, fax and photocopying facilities and staff support are also available.

### **Open Council**

"Open Council", on the 1st floor of LG House, provides informal meeting and business facilities with refreshments, for local authority members/officers who are in London.



### **Toilets**

Toilets for people with disabilities are situated on the Basement, Ground, 2nd, 4th, 6th and 7th floors. Female toilets are situated on the basement, ground, 1st, 3rd, 5th, and 7th floors. Male toilets are available on the basement, ground, 2nd, 4th, 6th and 8th floors.

### **Accessibility**

Every effort has been made to make the building as accessible as possible for people with disabilities. Induction loop systems have been installed in all the larger meeting rooms and at the main reception. There is a parking space for blue badge holders outside the Smith Square entrance and two more blue badge holders' spaces in Dean Stanley Street to the side of the building. There is also a wheelchair lift at the main entrance. For further information please contact the Facilities Management Helpdesk on 020 7664 3015.

### **Further help**

Please speak either to staff at the main reception on the ground floor, if you require any further help or information. You can find the LGA website at [www.local.gov.uk](http://www.local.gov.uk)

**Please don't forget to sign out at reception and return your badge when you depart.**

## **Safer & Stronger Communities Board**

14 January 2013

---

The **Safer & Stronger Communities Board** meeting will be held on **Monday 13 January 2013 at 11.00am**, in the Westminster Suite Room 8.1 (8<sup>th</sup> Floor), Local Government House, London, SW1P 3HZ.

Lunch will be provided directly after the meeting at 1.00pm.

### **Apologies**

Please notify your political group office (see contact telephone numbers below) if you are unable to attend this meeting, so that a substitute can be arranged and catering numbers adjusted, if necessary.

**Labour:** Aicha Less: 020 7664 3263 email: [aicha.less@local.gov.uk](mailto:aicha.less@local.gov.uk)  
**Conservative:** Luke Taylor: 020 7664 3264 email: [luke.taylor@local.gov.uk](mailto:luke.taylor@local.gov.uk)  
**Liberal Democrat:** Group Office: 020 7664 3235 email: [libdem@local.gov.uk](mailto:libdem@local.gov.uk)  
**Independent:** Group Office: 020 7664 3224 email: [independent.group@local.gov.uk](mailto:independent.group@local.gov.uk)

### **Attendance Sheet**

Please ensure that you sign the attendance register, which will be available in the meeting room. It is the only record of your presence at the meeting.

### **Location**

A map showing the location of the Local Government House is printed on the back cover.

### **Contact**

Stephen Service (Tel: 020 7664 3194, email: [stephen.service@local.gov.uk](mailto:stephen.service@local.gov.uk) )

### **Carers' Allowance**

As part of the LGA Members' Allowances Scheme, a Carers' Allowance of up to £6.19 per hour is available to cover the cost of dependents (i.e. children, elderly people or people with disabilities) incurred as a result of attending this meeting.

### **Hotels**

The LGA has negotiated preferential rates with Club Quarters Hotels in central London. Club Quarters have hotels opposite Trafalgar Square, in the City near St Pauls Cathedral and in Gracechurch Street, in the City, near the Bank of England. These hotels are all within easy travelling distance from Local Government House. A standard room in a Club Quarters Hotel, at the negotiated rate, should cost no more than £149 per night.

To book a room in any of the Club Quarters Hotels please link to the Club Quarters website at <http://www.clubquarters.com>. Once on the website enter the password: *localgovernmentgroup* and you should receive the LGA negotiated rate for your booking.

### **Guest WiFi in Local Government House**

This is available in Local Government House for visitors. It can be accessed by enabling "Wireless Network Connection" on your computer and connecting to LGH-guest, the password is Welcome2010LG.



## Safer & Stronger Communities Board - Membership 2012/13

Councillor	Authority
<b>Conservative (8)</b>	
Joanna Spicer <b>[Vice-Chair]</b>	Suffolk CC
Tom Fox	Scarborough BC
Robert Gordon CBE DL	Hertfordshire CC
Paul Bettison	Bracknell Forest Council
David Burbage	Windsor & Maidenhead RBC
Shona Johnstone	Cambridgeshire CC
Nick Worth	South Holland DC
Kay Hammond	Surrey CC
<b>Substitutes:</b>	
Bhupendra Dave	Oadby & Wigston BC
Matthew Evans	Newport City Council
Audrey Lewis	City of Westminster
Jeffrey Milburn	South Tyneside MBC
<b>Labour (6)</b>	
Mehboob Khan <b>[Chair]</b>	Kirklees MBC
Ann Lucas	Coventry City
Nilgun Canver	Haringey LB
Henri Murison	Newcastle upon Tyne City
Florence Nosegbe	Lambeth LB
Michael Payne	Gedling BC
<b>Substitutes:</b>	
Kate Haigh	Gloucester City
Richard Chattaway	Warwickshire CC
<b>Liberal Democrat (3)</b>	
Duwayne Brooks <b>[Deputy Chair]</b>	Lewisham LB
Lisa Brett	Bath & NE Somerset Council
Anita Lower	Newcastle upon Tyne City
<b>Substitute:</b>	
Claire Thomas	Hull City
<b>Independent (1)</b>	
Philip Evans JP <b>[Deputy Chair]</b>	Conwy Council
<b>Substitute:</b>	
TBC	



## Safer & Stronger Communities Board Attendance 2012-2013

Councillors	11.09.12	05.11.12	14.01.13	11.03.13	08.07.13
<b>Conservative</b>					
Joanna Spicer <b>[Vice-Chair]</b>	Yes	Yes			
Tom Fox	Yes	No			
Robert Gordon CBE DL	Yes	No			
Paul Bettison	No	Yes			
David Burbage	Yes	Yes			
Shona Johnstone	Yes	Yes			
Nick Worth	Yes	Yes			
Kay Hammond	Yes	No			
<b>Substitutes:</b>					
Bhupendra Dave					
Matthew Evans		Yes			
Audrey Lewis	Yes	Yes			
Jeffrey Milburn					
<b>Labour (6)</b>					
Mehboob Khan <b>[Chair]</b>	Yes	Yes			
Ann Lucas	Yes	By Conference call (1 <sup>st</sup> item only)			
Nilgun Canver	Yes	Yes			
Henri Murison	No	Yes			
Florence Nosegbe	Yes	Yes			
Michael Payne	Yes	Yes			
<b>Substitutes:</b>					
Kate Haigh	Yes	Yes			
Richard Chattaway	Yes	Yes			
<b>Liberal Democrat (3)</b>					
Duwayne Brooks <b>[Deputy Chair]</b>	Yes	No			
Lisa Brett	Yes	Yes			
Anita Lower	Yes	Yes			
<b>Substitute:</b>					
Claire Thomas					
<b>Independent (1)</b>					
Philip Evans JP <b>[Deputy Chair]</b>	Yes	Yes			





## Draft Agenda

---

### Safer and Stronger Communities Board

11.00am, Monday 14 January 2012

Westminster Suite Room 8.1 (8<sup>th</sup> Floor), Local Government House

---

#### For discussion

	Item	Page
1.	Consultation on the regulation of street trading and pedlary	3
2.	Alcohol Strategy Consultation	7
3.	Legislative Update	13
4.	Update on PCCs and Police and Crime Panels	31
5.	Feedback from the Safer Communities conference 2012	43
6.	Update on regulatory services issues	49

#### For information / noting

	Item	Page
7.	Communications Data Bill	57
8.	Crime and Courts Bill	67
9.	Notes of the last meeting	71

**Date of Next Meeting:** Monday 11 March 2013, 11.00, Local Government House



## **Consultation on the regulation of street trading and pedlary**

### **Purpose of the report**

To agree the approach of the LGA response to the Government's consultation on the regulation of street trading and pedlars.

### **Summary**

The Department for Business, Innovation and Skills (BIS) is consulting on proposals to amend laws regulating street traders and pedlary. The amendments are designed to ensure that UK legislation complies fully with the European Services Directive, the primary aim of which is to eliminate barriers to service providers and make it easier for street traders to operate anywhere in the EU.

The LGA welcomes Government steps to review laws relating to street trading and pedlary, which have long been outdated and confusing. The laws need reviewing not only to accommodate the requirements of the Services Directive, but more importantly in our view to ensure there is a robust system of safeguards and sanctions in place to protect residents, businesses and communities from unscrupulous practices.

Although existing licensing regulations will continue to apply to street traders, this consultation proposes removing all regulation of a new definition of pedlars. We know that many of our member authorities have resorted to local acts to regulate pedlary and we will therefore want to press the Government to move ahead with a parallel commitment to examine what enforcement tools can be made available to tackle business and resident concerns about pedlars in the future. The LGA believes that councils should have a clear and consistent set of tools available to respond to the needs of residents and businesses when appropriate.

The consultation closes on 15 February and is available online at <http://www.bis.gov.uk/Consultations/category/open>

### **Recommendation**

Members are asked to comment on the draft response below.

### **Action**

Officers to finalise the LGA response, in line with Members' comments.

### **Contact officer:**

### **Position:**

### **Phone no:**

### **E-mail:**

Gwyneth Rogers / Ian Leete

Senior Adviser – regulation, Adviser - regulation

020 7664 3861 / 3143

[gwyneth.rogers@local.gov.uk](mailto:gwyneth.rogers@local.gov.uk) / [ian.leete@local.gov.uk](mailto:ian.leete@local.gov.uk)

## **Consultation on the regulation of street trading and pedlary**

### **Background**

#### **Current approach to licensing pedlars**

1. Under the Pedlars Acts 1871 and 1881 a person intending to trade as a pedlar must apply for a pedlars certificate from the police. The definition of pedlar focuses on the sale of goods on foot and would include selling paving, driveways, household products, homemade goods, fish, books or paintings.
2. Applicants must have resided in the police area where they apply for at least one month, be of good character and be above 17 years of age. Licences are applicable UK wide once granted and there are approximately 4000 currently in place.
3. A limited number of local authorities have obtained private Acts of Parliament to provide them with powers to regulate pedlar activity in the same way as street trading, such as restricting pedlars to door to door sales in designated streets rather than selling goods directly to customers in the street.

#### **Current approach to licensing street traders**

4. Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 councils can adopt powers to regulate street trading. The definition of street trading includes the sale of goods in the street, rather than services, and excludes those acting as certified pedlars selling their goods on foot. The Act provides councils with the power to license street trading in specified streets, operate a consent system for street trading or prohibit street trading in named streets.

#### **Proposed amendments**

5. Government has reviewed the regulation of both street trading and pedlars in light of the EU Services Directive.
6. The Government is proposing to repeal the Pedlars Act 1871 and 1881 because it does not comply with the Services Directive. Government is committed to ensuring that 'genuine' pedlars can continue to operate with the minimum number of restrictions. As such, it is proposed that a new definition of pedlar will be introduced. Pedlars meeting the new definition will be exempt from any form of certification or licensing.
7. The proposed definition for pedlars focuses on the fact that pedlars travel and trade on foot and includes tighter limitations on the amount of goods to be carried and the amount of time they can remain stationary in order to attract trade, and how soon they can return to locations.
8. The Government has proposed a range of other amendments to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to ensure it meets the requirements of the Services Directive. These include reducing the grounds for refusing a street trading application and increasing flexibility about the period of a licence. The Institute of

**Item 1**

Licensing is working with councils to understand the implications of these technical amendments.

9. Councils with their own street trading or pedlar related legislation will need to ensure it complies with the Services Directive. BIS has offered to include any repeals or amendment to the 33 local acts that reference pedlary in the proposed national regulations if provided by 15 February 2013, however, they have not provided any advice to councils on whether local restrictions relating to pedlars can simply be reapplied to the new definition or whether they must be repealed because they no longer comply with the Services Directive.

**Implications for councils**

10. This proposal has the potential to impact significantly on a number of councils and their communities. We hear regular complaints about the activities of street traders forcefully selling their products, which has prompted many residents' associations to set up No Cold Calling Zones, and created difficulties with enforcement. At the time when we are doing everything possible to encourage customers and residents to high streets and town centres, the potential for an increasing number of pedlars, operating much more freely, has the potential to undermine much of that good work. At the announcement of this consultation, we therefore publicly stated our concern to the relaxation around regulations of street traders and pedlars, warning against a rise in door to door sellers who could put the elderly and vulnerable at risk.
11. It is important that councils are able to effectively manage their town centres and streets to encourage economic growth, while still protecting their residents and visitors from fraud and nuisance. While councils and the police will retain powers to tackle illegal activity, such as selling counterfeit goods, harassment and fraud, councils will be unable to address ongoing resident and business concerns about pedlar activity in their communities. The proposals by BIS fail to recognise the unease that can be associated with itinerant business, which has been exemplified in recent years by concerns about face to face fundraisers and scrap metal collection. Residents and businesses suffer from the cumulative impact of such activity and often want their council to respond to their concerns. We strongly believe that further thought needs to be given to what measures can be made easily available to councils where specific and persistent issues occur associated with pedlar activity.
12. As with most regulatory activity, a balance needs to be struck between ensuring that the free market intentions of the Directive are adhered to whilst at the same time respecting the needs of communities and dealing effectively with street trading or pedlar activity that creates concern. With this in mind, the Government has committed to working with local authorities to identify the precise challenges street trading brings with the aim of bringing in a new legal framework which enables authorities to respond to illegal street trading. The LGA welcomes any steps to understand the needs of councils and their communities, however, this work must include both pedlary and street trading and be carried out in parallel with the development of new regulations to ensure that the whole scheme is fully thought through from the outset.
13. The simplest and most straight forward way of giving councils the ability to respond to concerns about pedlars would be to include pedlary within Schedule 4 of the Local

**Item 1**

Government (Miscellaneous Provisions) Act 1982. This would give councils discretionary powers to tackle specific issues in the same way as street trading. It would provide a clear and consistent approach to the regulation of both street trading and pedlary, which could be easily understood by both residents and businesses. Councils are highly experienced at balancing the needs to businesses, the wider economy and the needs of local residents. As such, these powers would only be used in a proportionate manner to target specific concerns and in full consultation with local communities.

