

7 July 2014

## **Regulatory services update**

### **Purpose**

For information and direction.

### **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 directed.

**Briefing officer:** Ian Leete, Adviser  
**Lead officer:** Ellie Greenwood, Senior Adviser  
**Phone no:** 020 7664 3143  
**E-mail:** [ian.leete@local.gov.uk](mailto:ian.leete@local.gov.uk)

## **Regulatory services update**

### **Licensing issues**

#### **Licensing reform: *Rewiring Licensing***

1. *Rewiring Licensing* continues to attract interest at all levels. Since the Board meeting in March, a number of MPs have expressed interest in the proposals, and we have worked with them to seek to introduce a licensing review clause in the Deregulation Bill. Our proposal for a clause to hold a licensing review was narrowly defeated at Committee stage. LGA member councils also continue to express interest and submit ideas for reform, and LGA officers have been invited to present on the subject at a number of regional events for licensing professionals.
2. Lord Brooke of Alverthorpe contacted the LGA after reading *Rewiring* to discuss the possibility of introducing a Private Members Bill calling for a Public Health Objective in the Licensing Act. The LGA assisted Lord Brooke to draft a Bill based on the Scottish objective and it was introduced in the House of Lords on 12<sup>th</sup> June. Cllr Lucas and Cllr Hall have written to ministers and other partners to encourage them to support the Bill. It has attracted significant interest from councils and public health representatives: Public Health England have responded very favourably to the proposal, and to *Rewiring Licensing* more generally. However, the Bill is 25<sup>th</sup> on the list of private members bills, so we anticipate that it will struggle to find time for future debate.
3. Cornwall Council has been successful in securing funding from the Better Regulation Delivery Office (BRDO) for a project to investigate the practicalities involved in creating a single business licence, as outlined in *Rewiring Licensing*. The LGA helped the council to develop the proposal, which will look at the practical challenges involved in creating a uniform process.

#### **Deregulation Bill / Taxi and Private Hire Vehicle (PHV) reform**

4. We have been involved in extensive lobbying and briefing activity relating to the Deregulation Bill, which has now moved past the Committee Stage and is expected back in Parliament for Report Stage. A number of regulatory services issues are covered by the Bill, and government has introduced more relevant clauses as the Bill has progressed through Parliament. Our briefings have raised concern about government taking a piecemeal approach to implementing deregulatory measures, and about the introduction of significant new clauses without prior consultation with councils.
5. Of particular concern are the new clauses on private hire vehicles (PHVs): permitting anyone to drive an 'off-duty' PHV; enabling sub-contracting across council boundaries; and introducing a default licence life-span of three years for drivers and five years for operators. Our view is that these clauses unnecessarily pre-empt a more thorough reform of taxi legislation following publication of the Law Commission's comprehensive review of this area.
6. The new taxi clauses have proved controversial, with both councils and taxi associations contacting the LGA to express their opposition. The LGA has opposed the clauses on

permitting anyone to drive a PHV and sub-contracting, but supported the clause proposing a three- or five-year licence lifespan, which is in more in keeping with the 'licence for life' proposals in *Rewiring Licensing*. We have led a campaign against the proposals through:

- 6.1 coordinating with a number of taxi associations, professional bodies and charities such as the Suzy Lamplugh trust to raise concerns about these clauses, securing good media coverage on Sky and radio programmes;
  - 6.2 briefing LGA Vice-Presidents and Peers on our concerns; and
  - 6.3 writing to ministers to outline our concerns.
7. We will be continuing this lobbying in the coming weeks.

### **Other licensing issues**

8. The Deregulation Bill also includes proposals to **introduce a new definition of 'ancillary sales' to the Licensing Act**, reducing the involvement of some businesses and community venues in the licensing process. This proposal was first put forward as part of the Government's Alcohol Strategy, and received a cautious welcome in the LGA response. However, much depends on the detail of the definitions used to exclude or include types of sales and these will be defined in secondary legislation at a later date. During the parliamentary debate on these proposals, the Home Office committed to work with the LGA on this and we will be following this up with officials.
9. Our response to the **Home Office's licensing fees consultation** welcomed signs of progress on this issue, but criticised the complexity of the proposals and raised concerns that a cap on the fees set would potentially prevent the recovery of costs in some council areas. We also argued that the approach to fee-setting introduced by government must be compliant with the EU Services Directive.
10. On a related issue, **Westminster Council has been given leave to appeal the Hemming decision at the Supreme Court** in January 2015. The Board will recall that the original judgement ruled that the council could not include the costs of enforcement activity against *unlicensed* sex establishment operators within the licence fee for *licensed* operators. The team are liaising with officers at Westminster, and have sought legal advice on the potential implications of the case for local government. We intend bringing a paper on this to a future Board meeting.
11. The Board may recall that the **national extension of licensing hours for England's world cup games** did not apply in Wales. This decision was subsequently reversed by the Home Office, with Welsh councils asked to provide a free TEN service to businesses that wanted an extension, and then reclaim their costs from the Home Office. We have pressed the Home Office to make clear to Welsh councils how the money can be reclaimed, as soon as possible.

### **Trading Standards Workforce Survey and 'National Conversation' report**

12. In April, the Trading Standards Institute published a workforce survey indicating a cut to trading standards budgets of some 40% over the lifetime of this Parliament (mirroring the overall cut to central government funding of councils) and a 50% reduction in trading

standards officers since 2009. TSI is calling for the National Audit Office to undertake a review of the whole of the consumer protection regime in the UK, and wrote to the LGA Chairman inviting the organisation to support this call so that we can *'come together to map out a shared vision of the future before this vital service ceases to exist.'*

13. The Chairman's response to TSI recognised the challenges facing the service and the need for serious thinking about the future of the service, but did not support the call for the NAO to be asked to undertake a review of consumer protection issues following its 2011 review. We believe it is incumbent on local government to seek to find its own solutions before inviting the NAO to find them for the sector.
14. On 11 June Cllr Worth and Helen Murray attended the final panel session of TSI's 'National trading standards conversation' work to discuss the draft report into the future of the service. The session was chaired by Lord Heseltine. The draft report outlined concerns about recent cuts to trading standards teams and the viability of some trading standards services, and outlines different options for the future of the service; a series of draft recommendations relating to the report were circulated on the day.
15. At the session, the panel emphasised the importance of the service being able to articulate its core functions and demonstrate its value and cost effectiveness in order to win support in both central and local government. The need for more radical innovation from within the service to think about a variety of different service models (which was acknowledged in the report) was emphasised.

#### **250<sup>th</sup> Chuggers voluntary agreement signed**

16. Cllr Worth spoke at the Public Fundraising Regulatory Authority's Annual General Meeting, which celebrated the signing of the 250<sup>th</sup> site agreement between councils and the PFRA. The agreements, developed by the SSC team and PFRA, were recently praised by CLG Minister Brandon Lewis.

#### **Government response to Keogh Review on non-medical cosmetic procedures**

17. Officials from the Department of Health have advised that the government will shortly be consulting on how to legislate for the regulation of non-surgical cosmetic treatments (such as dermal fillers, botox etc). Our expectation is that they will create an enforcement role for local authorities in relation to non-medically qualified practitioners, such as high street beauticians. This raises questions about the consistency of approach to regulating different treatments and activities (for example, tattooists and acupuncture; sunbeds etc), as well as the consistency of powers available to councils in different parts of the country (London currently has much more stringent powers to licence / register special treatments than the rest of the country).
18. We will update the Board on this as and when more information is available.