14. In public BIS Ministers have argued that removing these barriers will help small traders, including many young entrepreneurs, rather than compliance with the Services Directive. We remain sceptical about this argument in relation to such a specific sector and we are seeking views from the Federation of Small Businesses as to the scale of this activity.
15. The LGA believes that it is vital for BIS to take urgent responsibility to work proactively with all councils that have local legislation relating to pedlary and street trading to minimise the burden on individual councils and provide further clarity about what amendments are required to meet the requirements of the Services Directive.

**Next Steps**

16. Subject to Members' views on this overall approach, officers will draw up a detailed response to send in to BIS. This paper and our final response will be widely shared with our member authorities.

**Item 2**

## **Alcohol Strategy Consultation**

### **Purpose of report**

To agree the overall approach to the LGA's joint Safer Communities Board and Community Wellbeing Board response to the Alcohol Strategy Consultation.

### **Summary**

This consultation invites views on five key issues set out in the Government's Alcohol Strategy published on 23 March 2012. These are:

- A minimum unit price for alcohol
- A ban on multi-buy promotions in the off-trade
- Reviewing the mandatory licensing conditions
- Health as a licensing objective for cumulative impact policies
- Freeing up responsible businesses

The general direction of the consultation is positive, providing councils with additional powers to control the sales of alcohol in their area. The consultation recognises the important role of local authorities, particularly in taking on new responsibilities for public health.

This briefing has been developed with the input of the Community Wellbeing programme team and copies will go to the Community Wellbeing Board and the Culture, Tourism and Sport Board for information.

### **Recommendation**

Members are asked to comment on the draft response below.

### **Action**

Officers to develop key lines subject to Members' comments.

### **Contact officer:**

Gwyneth Rogers / Ian Leete

### **Position:**

Senior Adviser – regulation, Adviser - regulation

### **Phone no:**

020 7664 3861 / 3143

### **E-mail:**

[gwyneth.rogers@local.gov.uk](mailto:gwyneth.rogers@local.gov.uk) / [ian.leete@local.gov.uk](mailto:ian.leete@local.gov.uk)





**Item 2**

## **Alcohol Strategy Consultation**

### **Background**

1. This consultation invites views on five key issues set out in the Government's Alcohol Strategy published on 23 March 2012. These are:

#### **A minimum unit price for alcohol**

- The price level;
- the mechanism for adjusting the price over time; and
- the impact of a minimum unit price.

2. The Board has discussed this issue on a number of occasions, most recently in May 2012. Mixed views were expressed with a number of Members raising concerns about the effectiveness and impact of such a policy. We have continued to acknowledge minimum pricing as part of a package of tools which should also include education and information work, but we have resisted being drawn into a debate about what the minimum price should be, and on what products.

#### **A ban on multi-buy promotions in the off-trade**

- Whether to introduce a ban on multi-buy promotions; and
- the impact of such a ban.

#### **Reviewing the mandatory licensing conditions**

- Views on the current set of mandatory licensing conditions;
- whether the current set of mandatory licensing conditions sufficiently targets problems such as irresponsible promotions in pubs and clubs; and
- the application of the conditions to the on- and off-trade.

#### **Health as a licensing objective for cumulative impact policies**

- Views on introducing health as a licensing objective for cumulative impact policies; and
- the impact of such a licensing objective for cumulative impact policies.

#### **Freeing up responsible businesses**

- Proposals to develop a more targeted, proportionate and flexible licensing regime that can support responsible growth while maintaining the integrity of the licensing system; and
- The impact of these proposals on businesses and on the licensing objectives.

### **Draft Response: overarching comments**

3. We welcome the cross-government approach to this strategy and the addition of new tools that councils can use to tackle local problems. The introduction of a health objective is particularly welcome and will provide a valuable mechanism for health authorities to comment on licensing applications, enabling them to use their expertise to make decisions which protect the health of the local population.

## **Item 2**

4. The consultation seeks views on a number of new, innovative ideas to devolve responsibility to a local level and we welcome the statement that action to tackle problem drinking should be “taken locally, by those who know the area.” Councillors value their ability to protect residents and support economic growth through judicious and innovative use of their licensing responsibilities and many proposals in the consultation will enhance this ability.
5. We are supportive of many of the measures and have therefore commented only on those where we feel we can materially improve the proposal or feel that the proposal may not meet its intention as presented.
6. In particular, we welcome the consultation on a health objective and would like to make a number of suggestions to be considered when designing it. We would be happy to be involved in any technical groups to help with its introduction. We also believe the principle of banning multi-buy promotions is positive and helpful.
7. However, we do have concerns that in a few areas the consultation loses sight of the importance of using local knowledge to regulate businesses in the way that supports them to protect their customers, rather than hinders them. The proposals on mandatory conditions particularly work against this objective and we ask Government to rethink what it hopes to achieve by this proposal.
8. It will be important that support is provided to those delivering the new health involvement in licensing and the Home Office and Department for Health should display leadership in building awareness of this opportunity to manage public health.

### **Comments on specific issues: Minimum pricing**

9. We remain committed to the principle of a minimum unit price that is meaningful but does not unfairly penalise those who enjoy a responsible drink. We believe that minimum pricing can only work as part of a package of tools which should also include education and information work.
10. Unfortunately, the evidence base on setting a price continues to be unclear and contradictory. Our own analysis of the marketplace shows that current proposals would impact on only a very few products and that impact could therefore be limited. We therefore think Government needs to do more work to reconcile the currently contradictory positions before a price is established, and to clarify the legal position on a minimum price with the European Union.
11. Newcastle has recently introduced, with the agreement of the applicants, a minimum unit price as a licensing condition. This price is roughly three times the proposed national price.

### **Banning of multi-buy promotions**

12. We agree that the sale of multi-buy promotions is a significant factor in encouraging pre-loading and excessive consumption and we welcome work to address this issue.

**Item 2**

However, retailers are highly astute in marketing products while consumers will seek to maximise their purchasing power.

13. We therefore do not expect the Government's stated intention of raising the awareness of the dangers of excessive consumption to be realised through this measure and feel this needs to be accompanied by greater investment in Community Alcohol Partnerships and improved labelling.

**Mandatory Licensing Conditions**

14. The power to impose licensing conditions that are proportionate and appropriate for local areas is at the heart of establishing effective control of alcohol consumption in an area, while also ensuring that business are not disadvantaged.
15. We are pleased that Government acknowledges the importance of local knowledge in the opening sections of the consultation, but we are unconvinced of the need to review or maintain mandatory conditions. They were fit for purpose when licensing authorities were adapting to new legislation, but are no longer necessary.
16. We do not envisage any instances where the intent of the mandatory conditions could not be delivered by a locally determined condition; and one that could be more appropriate and proportionate because of being refined by use of local knowledge.

**Health as a licensing objective**

17. This is a very welcome proposal and we are pleased that Government is acting on its promise to introduce this objective for cumulative impact policies.
18. We agree with Government's position that it will be difficult to consider health issues in connection with individual licence applications, so it is appropriate that the objective be limited to the consideration of cumulative impact. However, it remains a cause for concern that councils continue to be challenged in court on the use of cumulative impact policies. In order to make this provision effective we would ask the Home Office and Department for Health to consult local government on the detail of the new objective and consider how they can support councils to effectively deploy them as part of this new objective.
19. Some councils are already making use of accident and emergency data to inform decisions, as well as the local authority alcohol profiles provided by the North West Public Health Observatory. However, the Home Office should avoid listing specific types of data that should be used as local requirements may vary. Nor should any particular model be recommended as methods such as the Cardiff model have been found to have limitations when used outside their area of origin.
20. It should be noted that councils can struggle to obtain health data and that it is not always fit for purpose. The Home Office and Department of Health should work together to ensure that local health bodies are aware of their role in providing data and give them the flexibility to deliver this.

**Item 2**

21. We hope that Government will help us to work with them to develop the technical wording of the objective which will be absolutely critical if it is to effectively deliver public health outcomes.

**Reducing the burdens on business**

22. The proposal on ancillary sales fits well with council's desire to make it as easy as possible for local businesses to thrive, while maintaining appropriate levels of consumer assurance and confidence.
23. We believe that, to achieve the best and most appropriate effect, this classification should be able to be locally determined by the licensing authority. It is impossible to nationally classify groups of businesses that will only make or not make ancillary sales, while licensing authorities will be able to make an on the ground assessment and check that this is indeed the case. This allows the licensing authority to effectively assess the situation and determine the need based on the size of the business and level of custom.
24. We would suggest that the Home Office looks to the recent Live Music Act for an example of this process could work; a suspension of conditions on introduction, but the possibility of reintroducing full licence requirements at a review if the alcohol is found to be served irresponsibly. This rewards well-run businesses while continuing to protect residents and customers from nuisance and public disorder.
25. The same principles should apply to the proposals around late night refreshment. We do not see a need for national exemptions which are inflexible and risk either exempting nuisance businesses or still imposing an unnecessary burden on well-run businesses that are a welcome addition to the night time economy.

**Item 3**

## **Legislative Update**

### **Purpose of report**

For information and decision.

### **Summary**

This report provides members with an update on the progress of the Scrap Metal Dealers Bill, and the draft Anti-Social Behaviour Bill.

### **Recommendations**

Members are asked to:

1. note the latest developments with the Scrap Metal Dealers and Anti-Social Behaviour Bills; and
2. comment on the proposed LGA action in relation to each Bill, in particular whether to continue to press for amendments.

### **Action**

LGA officers to progress as appropriate.

**Contact officer:** Mark Norris  
**Position:** Senior Adviser, LGA  
**Phone no:** 020 7664 3241  
**E-mail:** [mark.norris@local.gov.uk](mailto:mark.norris@local.gov.uk)



### **Item 3**

## **Legislative Update**

### **Scrap Metal Dealers Bill**

1. In November, the Board received a report on the progress of Richard Ottaway's private member's bill to reform the regulation of scrap metal dealers. The report outlined the amendment of the Bill by the government to allow local authorities to set licence fees locally, as well as the Home Office's decision to resist the LGA's amendment that would let councils impose local conditions when granting the licence.
2. Officers reported that there was a considerable degree of concern that the Bill would be talked out at the report stage and third reading in the House of Commons. The Board was clear that it was important that the Bill pass the report stage and become legislation, and suggested an intensive lobbying campaign with MPs urging them to support the Bill.

### **Report stage and Third Reading**

3. Further discussions revealed that the main threat to the Bill was from two MPs who were looking to talk the Bill out, having tabled over 110 amendments. Having identified the two MPs concerned, Philip Davies and Christopher Chope, appropriate Board and other LGA members were asked to contact them, as was the leader of the county council in Mr Chope's case and Baroness Eaton in the case of Mr Davies. Through a range of channels, including the Chairman's letter to leaders, the LGA took an active part in a concerted campaign with partners to bring pressure to bear on these MPs.
4. Report stage and Third Reading took place on 9 November. There was a lengthy debate during which Mr Ottaway and other speakers referred to the LGA's support for the Bill. During the debate the two MPs stated their intention to improve the Bill, rather than halt it completely, but made the point on a number of occasions that the Bill should have been a government one, which would have enabled greater scrutiny of it.
5. As a result of the debate, one concession was agreed: that the legislation should be reviewed three years after it received Royal Assent, and to ensure this happens that the Bill would contain an expiry clause bringing it to an end five years from the date that section 1 comes into force. It is anticipated that these amendments will be made during the Bill's passage through the House of Lords.

### **The House of Lords**

6. The Bill had its first reading in the House of Lords on 12 November and second reading on 30 November. We have continued to lobby for councils to have the ability to impose local conditions and Cllr Mehboob Khan has raised this in his meeting with the relevant Home Office Minister, Jeremy Browne MP, and in writing afterwards. Unfortunately we have now received a reply repeating the Home Office's opposition to introduction of local conditions into scrap metal dealer licences (attached as **Appendices A and B**). Members will therefore want to consider if we want to press for amendments to be

### **Item 3**

tabled at committee stage in the House of Lords allowing councils to impose local conditions when a scrap metal dealer's licence is granted. Realistically, these are likely to be strongly resisted by Government and there is a real risk to the Bill if we take this course of action as there is limited parliamentary time for the Bill to return to the Commons. Given the strength of feeling across communities, the sector and transport and energy companies about the importance of this Bill, we would advise Members not to put the chances of Royal Assent in jeopardy.

#### **Draft Anti-Social Behaviour Bill**

7. The government finally produced its response to the Home Office's consultation on new tools and powers for tackling anti-social behaviour in May, when the Anti-Social Behaviour White Paper was published. As was reported to the Board in July, the White Paper indicated that there would be a draft Bill introduced into parliament to allow for pre-legislative scrutiny of the proposals. This draft bill was published by the Home Office on 13 December.
8. The Bill provides the legislation necessary to introduce the six new tools and powers the government proposed. It also included a new proposal for a community remedy. The community remedy would be produced by every police and crime commissioner for their force area in consultation with the chief constable and the public, and would set out how offenders subject to out of court disposals should be 'punished' by police officers.
9. The LGA published an on the day briefing about the draft Bill which provides details on how the new tools and powers will work. This is attached at **Appendix C**, and notes some changes in the details where the Home Office had responded to issues raised by the Board in its submissions. One proposal that remains, although the LGA has been sceptical about the benefits of it, is the community trigger. Home Office officials have attempted to provide reassurance on the impact the trigger will have on local authorities, noting that the community trigger pilots conducted by four areas had not resulted in large numbers of complaints and had led to improvements in the handling of anti-social behaviour incidents. However the formal evaluation of the pilots will not be available until the spring and in some instances the trigger pilots have not been running long enough to be able to make an accurate assessment of their impact on local authorities. The LGA therefore suggested that the community trigger proposal should not be taken forward until the results of the pilots had been properly assessed.

#### **Conclusion and next steps**

10. The Scrap Metal Dealers Bill has its committee stage in the House of Lords on 18 January, without a date being set yet for Report Stage and Third Reading. The Home Affairs Select Committee in the Commons has announced that it will be scrutinising the draft Anti-Social Behaviour Bill in January when it will be taking written and oral evidence from Cllr Anita Lower.
11. The LGA will be briefing peers ahead of the committee stage of the Scrap Metal Dealers Bill in the House of Lords to signal our support for the bill, and subject to members' views to also outline why we support the ability for councils to impose local



**Item 3**

conditions. One of the Board's Anti-Social Behaviour Champions, Cllr Anita Lower, has also been invited by the Home Affairs Select Committee to give evidence on 15 January. This will provide an opportunity to convey areas of support as well as our key concerns to influence the final shape of the bill. The Bill is expected to be introduced in the new session of parliament in May.

**Financial Implications**

12. Work related to these Bills will be carried out from existing resources so there are no financial implications arising from this report.



Jeremy Browne MP  
Minister of State for Crime Prevention  
Home Office  
2 Marsham Street  
London  
SW1P 4DF

4 December 2012

Dear Minister,

### **Local conditions for scrap metal dealers**

It was a pleasure to meet you on the 21 November to discuss some of the issues within your area of responsibility that are of interest to local authorities. As you will recall one area we discussed was the Scrap Metal Dealers Bill and the ability of councils to impose local conditions on scrap metal dealer licences.

Local conditions are a standard feature of all licensing regimes, in particular the premises selling alcohol. From a local authority perspective the ability to impose local conditions has three main benefits.

Firstly, being able to impose local conditions improves the effectiveness of the licensing regime in dealing with crime, disorder and community safety issues. Local conditions mean the licence can be tailored to local circumstances. As we discussed at the meeting, following the committee stage of the Bill we consulted our member authorities about what specific local conditions might be included on the face of the bill. We had a wide range of suggestions from councils, with no two being the same due to the different situations faced by councils such as the number of dealers in their area, whether they are predominantly fixed or mobile dealers, the prevalence of metal theft and the sorts of material being stolen.

We understand concerns the industry has about what conditions might be imposed. The Licensing Act 2003 only allows conditions to be imposed that relate to the licensing objectives set out in the legislation, and limiting the conditions that could be imposed on dealers to ones related to reducing metal theft would be a way of addressing concerns on this point.

Secondly, local conditions lead to better regulation. It provides the licensing authority with greater flexibility to respond to applications from the broad

range of dealers currently in existence. Without the ability to impose conditions councils may feel they can only refuse licences where they have concerns about the suitability of the applicant, rather than granting a licence subject to appropriate conditions that address any residual concerns.

The final benefit of local conditions is that their existence helps 'future proof' the legislation by allowing councils to respond to changes in the values of materials and what is stolen, and also the development of new technologies using rarer metals which might impact on how metal thieves and then dealers operate.

The Government has our full support in legislating on this issue and we are very aware of the time constraints on the passage of the bill through both Houses of Parliament, and we would not seek to disrupt this. However, if we could revert to the original drafting which allowed conditions to be applied when the licence is granted, provided these relate to reducing metal theft, then we are sure this would substantially strengthen the licensing regime the Bill introduces.

Yours sincerely,

A handwritten signature in dark ink, reading "Mehboob Khan" with a stylized flourish at the end.

Cllr Mehboob Khan,  
Chair of the LGA's Safer and Stronger Communities Board



**Jeremy Browne MP**  
**MINISTER FOR CRIME PREVENTION**  
2 Marsham Street, London SW1P 4DF  
[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

Cllr Mehboob Khan  
Chair, Safer and Stronger Communities Board  
Local Government Association  
Local Government House  
Smith Square  
London SW1P 3HZ

21 DEC 2012

*Dear Mr Khan*

Thank you for your letter of 4 December about the Scrap Metal Dealers Bill and allowing local authorities to impose conditions on a licence.

As I hope I made clear when we met last month, we are committed to creating a licensing regime which gives local authorities the powers they need to effectively manage and regulate the metal recycling sector. The Bill provides local authorities with a number of powers to do that, above and beyond the provisions in the 1964 Act, including: the ability to refuse to licence individuals and businesses who are considered unsuitable; the ability to set their own licence fee to fully recover costs; the power to enter and inspect sites; the power to revoke licences and the power to impose two specific conditions on a licence holder under certain circumstances.

As you know, the Home Office has been open to including other conditions within the Bill. During the Bill's Commons Committee Stage I said that I would look favourably at additional conditions, as long as they were specific and did not allow local authorities to impose wide ranging and potentially disproportionate restrictions on scrap metal dealers.

I would just like to say a little more about the reasons for why the Home Office believes this is important. First, conditions must be written in such a way that allows for enforcement action to be taken should the licensee fail to comply with the condition. Carrying on a business in a manner which is not in accordance with the conditions on a licence would be a breach of Section 1 of the Act (when it comes into force). It is therefore vital that for a criminal offence to be brought, each condition is clear and compliance is easily determined. Conditions that do not specify what is required are therefore unfair to the licensee as they do not know what would and would not constitute compliance. It would be difficult to successfully prosecute a license holder for breaches of ambiguous licence conditions, thereby making them unenforceable and in effect meaningless.

Second, allowing local authorities to impose any condition they consider appropriate may be unfair on scrap metal dealers. This Bill has been drafted carefully to limit additional business burden wherever possible. Additional burdens stemming from this new regime are unavoidable, especially with the creation of a licence fee, however we believe that the new burdens imposed by the Bill on business are reasonable, proportionate and necessary, as well as being fully costed.

It is important to remember that under the current Act these conditions can only be imposed by the courts. We have changed this, giving local authorities for the first time the power to impose these conditions themselves. We think this is appropriate and provides the local authority with the right tools to ensure compliance against the new licensing scheme.

In your letter you drew parallels with the alcohol licence regime. I would urge caution when comparing the two regimes as alcohol can cause serious societal harm including the risk of violent crime and so it is right that local authorities are able to impose additional conditions to better regulate its sale. Scrap metal dealers do not cause the same societal impact, albeit they can facilitate crime, but we do not believe it is proportionate to provide local authorities the same flexible conditions to regulate their activity.

I am sympathetic to your position and recognise your legitimate role in representing the views of local authorities in England; but in this situation we need to be realistic about what is and is not possible. The Bill is at a very delicate stage as it makes its passage through Parliament and there is a very real risk that additional amendments will threaten the Bill's progress and jeopardise its passage into law – a position we all want to avoid.

I am very grateful for your continued support and that of the Local Government Association.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J. Browne', with a long horizontal line extending to the right.

Jeremy Browne MP  
Minister of State

# LGA Briefing – Draft Anti-Social Behaviour Bill

Thursday 13 December 2012



## On the Day Briefing

### Headlines

The Government has published a draft Bill on the future of anti-social behaviour, which applies in England and Wales takes forward measures to:

- focus the response to anti-social behaviour on the needs of victims
- empower communities to get involved in tackling anti-social behaviour
- ensure professionals can protect the public quickly through faster, more effective powers and proposals to speed up the eviction of the most anti-social tenants
- focus on long-term solutions.

Amongst the 98 clauses in the draft Bill there are two important new measures to help focus the response to anti-social behaviour on the needs of victims:

- the Community Trigger to give victims and communities the right to require agencies to deal with persistent anti-social behaviour that has previously been ignored. The trigger could be activated by a member of the public, a community or a business if repeated complaints about anti-social behaviour have been ignored
- the Community Remedy to give victims of low-level crime and anti-social behaviour a say in the punishment of offenders out of court. This means victims will get justice quickly, and the offender has to face immediate and meaningful consequences for their actions.

The draft Bill and other related documents including the community remedy consultation can be found on the Home Office website at <http://www.homeoffice.gov.uk/publications/about-us/consultations/community-remedy-consultation/?view=Standard&pubID=1143402>.

Please email your views on this subject to [community.safety@local.gov.uk](mailto:community.safety@local.gov.uk) by 11 January 2013 as the LGA will be giving oral evidence to the Home Affairs pre-legislation scrutiny committee on 15 January.

The Government's parallel consultation exercise on Community Remedy closes on 7 March 2013.

### LGA key messages

- Local government welcomes the added flexibility to tackle anti-social behaviour that this package of measures provides. We are pleased that the Government has listened to practitioners and the proposals for Crime Prevention Injunctions now include a power of arrest.
- Police and Crime Commissioners and councillors know that anti-social behaviour continues to be the top concern for residents. As PCCs draw up their Police and Crime Plans over the next few weeks, they will want to draw on the wealth of experience and expertise in councils to ensure all resources are brought to bear to tackle this issue.

## Briefing

Local Government House, Smith Square, London SW1P 3HZ  
Email [info@local.gov.uk](mailto:info@local.gov.uk)  
Tel 020 7664 3000 Fax 020 7664 3030  
Information centre 020 7664 3131 [www.local.gov.uk](http://www.local.gov.uk)

- Working in partnership with schools, health, fire and probation services, councils know that most effective way of tackling anti-social behaviour is to stop it happening in the first place. This means working in partnership with and the police to steer people away from activity which causes harassment or distress to others and can end up making people's lives a misery.
- The proposal to make PCCs responsible for out of court disposals will be valuable in ensuring victims have a strong voice and see swift and effective remedies.
- Proposals for a community trigger are unproven. Although we recognise the issue this is trying to solve, we would urge the Government to consider the evaluation of the pilots before finalising their proposals.

In summary, the main elements and key proposals in the draft Bill are as follows:

***Part 1 – Crime Prevention Injunctions to prevent nuisance and annoyance (replacing the standalone Anti-Social Behaviour Order)***

- Youth courts, county courts or the High Court can grant an injunction against anyone aged 10 or over where they have engaged or threaten to engage in ASB.
- ASB, in the context of this power, is defined as conduct capable of causing nuisance or annoyance to any person.
- Councils, housing providers, the police (including BTP), TfL, the Environment Agency and in Wales the NHS Business Services Authority can all apply for the injunction, if necessary without having to give notice, though the most the court can do in these circumstances is grant an interim injunction. Interim injunctions cannot include requirements on the respondent to participate in particular activities.
- Where the respondent is under 18 the youth offending team has to be consulted before an application is made.
- The injunction can both prohibit activity on the part of the respondent and require positive activity, provided they do not conflict with the respondent's religious belief, do not prevent someone working or going to school or college or conflict with any other court orders.
- In addition the injunction can only exclude someone from where they live if they are in social housing, and either the council or housing provider applied for the injunction, and the ASB the respondent has been involved with includes the use or threat of violence or there is a significant risk of harm to others.
- Councils and social housing providers can apply for these 'tenancy injunctions' only against their tenants where they have breached their tenancy agreement by engaging or threatening to engaging in ASB, and the ASB involves or threatens violence or significant risk of harm. As well as excluding the tenant from specified premises they can also be excluded from an area, and again a power of arrest can be attached to the injunction.
- The injunctions can be time limited or indefinite.
- Any requirements in the injunction must specify who is responsible for supervising compliance with it, and before including a requirement the court must take evidence about its suitability from the individual or organisation to be specified in the injunction.
- Where a respondent fails to comply with the requirements the person who applied for the injunction and the police must be informed.



- A power of arrest can be attached to any prohibition or requirement in the injunction if the court thinks the ASB the respondent has engaged in or threatened to engage in will result in violence, or there is a significant risk of harm to others from the respondent. Where the power of arrest has been exercised the court can either remand the person in custody (for up to 3 days if it is with a police officer) or bail them.
- This allows the police to arrest the respondent if the officer believes they are in breach of the injunction.
- Where an organisation that has applied for an injunction thinks the respondent is in breach of it they can apply for an arrest warrant. The court will only grant this where it has reasonable grounds for believing the injunction is being breached.
- With a child between 10 and 17 breach of the injunction can result in being subject to supervision, a curfew, electronic monitoring, having to undertake an activity or being detained.
- Transitional arrangements mean that existing orders to deal with ASB continue in force after the bill comes into effect, but cannot be varied or extended, and after 5 years will come to an end.

#### **LGA view:**

- The LGA supports the creation of a genuine civil order that allows councils and other partners to act swiftly to protect victims and communities, and can be obtained on a civil burden of proof. The LGA called for the definition of anti-social behaviour used for anti-social behaviour injunctions to be adopted for Crime Prevention Injunctions and we are pleased to see the Government has accepted this.
- As the proposals were being developed we were concerned that a power of arrest could not be attached to the injunction, so the government's decision to provide for a power of arrest to be attached to the injunction is welcome.
- We were also expressed concerns that breach of the injunction would just be treated as contempt of court where no power of arrest was attached. The ability of organisations to apply for an arrest warrant addresses this point, which is again a welcome change.
- We also support the ability of the court to impose positive requirements as part of the injunction. Councils take their supportive role seriously here and have a good track record of providing services that turn lives around. However continuing this support will not be easy due to the budget pressures on councils and other public services. It is deeply concerning therefore that in the impact assessment the Home Office have not quantified the cost of imposing positive requirements on probation, councils and others relies on costs being met through other, unquantified, savings.

#### ***Part 2 Criminal Behaviour Orders***

- Courts can grant these orders on application by the prosecution where an offender has been convicted or been given a conditional discharge.
- The court can only grant this order where the offender has caused or is likely to cause harassment, alarm or distress to people outside their household, and making the order will help prevent them doing it again.
- The prosecution have to consult the youth offending team before seeking an order against someone under 18.

- They come into effect on the day they are made, and must set out how long they will last, with the minimum for an adult offender being a fixed period of at least 2 years. For those under 18 the order has to last for more than a year and no more than 3 years.
- These orders can prohibit or require the offender to undertake positive activities, within the same restrictions set out for the crime prevention injunctions.
- The order can make provision for it to end where the offender satisfactorily completes an approved course, provided there are places available on the course and the offender agrees to this requirement in the order.
- These courses are to be approved by county, metropolitan and unitary councils, London boroughs, and the City of London and fees can be charged. This is not available to district councils. In giving approval councils can only do so for a maximum of 7 years, and can impose conditions, as well as withdraw their approval.
- In considering an order the court can hear evidence from the prosecution and the offender and take into account evidence not related to the case.
- As with crime prevention injunctions in imposing requirements the court must specify who is responsible for supervising compliance with the order, and before including a requirement the court must take evidence about its suitability from the individual or organisation to be specified in the injunction.
- Where an offender fails to comply with the requirements the prosecution and the police must be informed.
- Breach of the order is an offence punishable on summary conviction by up to 6 months in prison or a fine or both, and on indictment by up to 5 years in prison or a fine, or both. Where someone is convicted of breaching an order the court cannot grant a conditional discharge.
- Again there are transitional arrangements which mean that existing orders continue in force after the bill comes into effect, but cannot be varied or extended, and after 5 years will come to an end.

#### **LGA view:**

- This order is in many ways similar to the anti-social behaviour order currently available on conviction.
- The new element so far as councils are concerned is the requirement on upper-tier local authorities in England, and councils in Wales to approve courses for offenders to complete. This is a new burden that is financed by the ability under the bill for councils to charge fees for approving courses, though it is not clear from the power given to the Secretary of State to issue general directions to councils whether this will allow the government to specify what the fees are.

#### ***Part 3 Dispersal powers***

- These allow police officers and PCSOs to direct people to leave a public place and not return for a specified time (but not more than 48 hours) provided the officer has reasonable ground for suspecting the presence or behaviour of the person will result in people being harassed, alarmed or distressed, or will lead to crime and disorder, and ordering a person to leave will reduce or end the likelihood of this happening.
- In making a direction under this part the officer must if possible put it in writing, specify the area it applies to, and by when the person must have left, and how – including their route. The direction can be varied but

cannot extend the duration of the direction beyond 48 hours from when it was originally given.

- The direction cannot prevent a person having access to where they live, or work or have to go by virtue of a court order, or a place where they would have to go to receive medical treatment or education or training. It also cannot be used to disperse people engaged in lawful picketing.
- Where someone is under 16 the officer can escort the person home or take them to a place of safety, but cannot issue a direction to children under 10.
- In directing people police officers can also tell people to surrender items they have with them that could be used in behaviour causing harassment, alarm or distress, provided they also tell them how to recover it.
- Failure to comply with a direction to leave is an offence liable on summary conviction to up to 3 months in prison or a fine not exceeding level 4, while failing to hand over an item is also an offence punishable by a fine.

#### **LGA view:**

- These provisions would see the decision made on whether to use dispersal powers resting solely in the hands of the police. While rationalisation of the powers is welcome, the current powers are exercised in consultation with the local authority, while in some cases councils have responsibility for making the orders. Use of such powers can on occasion prove very controversial, which is why their use should be dependent on democratic oversight. This can be provided by Police and Crime Commissioners, but given the local nature of issues dispersal powers are used for, and the large geographic area Police and Crime Commissioners cover, this will be challenging. Councillors on Police and Crime Panels, and local authority scrutiny of the responsible authorities on community safety partnerships may also provide alternative mechanisms. Councillors should be seen as vital people to consult as key partners.

### ***Part 4 Community protection***

#### ***Community protection notices***

- Designed to deal with particular, on-going instances of environmental anti-social behaviour. They can be used against individuals, businesses or organisations, and can be issued by the police, council officers or staff of social housing providers.
- In issuing a notice the person doing so has to believe the behaviour is detrimental to the local community's quality of life, is unreasonable and is having a persistent effect.
- Community protection notices can impose a requirement to stop or start specified activity to achieve specified results.
- Breach of the notices is a criminal offence. An individual guilty of an offence under this section is liable to a fine not exceeding level 4 on the standard scale. A body is liable to a maximum fine of up to £20,000.
- Local authorities can take remedial action if a person issued with this notice does not comply with it.
- They cannot be issued for nuisance matters regarding the Environment Protection Act 1990.

#### **LGA view:**

- We are pleased that local authorities will have the power to issue these orders. This will enable councils to take action swiftly and effectively and impose sanctions on non-compliance.
- The proposals give councils greater flexibility to deal with issues which are not dealt with effectively by existing legislation, such as greater scope for dealing with litter on private land, and for nuisance not covered by the Environmental Protection Act 1990, eg people noise including banging and shouting.
- The potential new powers are relatively unrestricted and unspecific, giving councils flexibility to decide how to use them. We welcome this, and will be seeking to work with councils to make effective use of these powers.
- Because the potential new powers create an arrestable offence, it extends current powers and could help speed up the time taken to deal with offences.

### ***Public spaces protection orders***

- These orders are intended to deal with a particular nuisance or problem in a particular area and apply to everyone.
- The orders relate to a restricted area and can impose a requirement to stop or carry out specified activity for a maximum of three years, with the possibility to extend the order for up to a further three years.
- A local authority can make these orders if activities in a public place have had or are likely to have a detrimental effect on the quality of life of local people, and are or likely to be of a persistent or continuing nature, unreasonable and justifies the restrictions of the notice.
- Local authorities must consult the police and appropriate community representatives before issuing these orders.
- A prohibition in these orders on consuming alcohol does not apply to premises licensed to sell alcohol.
- A person is guilty of an offence if they breach this order and are liable on summary conviction to a fine not exceeding level 3 on the standard scale and/or a fixed penalty notice.

### **LGA view:**

- We are pleased that local authorities will have the power to issue these notices, which will enable them to take action swiftly and effectively with local partners.
- Councils already regulate premises through the Licensing Act and recently introduced Early Morning Restriction Orders offer other ways of managing the way licensed premises are run.

### ***Closure notices and orders***

- A closure notice prohibits access to the premises for a specified period up to a maximum of 48 hours. A closure order prohibits access to a premise for a maximum of 3 months.
- A local authority or the police can issue a closure notice if it believes that the use of a particular premise has resulted or is likely to result in nuisance to the public, or there is or likely to be such nuisance nearby.
- Appropriate bodies or individuals must be consulted.
- Local authorities or the police must apply to a magistrates court for closure orders, which must be heard no later than 48 hours after service of the notice closure.

- Local authorities and the police can apply to extend the closure order before its expiry.
- A person guilty of an offence under this section is liable to imprisonment up to 51 weeks, or a fine not exceeding level 5 on the standard scale.

**LGA view:**

- We are pleased that local authorities will have the power to issue these notices. Councils are familiar with problem premises and will be able to take action swiftly and effectively with local partners to ensure property does not house or lead to anti-social behaviour.
- The bill extends councils' licensing powers, which may facilitate partnership working and shared enforcement.
- We have a concern however about closure notices only being made if 'reasonable' efforts have been made to inform the owner in advance. Sometimes premises need to be shut down immediately for the protection of the public, so the process should not be delayed and this should be clarified in any subsequent guidance.

***Part 5 – Recovery of possession of dwelling-houses: anti-social behaviour grounds***

- Currently the court is left with discretion as to whether to evict a tenant under the Housing Acts 1985 and 1988 when landlords seek possession of secure and assured tenancies because the tenant has been involved in anti-social behaviour.
- The bill seeks to amend these Acts so landlords can seek to evict tenants involved in anti-social behaviour or criminal activity on the basis that if proves the involvement of the tenant in this behaviour the courts will have to order the eviction of the tenant.
- Grounds for such possession include, but are not exclusive to a tenant, or a person residing or visiting the dwelling-house:
  - being convicted of a serious offence in or near the house;
  - the serious offence being committed elsewhere against a person with a right to reside in or occupy housing in the locality of the dwelling house or against the landlord (or a connected employer) of the dwelling house;
  - being found by a court to have breached certain conditions of a criminal behaviour order;
  - the dwelling house being subjected to a closure order; and
  - being convicted of an offence under certain sections of the Environment Protection Act 1990.
- The tenant may raise the issue of proportionality as a defence to the proceedings.

**LGA view:**

- These proposals will rest on a) ensuring the landlord can easily demonstrate that the criteria for awarding possession is met and b) the anti-social behaviour is serious, housing related and that the landlord's actions are proportionate.
- These powers represent a serious sanction and councils will continue to use them in a proportionate way, investing in prevention and working with partners. Clearly it is crucial that the use of these powers do not result in displacement of the problem rather than solution. This is particularly

important when considering councils' homelessness duties and Government should clarify how the new powers will interact together.

### ***Part 6 – Local involvement and accountability***

- Police and crime commissioners will be required to consult, prepare and publish a community remedy document for their force area in consultation and with the agreement of the chief constable.
- This will set out what reasonable and proportionate 'punishment' they think it would be appropriate for an offender to undertake where there is an out of court disposal.
- The draft bill also imposes a duty on councils, the police, health providers and social housing providers to set up a community trigger mechanism, with an agreed trigger point, to carry out a review of the response.
- The arrangements for reviewing complaints must be published, with the PCC having to be consulted before making and revising the arrangements. The bill also provides for joint arrangements to be made over a larger area
- In conducting a review recommendations can be made which any person or body carrying out public functions will have to have regard to.
- Information will have to be published about the number of applications and number of reviews undertaken.

### **LGA View**

- Councils face a continual challenge to ensure the most vulnerable victims of antisocial behaviour do not slip through the net. The police now have a casework system clearly identifying vulnerability of victims of anti-social behaviour and people who make regular complaints already have the ear of their local council. Evidence from the community trigger pilots will be important in assessing the value and reach of the community trigger proposal.

### ***Part 7 – General***

- This includes details of minor and consequential amendments.

### **Timetable and next steps**

**15 January 2013:** Councillor Anita Lower will be giving oral evidence to the Home Affairs pre-legislative scrutiny committee in the House of Commons.

This draft Bill will progress to a Government Bill, which we expect to be announced in the Queen's Speech in May 2013.

Please email your views on this subject to [community.safety@local.gov.uk](mailto:community.safety@local.gov.uk) by 11 January 2013.

---

Further information: For further information on this briefing, please contact Mark Norris, Senior Adviser Programmes Team at [mark.norris@local.gov.uk](mailto:mark.norris@local.gov.uk) or Lee Bruce, Public Affairs and Campaigns Adviser, at [lee.bruce@local.gov.uk](mailto:lee.bruce@local.gov.uk)

## **Update on PCCs and Police and Crime Panels**

### **Purpose of report**

For information and discussion.

### **Summary**

This report sets out the engagement the LGA has had with police and crime commissioners (PCCs) since their election on 15 November, and responds to Members' requests for a comprehensive programme of work to support police and crime panels up to March 2013.

### **Recommendations**

Members are asked to:

1. note the LGA's activity in relation to PCCs and police and crime panels since mid-November; and
2. comment on this and activity planned up until March 2013.

### **Action**

LGA officers to progress as appropriate.

**Contact officer:** Mark Norris  
**Position:** Senior Adviser, LGA  
**Phone no:** 020 7664 3241  
**E-mail:** [mark.norris@local.gov.uk](mailto:mark.norris@local.gov.uk)





## **Update on PCCs and Police and Crime Panels**

### **Background**

1. In November, the Board received an update on the outcome of the LGA's discussions with the Association of Police and Crime Commissioners (APCC) on the creation of a joint Strategic Partnership Board, LGA engagement with police and crime commissioner (PCC) candidates, and what was known about the 192 candidates standing in the 41 police force areas in England and Wales outside London.

### **The PCC elections**

2. The elections for PCCs were of course held ten days after the last Board meeting on 15 November. This was the first election in England and Wales to have used the Supplementary Vote system on such a widespread basis. Counting of the votes was completed on Friday 16 November.
3. Conservative candidates were elected in 16 police force areas, Labour candidates in 13 police force areas, and Independent candidates in 12 police force areas. The Liberal Democrats fielded candidates in 24 police force areas. Six of the 41 PCCs are female (14.6%), and there are no Black Minority Ethnic PCCs. Of the candidates elected 22 were current or former councillors, with a number standing down shortly after the elections, and 8 were former policemen. Turnout in the elections averaged 14.94% with the lowest turnout being in Staffordshire at 11.93%, and the highest in Northamptonshire at 19.5%.
4. The low turnout in the elections resulted in a good deal of comment in the media, as did the unusually high rate of spoilt ballot papers. The Electoral Commission announced a review into the elections shortly after they took place and will be reporting to Parliament in the spring. The Board Lead Members wrote to the Electoral Commission in December (attached at **Appendix A**).

### **LGA engagement with PCCs**

5. Following their election the LGA Chairman wrote a letter of congratulation to PCCs offering confidential political support, providing copies of our materials, and a free space at the event we are holding for PCCs on 17 April 2013. Vera Baird the new PCC for Northumbria was also secured as the main key note speaker for the Board's annual Safer Communities Conference at the end of November, one of the first conferences to be addressed by a PCC after their taking of office. Councillor Khan has also written to Deputy PCCs as they have been appointed letting them know about the LGA's services and highlighting our work on metal theft.
6. The Board's Chair, Councillor Khan, was invited to attend the Home Office welcome event for PCCs organised at the start of December, and spoke alongside representatives from the Association of Chief Police Officers, the College of Policing, Her Majesty's Inspectorate of Constabulary, chief executives from police and crime

**Item 4**

commissioners' offices and the chairman of the APCC. Councillor Khan was also able to stay for the drinks reception that concluded the welcome event to speak to PCCs individually. On the same day the LGA also hosted a meeting of the Association of Policing and Crime Chief Executives (APAC<sup>2</sup>E) – the chief executives of the offices of PCCs.

7. Subsequently the LGA's political group offices have been following up the offer to PCCs in the LGA Chairman's letter about political support. Work led by the political group offices is unique to the LGA and not a service currently offered by the APCC, and would therefore complement the aims and objectives of the Partnership Board. We have also continued to circulate our monthly bulletin to all PCCs, to highlight through weekly case studies the benefits of PCCs and councils working together, as well as circulating briefings on topical issues like the draft anti-social behaviour bill. This activity will continue.

**Strategic Partnership Board**

8. LGA nominations for the Strategic Partnership Board have been agreed by the LGA's leadership. They are: Councillor Mehboob Khan (Labour); Councillor Marianne Overton (Independent); Councillor Robert Light (Conservative); and Mayor Dorothy Thornhill MBE (Liberal Democrat). Although the original intention was to hold a Member away-day in February to scope out the programme going forward with the first formal meeting of the Partnership Board in April, this timetable may have to be adjusted as the APCC have not, as yet, been able to determine their representation on the Strategic Partnership Board and will probably not be able to resolve this until their AGM in April.

**Police and Crime Panels**

9. It has been a busy time for police and crime panels since the election of PCCs. Nearly every panel in England has seen their PCC attend a panel meeting to answer questions. A number have also had to hold confirmation hearings mostly for deputy PCC appointments. The joint guidance produced by the LGA and the Centre for Public Scrutiny on conducting confirmation hearings has been extensively used by panels in their preparations, and the feedback from panels suggests the approaches set out in the guidance have been found to be helpful. In the main therefore the hearings have proceeded fairly smoothly, although in one instance there was a robust exchange between the panel and the PCC over the appointment of the deputy PCC. These hearings for the deputy PCC appointments will now be followed by a fairly intense phase of activity for the 10 panels which have to conduct confirmation hearings for chief constables. The LGA will be looking to share the experiences of those panels that have already conducted confirmation hearings more widely.
10. Cllr Mehboob Khan wrote to all the chairs of police and crime panels in England in November setting out the support available to panels from the LGA. This also highlighted the resources that have been published by the LGA over the last year, and the support network for panels that the LGA has established. Guidance from the Independent Police Complaints Commission (IPCC) on the handling of complaints against PCCs has also been circulated to host authorities, as has our own analysis of

**Item 4**

the benefits and risks associated with the different options allowed under the regulations for handling of complaints. Again this has proved useful for panels in considering what processes they adopt for handling complaints against the PCC.

11. Additional activity going forward is set out in the attached table at **Appendix B**. It sets out a range of publications, events, peer support that the LGA will be providing to panels between now and the end of March 2013. This will be supplemented by a monthly bulletin to all police and crime panel members in England. We have also been in contact with the WLGA about support for Welsh panels and will be further discussing what assistance the Welsh panels have identified they would like in January.

**Conclusion and next steps**

12. The LGA will continue to engage with PCCs and panels over the next few months. Given that both PCCs and panels are still learning about their roles and what assistance they want from the LGA there will have to be a degree of flexibility in the LGA's activities to ensure we tailor our response appropriately.

**Financial Implications**

13. The activity outlined in this paper will be met from existing resources so there are no financial implications arising from it.



Jenny Watson  
Chair of the Electoral Commission  
3 Bunhill Row  
London  
EC1Y 8YZ

10 December 2012

Dear Jenny

As cross party lead members on the LGA's Safer and Stronger Communities Board, we are writing with regard to your forthcoming inquiry into the organisation of the Police and Crime Commissioner elections. As local government was responsible for the administration of these elections at a force level, we feel it is important that the views of the sector are incorporated into your review.

1. Local government was asked to bring forward the dates of the annual electoral canvass in order to cater for this election. Every council performed sterling work in doing this. Councils worked together across force areas – in many cases, for the first time – to agree Police Area Returning Officers, responsible for the administration of these elections across large geographies. Each council then established a full network of polling stations and polling monitoring officers, and effectively organised the whole operation of polling – including dealing with what was for many areas a new system of voting. We believe that administratively this went well. Indeed the one significant problem that did arise, which was the initial failure to produce bi-lingual material in Wales, was the result of the Home Office not immediately recognising the need for this.
2. There has been much discussion in the media about the reasons for the low turnout which averaged 14.74%. There are a number of factors which are likely to have contributed to this, including: the November date; no provision for a candidate mailout, and reliance only on internet and digital information; and the lack of information about the role of the PCC.
3. Whilst we recognise that for PCC elections a November date is a “one-off” occurrence, and we return to May elections from 2016, we still believe this is worthy of note, lest other general sets of elections are proposed for such timing. This is not to say that only May (or June for European elections) is appropriate timing, but a date in British Summer time with longer daylight hours would have been preferable.
4. Secondly the low turnout demonstrates that an argument that paper based information is no longer appropriate in a digital age does not stack up. There was one mayoral election on the same day, where voters did receive a postal communication. For the PCC elections the overall turnout in Avon and Somerset

was 19.58%, with the lowest turnout being in Sedgemoor at 14.3% However in Bristol PCC turnout was 27.48%, nearly double the Sedgemoor figure. (Turnout for the mayoral election was slightly higher at 27.92%).

5. The elections also saw a significantly higher than average (around ten times) percentage of spoilt papers. In part this may have been due to the use of the Supplementary Vote system (and the confusion caused for the vast majority of voters who do not have elected mayors, and therefore experience of this type of voting). However there is significant anecdotal evidence which suggests that many papers were returned either blank or with some form of protest against the elections themselves. We know there was significant variation in the levels of spoilt ballot papers, but our conversations with polling agents supports the view that most spoilt ballot papers were spoilt deliberately. The Electoral Commission guidance on doubtful papers was distributed to all relevant polling staff and ran to some depth on the types of votes that would or would not be permissible. This was appreciated by polling staff.
6. Whilst as politicians we always wish for more and more positive coverage in the media, we do not think that the media should be highlighted for particular criticism in the role they played. Local and regional media in particular often gave significant coverage of this agenda. Rather if government is to propose radical changes such as creating elected PCCs, government must accept a responsibility for ensuring voters receive sufficient information to allow them to participate fully.
7. It is likely that future PCC elections will see an improved turnout in some parts of the country due to a better understanding by voters of the role, and an electorate more experienced in using the Supplementary Vote. In 2016 the PCC elections will coincide with local elections only in limited parts of the country, so we will have to wait until 2020 (when the date is likely to coincide with that of the general election) to gauge the impact across the whole country.

We know that you will be examining these points in detail in your review and if we can assist in any way, please do let us know. The contact point here is Joe.Simpson@local.gov.uk.

Yours sincerely



Councillor Mehboob Khan (Labour Group),  
Chair of the LGA Safer Communities Board

On behalf of:

Councillor Joanna Spicer (Conservative Group), Councillor Duwayne Brooks (Liberal Democrat Group), Councillor Philip Evans (Independent Group)

Item 4  
Appendix B

Support for Police and Crime Panels

November 2012 to March 2013

	November	December	January	February	March	
Scrutinising the PCC's police and crime plan	Launch of on-line forum for police and crime panel members, with letters sent to chairs of panels making them aware of the support available from the LGA, such as LGA panels hotline. Guides previously circulated to host authority officers now	Discussions with CfPS on support and advice that can be provided to panels on scrutiny issues subject to LGA funding.	Start identifying list of panel members to be invited to join member peer network.  Existing list of officer peers reviewed and potential new peers identified.	Scrutiny support provided to <input type="checkbox"/> panels (subject to agreement with CfPS).  First edition of PCP bulletin circulated to all panel members in England.	<div>February</div> <div>Panels potentially scrutinise the plans alongside the precept.  1 – 8 February – deadline dates for panel to get precept proposals and to make a report on them.</div>	<div>March</div> <div>31 March – deadline for police and crime panels to be published.</div> <div>LGA event for police and crime panels to share learning and identify common issues following the first few months in being. Assessment of workload of panels chairs, remuneration of panel members, and financial support for panels from the Home Office to feed</div>
Scrutinising the PCC's precept		List of panel members in England gathered to allow for PCP bulletin to be circulated to all panel members.	Publish guide to the first 130 days of panels' activities including training material and questions for panel members to consider.  Member peer accreditation session run in January, and peer		Precept scrutiny case studies identified and developed for circulation to all panels.	
Confirmation hearings		Confirmation hearings case studies circulated to those police and crime panels			Any early examples of chief constable confirmation hearings	

**Item 4**  
**Appendix B**

Handling of complaints against the PCC	available on LGA website including on conducting confirmation hearings.	to draw up case studies.	holding confirmation hearings for chief constable appointments.	support then advertised to police and crime panels and panel members.  Event(s) for panel chairs run to identify what further support is needed from the LGA.  Any new officer peers attend accreditation session, and this support re-advertised to panels.  Letters to council leaders on support available from LGA for panels sent out.		identified and invited to draw up case studies.	into Home Office review.
		LGA guide on handling non-criminal complaints	Support and advice provided through hotline and on-line forum <input type="checkbox"/>				



**Item 4**  
**Appendix B**

		along with IPCC guide and form on criminal complaints circulated to host authorities.	on the handling of complaints				
--	--	--	----------------------------------	--	--	--	--



## **Feedback from the Safer Communities Conference 2012**

### **Purpose of report**

For information.

### **Summary**

This report updates the Board on feedback from the annual safer communities conference 2012.

### **Recommendations**

Members are asked to note the feedback from this year's annual Safer Communities Conference 2012.

### **Action**

LGA officers to progress as appropriate.

**Contact officer:** Jane Marcroft  
**Position:** Events Organiser, LGA  
**Phone no:** 020 7664 3080  
**E-mail:** [Jane.marcroft@local.gov.uk](mailto:Jane.marcroft@local.gov.uk)



## **Feedback from the annual safer communities conference 2012**

### **Background**

1. This year's conference was the fifth of its kind. Sub-titled 'partnership working in a new world' the conference looked at the changing landscape of community safety and in particular how the election of the first Police and Crime Commissioners could affect the way partnerships work.
2. The conference took place on 28 November 2012 and attracted 100 delegates and two exhibitors – PNLD and Saadian. A number of Safer Communities Board members were in attendance.

### **Conference programme**

3. The conference programme was wide reaching and very full and there were sessions on working with Police and Crime Commissioners; working with health and wellbeing boards and clinical commissioning groups; working with probation trusts and there were two sets of workshops focusing on policy updates and practical experiences and improvement. Topics covered included troubled families; anti-social behaviour community trigger pilots, gangs and serious youth violence; domestic homicide reviews; commissioning; using digital engagement to enhance community safety; restructuring community safety local and promoting community safety partnerships to Police and Crime Commissioners and communities.
4. The conference programme also included the launch by the LGA and the Public Fundraising Regulatory Association (PFRA) of the joint national agreement to improve and maintain standards of face-to-face fundraising through voluntary agreements between councils and the PFRA. 'Making the Pledge' has been drawn up as a response to a survey conducted by the LGA that showed that three-quarters of councils were concerned about the impact that the aggressive behaviour of some fundraisers could have on their residents and high streets.

### **Speakers**

5. We had a strong and high calibre line-up of speakers which included Vera Baird QC, Police and Crime Commissioner for Northumbria; Ian Brady, Deputy Director, Troubled Families Team, Department for Communities and Local Government; Anthony Wills, Chief Executive, Standing Together Against Domestic Violence; and Sally Lewis, Chief Executive, Avon and Somerset Probation Trust amongst other speakers. Cllr Joanna Spicer chaired the conference.

### **Feedback**

6. 94% of those who replied to the delegate survey were either very or fairly satisfied with the event. When asked what delegates had found beneficial about the event the top response cited was the opportunity to learn from what other authorities are doing in this area. This was closely followed by the opportunity to hear about up to date or

**Item 5**

emerging issues relevant to the delegate's work and then the opportunity to hear about issues useful to the delegate's work. By far the majority of delegates who responded felt that the conference had met their needs.

7. Delegates were invited to make comments on individual speakers and Vera Baird QC, Rob Owen, Chief Executive, St Giles Trust, and Nick Keane, Digital Engagement Advisor, National Policing Improvement Agency were singled out by some for praise.

"I had never heard Vera Baird speak before and was very impressed."

"Rob Owen was a fantastic keynote speaker. He was interesting, engaging and spoke so passionately about the work of St Giles Trust that it really made you want to sit up and listen to what he had to say."

"I thought that Nick Keane did a fantastic workshop on digital engagement. He was very well informed, funny, engaging and I really felt like I learnt something."

8. The delegate survey also invited delegates to suggest some possible areas for improvement. A number of comments focused on the workshops - some delegates commented that they would like more time for discussion and questions and for the workshops to be generally more. With four workshops on offer at any one time one delegate commented that he would have liked workshops to be repeated. In drafting up an agenda a careful balance often needs to be struck between ensuring that the programme is sufficiently full and thereby as appealing to as many delegates as possible and logistics and the delegate experience. Another unrelated suggestion focused on the need for such events to look forward at what is coming next rather than looking back.

**Positive outcomes**

9. Delegate numbers, and therefore income, were considerably up on previous years. Overall the conference made a surplus of over £19,500 (this figure includes the income from the two exhibitors) and this compares very favourably to other one day conferences run across other policy portfolios. Looking closer at the possible reasons for the uptake in delegate numbers the following could all have had a part to play:
  - 9.1 The lead in time for the marketing of the event was considerable and should be repeated, if possible, for all future events going forward.
  - 9.2 The draw of having a Police and Crime Commissioner address conference delegates so newly into her role undoubtedly assisted in generating a few last minute bookings.
  - 9.3 The nature of the event itself was a contributory factor – this is the only cross-cutting event which we organise, and as such it picks up a broad range of community safety topics and thereby enables attendees to get up to speed on a maximum number of topics in one go. Additionally, and as referred to above, the programme was very full and as such had potentially more scope to attract

**Item 5**

as wide an audience as possible and was hopefully perceived to offer the best value for money.

10. The launch of the 'Making the Pledge' was widely picked up by the media and members of the Safer and Stronger Communities Board and PFRA partners appeared in the Independent and First Magazine and on the Today Programme and Drive Time and over a dozen local and regional papers and radio stations.
11. At the conference delegates maximised their use of twitter to great effect – for example one of our afternoon speakers who arrived half-way through the conference reported that he had been following the conference on twitter as he travelled to the conference.

**Conference 2013**

12. Members will like to note that next year's annual safer communities conference will take place on 5 December 2013 in London.

**Financial Implications**

13. Income from our conferences is ploughed back into the organisation in order to keep our subscriptions low and to benefit councils and communities.





## **Update on regulatory services issues**

### **Purpose of report**

For information.

### **Summary**

This report provides an update on LGA policy work and developments affecting regulatory services that will be of interest to the Stronger and Safer Communities Board.

### **Recommendation**

That the Board notes the activities outlined.

### **Action**

Officers to progress as appropriate.

**Contact officer:** Gwyneth Rogers  
**Position:** Senior Adviser (Regulation), LGA  
**Phone no:** 020 7665 3861  
**E-mail:** [gwyneth.rogers@local.gov.uk](mailto:gwyneth.rogers@local.gov.uk)



## **Update on Regulatory Services issues**

### **Better regulation**

#### **The future of local regulation**

1. Councillor Paul Bettison and Councillor Nilgun Canver, as LGA Regulatory and Licensing Champions, will be holding a workshop early in the new year to engage members about what local regulation should look like in the future. The workshop follows on from discussions by the Stronger and Safer Communities Board in November 2012.
2. Attendees at the event will have the opportunity to discuss how increased local flexibility could provide the freedom for councils to reduce red tape for responsible businesses and focus limited enforcement resources on protecting the most vulnerable in our communities from exploitation, crime and ill health. The outcomes of the workshop will inform LGA strategic engagement on regulation in the coming months. Councillor Bettison and Councillor Canver will be able to provide an update on the outcomes of the workshop at the Board meeting.

#### **Regulatory peer challenge begins in earnest**

3. Environmental health, trading standards and licensing services are intrinsically linked to local economic growth, public health and community safety. Our newly revised 'future focused' and flexible approach to peer challenge considers how regulatory services can deliver the best outcomes for their communities in across all of these areas in very difficult financial times, including options for other delivery models such as shared services.
4. The first LGA regulatory peer challenge is due to take place at the end of January 2013. There are currently a very limited number of peer challenges available at no cost to councils.

#### **Review of the regulators compliance code**

5. Since 2007 councils have been required to follow the principles of the Regulators Compliance Code, which provides a framework for regulation based on a foundation of business-friendly regulation, accountability and transparency. It promotes a consistent, targeted and risk based approach to enforcement that minimises the burdens on compliant, well run businesses. These principles have long been at the heart of local regulation.
6. The Department of Business, Innovation and Skills (BIS) has undertaken a review of the Code to improve the transparency of regulators and accountability to businesses. The LGA is working closely with BIS to ensure any changes do not present new burdens for councils or undermine the existing strengths of local accountability.

### **Outcome of the FSA review of feed enforcement**

7. At the March 2012 Food Standards Agency (FSA) Board meeting it was agreed that the FSA would complete a review of the delivery of official animal feed controls to ensure that enforcement work of councils met the standards set down by Europe. Unfortunately significant concerns had already been raised by Europe about local authority feed enforcement and therefore it was clear that the current role for councils was under threat.
8. The LGA has worked closely with the FSA to stress that feed enforcement is an integral part of the support councils provide for local farming businesses and further effort is needed from the FSA to work with councils on feed work, including understanding local priorities and considering the variety of new delivery models that are emerging in the current economic climate.
9. In November 2012, the FSA Board agreed to a number of recommendations aimed at improving relations with councils to deliver both local priorities and expectations from Europe rather than wholesale removal of local responsibilities.

### **Health and Safety Executive (HSE) launches consultation on a national code for local authority enforcement**

10. In November 2011 the Government published an independent review of health and safety legislation led by Professor Löfstedt. The review considered opportunities for reducing the burden of health and safety legislation on UK businesses while maintaining the progress made in improving health and safety outcomes.
11. The report included a recommendation for the enforcement role of councils to be placed under increased direction of the Health and Safety Executive (HSE), however, the Government response recognised the importance of council services remaining flexible and accountable to the needs of local industry and communities.
12. The HSE has now issued a consultation aimed at implementing this Loftstedt recommendation. It includes a draft National Code for local authorities to provide greater consistency and a tighter focus in the enforcement of health and safety across Britain. It will also ensure that local authority health and safety inspections are targeted at workplaces with the most serious risks or where there is evidence of poor performance.
13. The LGA would welcome views from all members to inform our response, which is due on 1 March 2013. The consultation can be found at <http://www.hse.gov.uk/consult/condocs/cd247.htm>

### **Localism Act**

14. The Localism Act contains the requirement that, before EU fines can be passed to local authorities if necessary, Ministers must seek, and take heed of, the advice of an Independent Advisory Panel on EU fines adjudication.

**Item 6**

15. The LGA has agreed to establish a standing 'pool' of experts from within the sector to draw upon in the event that an Independent Advisory Panel is required. The pool will encompass: elected members, chief executives of local authorities, and officer experts. At the Lead Members meeting on 4 December it was agreed that the Chair of the Stronger and Safer Communities Board would act as the expert in for regulatory issues, with support from Licensing and Regulatory Champions if required.

**Licensing**

**Impact of Westminster case on licensing fees**

16. Councillor Khan and Councillor Canver wrote to Jeremy Browne MP at the request of Board members to seek clarification about whether the principle of 'cost recovery' for licence fees will be impacted by a recent Westminster City Council case which ruled that not all enforcement costs could be recovered through a licence fee as a result of the European Services Directive. The Home Office has advised that the Department for Business, Innovation and Skills (BIS) will be responding to our query in the near future, while Westminster City Council is due to appeal the High Court judgement later in January 2013.

**Deregulation of regulated entertainment**

17. DCMS are due to announce their response to the consultation on deregulating regulated entertainment, which closed at the end of 2011. It is anticipated that this announcement will be made before the Board meeting and Councillor Canver will be able to provide brief verbal update on the implications for councils.

**Events**

**Late night levy event and Licensing Conference**

18. Councils were given new powers to levy a tax from business operating in the night-time economy to help pay for the associated policing costs. A number of councils have indicated that they are considering consulting on introducing one. As this is a new process, and following an announcement that the alcohol industry has established a fighting fund to bring legal challenges against the first levies introduced, we are holding a workshop on 22 January to bring together those councils who are actively considering a levy. The event will include sessions on media handling, developing an evidence base and political considerations. It will be chaired by Councillor Canver.
19. The annual licensing conference will take place on 5 February and will include feedback from the levy workshop. The focus this year will be on the role of the Police and Crime Commissioner in licensing, and how to implement the anticipated health objective. The conference will also look at topical issues such as establishing local fees, licensing charity collections, and metal theft.

**Item 6**

**LGA support for Regulatory Year Ahead**

20. The Regulatory Year Ahead has become an established event for senior local government managers to learn from each other, meet business representatives and consider the forthcoming strategic priorities. Councillor Canver and Councillor Bettison will be speaking at the event. This year the LGA is pleased to offer members of the LGA a 10% discount.



# Home Office

**Jeremy Browne MP**  
**MINISTER FOR CRIME PREVENTION**  
2 Marsham Street, London SW1P 4DF  
[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

Councillor Mehboob Khan & Councillor Nilgun Canver  
Local Government Association  
Local Government House, Smith Square  
London  
SW1P 3HZ

20 DEC 2012

CTS Reference: M18787/12

*Mr Khan and Mr Canver*

Thank you for your letter dated 4 December 2012 regarding the Provision of Services Regulations 2009. You set out your concerns about the outcome of a recent case (Hemming and others v Westminster City Council) and its implications for the fees regime under the Licensing Act 2003, particularly in respect of costs of enforcement action against unlicensed operators.

The Department for Business, Innovation and Skills (BIS) leads on the implementation of the Provision of Services Directive by the Provision of Services Regulations 2009, and subsequent compliance with this legislation. I understand that you have copied this correspondence to Michael Fallon at BIS.

The Home Office is carefully considering the implications of the case for the fees regime of the Licensing Act 2003, working with other Government Departments, including BIS. We will also take the case into account in our forthcoming consultation on locally set fees, which we intend to launch in the new year.

Yours sincerely,

Jeremy Browne MP  
Minister of State





## **Communications Data Bill**

### **Purpose of report**

For information.

### **Summary**

1. The Home Office has informed us that they have not accepted our business case for retaining council and Fire and Rescue Authority access to existing forms of communications data. Councils account for only 0.4% of usage of these powers (2 130 requests) but the pre-legislative Committee was extremely critical of councils' errors in the use of the powers which no doubt has played a part in this conclusion. Trading standards, illegal money lending teams and environmental health officers believe that loss of these powers will significantly constrain councils' powers of investigation into rogue traders, benefits cheats and environmental crime.
2. The Home Office have asked us to resubmit a business case outlining:
  - 2.1 The impact of losing these powers;
  - 2.2 Whether it is possible for other public bodies to access data on behalf of councils; and
  - 2.3 any EU requirements for council to access this data
3. The Joint Committee scrutinising the Communications Data Bill produced its report in late December. The Committee did not recommend that councils be named on the face of the bill but did commend the work of the council-led National Anti-Fraud Network and outlined several ways in which safeguards could be put in place to ensure councils access the data in a responsible and proportionate fashion.
4. The LGA has the support of BIS, Trading Standards Institute and the National Anti-Fraud Network and is coordinating responses with them. The Association of Chief Trading Standards Officers (ACTSO) are producing a template letter for councils to send to their local MP outlining the severe impact that would result from loss of access to this data.
5. The following Appendices are included:
  - 5.1 **Appendix A**– Draft response to the Home Office
  - 5.2 **Appendix B** – Copy of the Home Office letter to the LGA
  - 5.3 **Appendix C** – Summary of the Joint Committee report into the Bill

### **Recommendation**

That Members note the report.

### **Action**

LGA officers to progress as appropriate.

### **Contact officer:**

### **Position:**

### **Phone no:**

### **E-mail:**

Gwyneth Rogers / Ian Leete

Senior Adviser – regulation, Adviser - regulation

020 7664 3861 / 3143

[gwyneth.rogers@local.gov.uk](mailto:gwyneth.rogers@local.gov.uk) / [ian.leete@local.gov.uk](mailto:ian.leete@local.gov.uk)

## **Communications Data Bill**

### **Background**

1. The Draft Communications Data Bill outlines government proposals for safeguards around the use of communications data by public bodies. The Bill would replace the framework included within the Regulatory Investigatory Powers Act (RIPA) for communications data only.
2. The Bill proposes to increase the data accessible to law enforcement, national security agencies and other public bodies in order keep pace with technological change. It is not proposed that councils have access to this expanded data set.
3. The Draft Bill was published with only the police, intelligence agencies and HMRC named on the face of the Bill. The Home Office requested that all other public bodies submit a business case to justify continued access to communications data. These powers would only be provided under secondary legislation and there is currently no indication of the government position about whether councils should retain access to communications data under this approach.
4. The LGA has submitted a business case on behalf of councils and FRAs. Although Home Office officials tell us our evidence was considered to be stronger than a number of public agencies, it was not considered to be sufficient to include councils on the face of the bill. This is due in part to the lack of an evidence base demonstrating the outcomes resulting from access to communications data; councils record successful prosecutions by the type of crime committed and are unable to easily identify which cases may have used communications data. There is also a political imperative to significantly reduce the number of public bodies accessing the data; councils are considered individually rather than collectively in this and therefore make up a very significant proportion of the list of public bodies with access.
5. Government is now considering the Joint Committee's report and will be drafting amendments with a view to introducing the Bill in the next session. It is expected that the Bill will subject to considerable debate following opposition by the Liberal Democrats.

14 January 2012

**Item 7**

**Appendix A**

Paul Regan  
Deputy Director

Home Office - OSCT  
Pursue Policy and Strategy Unit  
5th Floor Peel Building  
2 Marsham Street  
London  
SW1P 4DF

10 January 2013

Dear Paul

**COMMUNICATIONS DATA POWERS**

Thank you for your letter of 21 December advising that Government has, at this stage, rejected the need for councils and Fire and Rescue Authorities (FRAs) to access communications data. It is helpful that you have recognised that there is further information to be considered before a final decision is made and I am now attaching information in response to your request. We have also asked local authorities to respond directly to you providing individual responses about their local area which I hope will provide further evidence.

We share many of the concerns of the Coalition government about ensuring that access to this data respects the right of the individual to privacy, while at the same time providing enforcement agencies with the tools to protect people from exploitation. Councils are responsible enforcement agencies with a genuine need to access some elements of this data and we wish to work with the Government to ensure that these tools are fit and proportionate for use in the modern context.

Although we were disappointed that the Joint Committee did not explicitly recommend that councils were named on the face of the Bill, there are many instances where the committee outlines ways in which appropriate safeguards could be put in place for councils to access the data in future. For instance, they specifically commended the council-led National Anti-Fraud Network as an example of expertise and recommended that 'all local authorities and other infrequent users of communications data should be required to obtain advice from this service' or a service modelled on it.

We worked closely with Government on the Protection of Freedoms Act to introduce a new threshold of six months imprisonment below which an application to conduct surveillance could not be made. Preliminary reports from NAFN and council officers suggest that this is working well and we believe it provides a current and effective model for ensuring that communications data is used for only serious offences as is intended by Home Office ministers. It would therefore be good to have a conversation about what additional safeguards Ministers might want to see in place for communications data powers, such as application of a similar threshold, which would allow councils to be included in the list of agencies retaining the powers.

I know that the Government wants to see the continued protection of consumers continue and there is a real risk that the ability to take swift and effective action will be undermined without access to these powers.

14 January 2012

**Item 7**

As requested, I have addressed your three key questions below, but must emphasise that council use of these powers is driven by a need to protect residents and responsible businesses. If you have any further queries about councils' need to retain their existing powers of access to communications data then please do not hesitate to contact me.

Yours sincerely

Helen Murray  
Programme Director, Safer and Stronger Communities

**CC:** Neil O'Connor, Director, FRED, DCLG

## **1. Impact**

Councils use communications data to protect residents and businesses from those that are deliberately and purposefully trying to cause harm. Losing access to communications data would leave councils and fire authorities without the tools to protect residents and allow criminals to operate more freely in our communities. Although these powers are used infrequently, they are a valuable part of councils' toolbox to tackle crime.

We are not requesting additional, expanded access to the new communications data content, but we are keen that local authorities are able to continue to use their existing powers which are essential to the work carried out by councils. There are a number of crucial offences for which councils are the main enforcement body, including benefits and council tax fraud, metal theft, rogue traders, loan sharks, doorstep crime, serious environmental crime, commercial flytippers, and counterfeit goods. At no point will councils require access to the content of the communications or any of the information contained in Clause 1 of the Bill and we do not ask for this access.

The new draft Bill retains several permitted reasons for accessing data that are the responsibility of councils, but not part of the core function of the police or other public bodies:

- (d) in the interests of the economic well-being of the United Kingdom,
- (e) in the interests of public safety,
- (f) for the purpose of protecting public health,

The investigation of some particularly heinous crimes is enhanced by councils having access to these powers. In particular, the prosecution of a number of environmental crimes, including metal theft rests on being able to link individuals to the sale of stolen goods through mobile phone usage and councils would not want to see that ability reduced.

High profile consumer protection initiatives such as Scambusters, Loan Sharks and the increasingly topical issue of illegal money lending are also likely to be significantly affected.

Phone records may provide valuable evidence to bring criminals to justice. For example, in a current case, a trader charged around £100,000 for work which wasn't done or wasn't necessary. In interview it has been claimed that work was only done at the victim's request and that he rang one of the offenders on each occasion to request work. The victim's outgoing call logs have been requested to disprove that. It illustrates an important part of the offenders' conduct and in particular, the fact that one offender was prepared to lie in interview.

Council Trading Standards officers also enforce much of the consumer protection legislation, which can save consumers up to £40 million a year. In 2010, council officers tackling illegal moneylending helped 11, 500 people write off more than £31 million of illegal debt and pursued a further £10 million of criminal assets through the courts. Access to communications data forms a numerically small part of this work, but can provide the critical evidence to secure a conviction for larger crimes sometimes involving sums of £400 000. A loss of access to this data could see offenders failing to be tracked down and prosecuted at all as they cannot be connected to the crime.

## **2. Shared agreements**

It is probable that a shared agreement with the police could work well for FRAs, as their use of communications data usually relates to core police activities such as the investigation and prosecution of arson. However, councils access data for a number of reasons that do not correlate well the core priorities of the police.

Councils work closely with the police to prevent crime and we agree that further joint-working can be developed to maximise the efficient use of resources. It is important to recognise, however, that police forces are also under pressure and we would question whether they have the existing capacity or expertise to tackle complex issues such as benefit fraud.

Although local authorities would be able to negotiate shared agreements, data sharing still presents barriers at the local level if councils are not named in the Bill. It would be more proportionate and effective to look at alternative safeguards through either the magistrates system used by the Protection of Freedoms Act, or strengthening the role of the SPoC as recommended by the Joint Committee. A strengthened SPoC role could mean the Home Office accrediting expert organisations to provide this function, which could open up the market to competition.

We agree with the principle expressed by the Joint Committee that the public need reassurance that decisions to request data are evaluated with an appropriate understanding and expertise in the law. However, establishing a centralised service with no flexibility about alternative models that could deliver the same outcomes would remove the process from the local context and political accountability that we believe is crucial to reassuring the public.

NAFN has proven an effective resource for many councils and they have an excellent track record of ensuring data requests are of a high quality, but there is a cost to access their service and this is considered prohibitive for some councils. Rather than establish a new organisation in legislation, as suggested by the committee, we believe that providing formal resource from the Home Office to make NAFN's services affordable for all councils would deliver the needed reassurance of expertise in a timely and cost effective fashion, and without requiring the establishment of a new quango.

### **3. European responsibilities**

EU law, or the subsequent UK regulations frequently refer to council officers as a responsible enforcement body and removing their access to data risks the possibility of infraction proceedings, which would be costly to contest even if successfully challenged.

The Unfair Commercial Practices Directive, for instance, requires administrative authorities to be able to secure evidence against a trader responsible for 'making persistent and unwanted solicitations by telephone, fax, e-mail or other remote media'. The UK has implemented this directive through the Consumer Protection from Unfair Trading Regulations 2008, which sets out evidential requirements in clause 27. It will be extremely difficult to enforce this requirement without access to communications data.

This view is shared by the 40 consumer organisations in EU member states who responded to the Commission's questionnaire on the application of the Directive by saying "In the absence of written documents, it is very difficult for the consumer to proof [sic] these aggressive practices."

14 January 2012

**Item 7**

**Appendix B**

Dear Colleague

**COMMUNICATIONS DATA POWERS**

As you know, the Home Office is planning to legislate to replace the provisions in Part 1 Chapter 2 of the Regulation of Investigatory Powers Act 2000 (RIPA), which currently provides for Local Authorities to acquire communications data.

I wrote on 11 December following the publication of the report of the Joint Committee on the Draft Communications Data Bill. One of the issues that the Committee considered was which public authorities should have access to communications data. The Committee concluded that it expected the list of public authorities with such access to be “greatly reduced” when compared to the existing position.

Ministers are committed to giving effect to the substance of all of the Joint Committee’s recommendation. Their starting point, in respect of which public authorities should have access, is that only those for whom the strongest case can be made should retain their powers.

Ministers have considered the business cases submitted to the Home Office earlier in the year outlining your rationale for access to communications data, and your need for the powers in future, but consider that, in the light of the Joint Committee’s report, your organisation has not made a compelling case for inclusion.

We therefore need to establish what the effect would be for Local Authorities if you did not retain access to communications data under the proposed legislation. As well as this, Ministers wish to consider whether your organisation would require the new data that would be available under clause 1 of the proposed Bill – that is generated data not presently retained for business purposes, including that from overseas providers.

To this end, it would be useful if you could provide clear answers to the following three questions.

1. What would be the impact if you cannot access communications data at all?
2. If you lose the ability to acquire communications data in your own right, would it be possible for you to form agreements with another public authority to acquire communications data on your behalf, where it is necessary and proportionate to do so?
3. Are there any requirements in EU law that you must be able to access communications data? If so, where? If you lose this ability, what would be the likely impact?

I would be grateful for reply by 16 January. It is crucial that we receive this information in this timeframe, so that Ministers can make an informed consideration before making a final decision on which bodies will retain their powers.

If you would like to discuss this request further, please contact the Communications Data team on 0207 035 6816 [draftcommsdatabill@homeoffice.x.gsi.gov.uk](mailto:draftcommsdatabill@homeoffice.x.gsi.gov.uk).

**Appendix C**

**Key findings of the Joint Committee on the Draft Communications Data Bill affecting councils**

**Key finding** - The Home Office should not have assumed a consultation paper published in April 2009 could justify the publication of draft legislation three years later without further consultation with the public and those most closely affected by it proposals.

**LGA position** – The consultation exercise has not proved meaningful or constructive and as such has been flawed. The launch of the draft Bill signalled the start of a process that has proved confusing for councils and wider stakeholders. The request for a Business Case from the Home Office to retain powers contradicted both a clause in the draft Bill about how councils could use their powers and a parallel request for evidence from the Bill Committee. The Bill Committee seemed unaware that the Home Office request for business cases had even been made.

The Home Office failed to consult with Fire and Rescue Authorities until a very late stage, leaving little time for constructive input.

The Government position on which public bodies will retain communications data powers remains wholly unclear, and urgent clarity is needed.

**Key finding** - In 2011 141 local authorities notified the Interception of Communications Commissioner that they had made a total of 2130 requests, which is just 0.4% of all communications data requests submitted by public authorities. Despite this, local authorities accounted for 9% of the reportable errors. This is 20 times the average of other public bodies. The evidence we have received shows that errors by local authorities cause public concern out of all proportion to the numbers involved. This seems to be because examples of misuse or abuse of the system are not only relatively frequent, but also particularly alarming.

The IoCC reports that, of the 141 local authorities which notified him that they had made use of their powers in 2011, 58% had made fewer than 10 requests. This plainly contributes to the number and gravity of the errors: those processing the applications for access to communications data do so infrequently and have relatively little experience of the system.

**LGA position** – We wholly support the need to reassure the public that this power is only being used as a last resort by councils and with full safeguards and scrutiny in place. We recognise that it can be difficult for councils that use such powers so sparingly to maintain levels of expertise, however, many councils are already maximising opportunities such as National Anti-Fraud Network (NAFN) in order to maintain the appropriate levels of knowledge to prevent mistakes occurring. The LGA is keen that councils can learn lessons from mistakes that have been made and would welcome working with the Information of Communications Commission to identify common themes and possible solutions.

**Key finding** – If it is thought that local authorities, or some of them, should have access to communications data, they should follow the procedure we have suggested for all other public bodies and not have to secure approval from a magistrate.

**LGA position** – We agree that there should be consistency among public bodies, to both build a common understanding in the public and media about how powers are used and to provide reassurance of the high standards that all public bodies are expected to meet. From 1 November 2012, councils are required to seek the approval of a magistrate for access to communications data. We agree with the Committee that this does not, in itself, provide an additional safeguard.



However, since that policy has now been implemented, we would advocate a period of settling in and a review of the current arrangements to fully explore any added value or problems before abandoning this policy in favour of a different policy.

**Key finding** - Any public bodies which make a convincing business case for having access to communications data should be listed on the face of the Bill.

**LGA position** – The LGA submission to the Committee made this suggestion and we are pleased that this is now the recommended approach. The LGA believes that local authorities and fire and rescue authorities should be added to the face of the Bill.

**Key finding** - The SPoC process should be enshrined in primary legislation. A specialist centralist SPoC service should be established modelled on the National Anti-Fraud Network Service that currently offers SPoC expertise to local authorities. The Home Office should consider allowing police forces to run this service. The new service should be established by statute, and all local authorities and other infrequent users of communications data should be required to obtain advice from this service.

**LGA position** – We agree with the principle that the public need reassurance that decisions to request data are evaluated with an appropriate understanding and expertise in the law. However, establishing a centralised service with no flexibility about alternative models that could deliver the same outcomes would remove the process from the local context and political accountability that we believe is crucial to reassuring the public.

It is not clear why the committee would recommend that a replacement is found for NAFN when they acknowledge that it is providing excellent service.

**Key finding** - In the case of local authorities it should be possible for the magistrates to cope with the volume of work involved in approving applications for authorisation. But we believe that if our recommendations are accepted and incorporated into the Bill, they will provide a stronger test than a magistrate can and it will be unnecessary to continue with differing arrangements applying to local authorities.

**LGA position** – The LGA believes that local scrutiny arrangements, backed up by the Interception of Communications Commissioner for RIPA powers provides the transparency and proportionality sought by the public. This report calls for the requirement for councils to secure sign-off from a magistrate for access to communications data to be scrapped in favour of nationally set authorisation procedures. It is an anomaly for councils to be subject to stricter arrangements than other public agencies and therefore we support the Committee's findings.

**Key finding** - While sampling is acceptable as a way of dealing with large users, the requests of users making fewer than 100 applications in a year should be checked individually. The annual report of the IoCC should include more detail, including statistics, about the performance of each public authority and the criteria against which judgements are made about performance.

**LGA position** – Local authorities only seek to use these powers to protect residents and taxpayers from acts of dishonesty, but we recognise that more need to be done to increase transparency about why surveillance powers are sometimes necessary and what they are used for.

The LGA remains committed to increasing the transparency about council use of RIPA powers and we encourage councils to publish their use of these powers in an easily accessible manner

for residents. Increased transparency will provide reassurance to residents that their councils are acting responsibly to protect them.

More detail in the IoCC report would enable local government to address any discrepancies or emerging themes which require attention in terms of the operation of the policy or process.

**Key finding** - We agree with the Home Office that there is no need for criminal offences to punish minor administrative errors made by officials in public authorities while seeking to acquire communications data. Where appropriate, disciplinary action should suffice. However, the draft Bill should provide for the wilful or reckless misuse of communications data to be a specific offence punishable in appropriate cases by imprisonment.

**LGA position** – We agree that any response to an error should be proportionate, making use of existing disciplinary powers as employers. We would recommend that the Home Office or Interception of Communications Commissioner record the types of administrative errors discovered, with a view to identifying common mistakes and targeting support to resolving them.

Where there is wilful or reckless misuse of these powers then it is appropriate for there to be a more serious punishment available.

**Item 8**

## **Crime and Courts Bill**

### **Purpose of report**

For information.

### **Summary**

This report provides a summary of the main provisions in the Crime and Courts Bill which is now being considered by the House of Commons, having started in the Lords.

### **Recommendation**

Members are asked to note the report.

### **Action**

Officers to action as appropriate.

**Contact officer:** Mark Norris  
**Position:** Senior Adviser, LGA  
**Phone no:** 020 7664 3241  
**E-mail:** [mark.norris@local.gov.uk](mailto:mark.norris@local.gov.uk)



**Item 8**

## **Crime and Courts Bill**

### **Background**

1. The Crime and Courts Bill was one of the bills included in the Queen's Speech in May 2012. In the speech the government set out two key aims for the bill: to better protect the public by enhancing the national response to serious, organised, and complex crime as well as strengthening border security; and to reform the courts and tribunal service so they are more open and effective, while also reforming the judicial appointments process.

### **The main elements of the bill**

2. The main purpose of the bill is to establish the National Crime Agency (NCA) which will replace the existing Serious and Organised Crime Agency (SOCA). The NCA will have four objectives: preventing and investigating serious and organised crime; improving border security; tackling sexual abuse and exploitation of children; and tackling cyber crime.
3. Work is already well progressed in establishing the NCA, which is looking to establish a much more visible presence than SOCA and will be looking to engage with local authorities once the bill has received Royal Assent.
4. The bill will also establish a single county court and single family court system for England and Wales, to provide greater flexibility in the handling of cases, thereby increasing the efficiency of the court system. At the same time it makes provision for the introduction in limited circumstances of broadcasts of court hearings to demystify the court system.
5. Greater judicial flexibility in terms of which courts and tribunals judges can sit in is also part of the proposals in the bill, as is reforming the judicial appointments process to improve the diversity of the judiciary. This includes placing a new duty on the Lord Chancellor and the Lord Chief Justice for England and Wales to take such steps as they consider appropriate to encourage judicial diversity.
6. The bill also strengthens the powers of immigration officers to tackle serious and organised immigration related crime, and changes the rights of appeal in some immigration cases. At the same time it also seeks to make fines imposed as part of a criminal sentence more effective by ensuring they are paid more often and earlier, while reducing the cost of enforcement action. The bill allows the costs of collecting fines to be passed on to the offender, and for information to be shared between the Department of Work and Pensions and Her Majesty's Revenue and Customs to share benefits and financial information with the court service to help enforce fines. The bill additionally provides for complaints about enforcement by bailiffs to be considered by Ombudsman scheme created by the Office for Legal Complaints.

**Item 8**

7. There are a number of crime related measures in the bill. It provides for youth courts to be able to issue gang injunctions against children aged between 14 and 17, amends the test around what reasonable force a householder may use in self-defence in their own home so only grossly disproportionate force cannot be used, introduces a new offence of driving a motor vehicle while under the influence of drugs, amends the Public Order Act 1986 so that the use of insulting words or behaviour in the hearing or sight of someone likely to be caused harassment is no longer a criminal offence, introduces changes to community orders so they must include a punitive element and make greater use of restorative justice.

**Item 9**

## Note of decisions taken and actions required

---

<b>Title:</b>	Safer and Stronger Communities Board
<b>Date and time:</b>	Monday 05 November 2012, 11.00am
<b>Venue:</b>	Westminster Suite Room 8.1 (8 <sup>th</sup> Floor), Local Government House

---

**Attendance**

Position	Councillor	Council
Chair	Cllr Mehboob Khan	Kirklees Council
Vice Chair	Cllr Joanna Spicer	Suffolk CC
Deputy Chair	Cllr Philip Evans JP	Conwy Council
Members	Cllr Paul Bettison	Bracknell Forest Council
	Cllr David Burbage	Windsor & Maidenhead RBC
	Cllr Shona Johnstone	Cambridgeshire CC
	Cllr Nick Worth	South Holland DC
	Cllr Henri Murison	Newcastle City
	Cllr Nilgun Canver	Haringey LB
	Cllr Florence Nosegbe	Lambeth LB
	Cllr Michael Payne	Gedling BC
	Cllr Lisa Brett	Bath & NE Somerset Council
	Cllr Anita Lower	Newcastle City
	Cllr Ann Lucas (by Conference call)	Coventry City
Substitutes	Cllr Audrey Lewis	City of Westminster
	Cllr Matthew Evans	Newport City Council
	Cllr Richard Chattaway	Warwickshire CC
	Cllr Kate Haigh	Gloucester City
Apologies	Cllr Duwayne Brooks (Deputy Chair)	Lewisham LB
	Cllr Robert Gordon CBE DL	Hertfordshire CC
	Cllr Tom Fox	Scarborough BC
	Cllr Kay Hammond	Surrey CC

**Officers:** Helen Murray, Mark Norris, Ian Leete, Stephen Service (all LGA)

**Item 9**

Item	Decisions and actions	Action by
	<p>Cllr Mehboob Khan welcomed Members to the meeting. He announced that Cllr Ann Lucas would be attending via conference call for the first item only.</p>	
1.	<p><b>Financial modelling of domestic violence services</b></p> <p>Cllr Khan introduced representatives from Essex CC Janice Logie, Assistant Director for Policy and Strategy – Children and Michael Gardiner, Financial Analyst to talk about Essex CC’s whole place community budget approach to domestic abuse services.</p> <p>Following the presentation, Councillors made the following comments:</p> <ul style="list-style-type: none"> <li>Members asked how the community budget related to the Government’s funding for troubled families and linked with domestic violence-specific programmes like ATHENA. Ms Logie responded that as the scheme’s focus had been on Community Safety to date, the potential linkages with these initiatives had not been included. However there were plans to pull in the funding stream from troubled families as they moved forward.</li> <li>Cllr Johnstone reported that Cambridgeshire CC had done some similar work on domestic violence which did not require the use of community budgets. She agreed to share this with the Board. Ms Longie said that Essex had already taken learning from the Cambridge model, which looked at sharing risks in a different way.</li> <li>Members said that the transferral of funding to PCCs posed the question as to how preventative work could be funded, and how a community budget model could be put in place without the prior commitment of the PCC.</li> <li>The escalating cost of child social services was seen as a major challenge, with an increase in referrals due to services cut in other departments and other authorities, particularly at the front end of child safeguarding services.</li> </ul>	



**Item 9**

Members asked what view Essex officers had of the cost pressures and where savings could be found. Ms Logie agreed, saying that the team in Essex are getting 23,000 child-related incidents referred to them each year. However, she noted that the risks were always evaluated in relation to the family rather than to the perpetrator. This would potentially mean savings to children's services. Mr Gardiner added that the reasons for someone being taken into care rarely stemmed from domestic violence alone, so the total costs of domestic abuse were still not clear. The next stage of the programme would be to harness the funding streams for these linked causes.

- Members discussed with the Officers from Essex several examples of new initiatives tackling domestic violence, including a scheme in Strathclyde Council which has been focused on perpetrators of abuse. Cllr Nosegbe said she had visited the Strathclyde scheme and asked how smaller organisations were being involved in partnership work.
- Councillors questioned the feasibility of engaging with 500 perpetrators over 3 years, suggesting that this was dependent on establishing a baseline from the outset.
- Members sought more information on the principal financial outcome of the scheme. Mr Gardiner agreed to forward the summary of the business case which gave more detail in this area.
- In response to a question on what was being done to target housing, Ms Logie said that Essex were looking at the universal credit and safer accommodation. In particular, their focus was on refugees and working with district councils.
- Ms Logie said that Essex planned to bring schools into the scheme via the implementation phase. She emphasised that few partnership agencies captured much data in terms of domestic violence. Ensuring all partnership work was joined up and understanding what was going on across all services presented the biggest challenge for authorities in this area.

Helen Murray LGA Head of Programme said that it was useful to

**Item 9**

take away some examples of what councils were doing in this area and the importance of pinning down where efficiency savings can be made was an important point for Cllr Lucas and the LGA Chairman to get across to central government.

Cllr Khan thanked Ms Logie and Mr Gardiner for attending. He suggested that a domestic violence workshop be arranged around the issue of funding models.

**Action**

Officers to circulate more information on good practice examples, including Cambridge in liaison with Cllr Johnstone.

**Helen Murray /  
Mark Norris /  
Steve Service**

Financial modelling and domestic violence workshop to be arranged with representatives from leading authorities.

**Helen Murray /  
Mark Norris**

**2. A new generation of local regulation**

Helen Murray introduced this item. She said that feedback from authorities suggested that there was an appetite for a discussion on the future of local regulation.

Cllr Paul Bettison, the Board's regulatory services champion said he was happy to work on the discussion paper proposed and asked for contributions from other members. He suggested that the report could be less aggressively worded, suggesting that rather than being presented as "red tape", regulation could be emphasised as a means of supporting customers and businesses, and protecting them from those who would cheat and use short cuts for short term gains.

Cllr Murison argued that the paper should include a degree of challenge, asking authorities to indicate if there is anything which they think they should not be regulating.

In light of the cuts to regulatory services, some Members felt that the paper could represent an opportunity for local government to argue for fewer central government bodies, particularly quangos which carry out regulatory activity.

Councillors were keen that professional regulatory bodies as well as interested elected members, businesses and unions were

## Item 9

involved in discussions.

For the public to understand regulation, Members argued that councils needed to “get their language right” and avoid talking about regulation in terms of jargon such as Local Enterprise Partnerships and Primary Authorities.

### Action

Officers to reflect Members comments in revised discussion paper.

**Gwyneth Rogers**

### 3. Police and Crime Commissioners and Fire and Rescue Authorities

Helen Murray presented this item. She invited comments from Members on the FSMC’s proposal for time limited task and finish groups with representatives from both Fire and the Safer Communities Board.

While Members supported the broader idea behind the proposal, to increase partnership working between fire and safer communities workstreams, they emphasised the risks of getting embroiled in a debate about the PCC policy and its applicability to FRAs and it was agreed that this was a short focussed piece of work, which would principally set out good practice to be of value in the day to day working at local level.

Councillors agreed that 3 rather than 2 Members of each work area should be sought for the group to give a broader balance of skills. Cllr Khan urged interested members to contact Eamon Lally, LGA Senior Advisor.

### Decision

The Board **agreed** the task and finish group proposals outlined in the report.

### Action

Membership of the task and finish group to be increased from 4 to 6 members (3 from each work area). Interested Members to contact Eamon Lally, LGA Senior Advisor.

**Eamon Lally**

**Item 9**

Officers to take forward as directed.

**Eamon Lally**

**4. 2013-14 Business plan**

Mehboob Khan introduced this item and asked Members for their comments on what the LGA's priorities for 2013/14 should be.

Members agreed that provision of **funding for local government** needed to continue to be at the top of the LGA's agenda in the face of cuts to services.

On licensing, Cllr Audrey Lewis raised the issue of the recent court judgement against Westminster on licensing enforcement. Cllr Murison said the case raised broader issues about enforcement of licensing regimes, and the LGA needed to be making this argument to government.

On **community safety and the night time economy**, some Members pointed out that their authorities were now actively considering a late night levy as an option. They suggested that it would be helpful for the LGA to quantify the amount spent by councils on making the night time economy safe, and which could then be used to demonstrate the need for a late night levy. Members added that any data on the costs of the late evening and night time economies would be welcome. At present there was a perceived lack of clarity over what constituted night time safety, with the police definition of 6pm to 6am too broad.

Cllr Canver, the Board's regulation champion said that she would work with officers to pull together data on regulation in relation to the night time economy.

**Action**

LGA officers to pull together local government data on regulating the night time economy.

**Gwyneth Rogers /  
Ian Leete**

**Item 9**

**5. Update on PCCs and Police and crime Panels**

Mark Norris introduced this item. He said that the Home Office would not be scheduling any further meeting of its Transition Board and related project groups, though there would be a review of the need for a meeting in February. On Police and Crime Panels, he announced that a dedicated Knowledge Hub had been created to support the panels during their introduction.

Councillors stressed the importance of the LGA supporting Police and Crime Panels and raising its profile with them. They said that it could not be relied upon that Police and Crime Panels would access the website and other approaches also needed to be made such as through officers supporting panels. Helen Murray agreed, saying that work was currently focused on making the LGA's work more visible to Police and Crime Panel members. She cited the use of skilled and experienced member peers for panel members as one option currently being considered as part of the LGA's offer.

On specific support, Members suggested that the LGA offer "50 questions that Police and Crime Panel members should be asking their PCCs" as part of the knowledge hub content and sell the advantages of partnership working. Members also expressed concern about the workload some panels would face, in particular their chairs, that some panels would focus on championing their member authorities rather than appreciating the wider context of their role.

Councillor Khan reported that information could be circulated on how the West Yorkshire panel members were being supported, which he would asked to be circulated by officers to the Board.

***Decision***

Members **noted** work undertaken since the last Board.

**Action**

LGA Officers to progress, taking account of Members comments.

**LGA Officers**

Officers to circulate the good practice work of West Yorkshire police on Police and Crime Panels to Board.

**Mark Norris /  
David Lock**

**Item 9**

**6. Update on the Scrap Metal Dealers Bill**

Mark Norris updated members on the outcome of the committee stage of the Bill and next steps.

Members expressed concern about the enforceability of legislation in its current form for councils, arguing that those involved in metal theft will find ways to bypass laws. They hoped that the importance of local conditions on the licence could still be highlighted in the time remaining for the Bill. Given the time-sensitive nature of this issue, Officers agreed to make metal theft work a priority over the coming week.

Members proposed a number of steps to ensure the LGA's message on local powers were given maximum exposure. They advocated writing another letter to council leaders reminding them to canvas the support of their local MPs and suggested using coverage of November remembrance day services as a basis to highlight the impact on war memorials. Businesses such as rail and telecommunications companies were also seen as a likely source of support to draw upon as there was a direct impact on their costs.

***Decision***

Members **noted** progress and agreed to the LGA seeking to table amendments to the Bill allowing the setting of local conditions.

***Action***

LGA to reinforce with council leaders the importance of getting the support of their MPs for local powers to fight metal theft. **Mark Norris**

Officers to canvas support of business communities to underline the cost of metal theft and local powers **Mark Norris**

Media coverage ahead of Remembrance Sunday to include the impact of metal theft on war memorials. **Mark Norris / LGA media team**

**7. Update on regulatory services issues**

Members noted the update provided.

**Item 9**

**8. Notes of the last meeting**

Cllr Khan asked members to note that the minutes included a record of the outside bodies and representatives appointed in September. The notes of the last meeting were agreed as a correct record.

**Date of next meeting: 11am, Monday 14 January 2012, Local Government House**

# LGA location map

## Local Government Association

Local Government House  
Smith Square  
London SW1P 3HZ

Tel: 020 7664 3131

Fax: 020 7664 3030

Email: [info@local.gov.uk](mailto:info@local.gov.uk)

Website: [www.local.gov.uk](http://www.local.gov.uk)

For further information, visit the Transport for London website at [www.tfl.gov.uk](http://www.tfl.gov.uk)

## Bus routes – Millbank

- 87** Wandsworth - Aldwych
- 3** Crystal Palace - Brixton - Oxford Circus

## Public transport

Local Government House is well served by public transport. The nearest mainline stations are:

**80** Victoria and Waterloo: the local underground stations are

**St James's Park** (Circle and District Lines), **Westminster** (Circle, District and Jubilee Lines), and **Pimlico** (Victoria Line) - all about 10 minutes walk away.

Buses 3 and 87 travel along Millbank, and the 507 between Victoria and Waterloo stops in Horseferry Road close to Dean Bradley Street.

## Bus routes – Horseferry Road

**507** Waterloo - Victoria

**C10** Canada Water - Pimlico - Victoria

**88** Camden Town - Whitehall - Westminster - Pimlico - Clapham Common

## Cycling facilities

The nearest Barclays cycle hire racks are in Smith Square. Cycle racks are also available at Local Government House. Please telephone the LGA on 020 7664 3131.

## Central London Congestion Charging Zone

Local Government House is located within the congestion charging zone.

For further details, please call 0845 900 1234 or visit the website at [www.cclondon.com](http://www.cclondon.com)

## Car parks

Abingdon Street Car Park (off Great College Street)

Horseferry Road Car Park  
Horseferry Road/Arneway Street. Visit the website at [www.westminster.gov.uk/parking](http://www.westminster.gov.uk/parking)

