

15 September 2014

Deregulation Bill

For discussion and direction.

Summary

The Deregulation Bill will return to committee stage in the House of Lords on 21 October.

This paper sets out our ongoing work to achieve significant amendments to the Deregulation Bill, and further advance our proposals set out in Rewiring Licensing.

Although the Bill also contains clauses of interest to other Boards, this paper covers issues of direct interest to the SSCB.

Recommendation

To provide a steer on question contained in **paragraph 20**.

Action

Officers to progress as directed.

Contact officer: Ian Leete
Position: Adviser (Regulation)
Phone no: 0207 664 3143
Email: ian.leete@local.gov.uk

Deregulation Bill

Background

1. The Government has put forward the Deregulation Bill to remove outdated and obsolete regulations. The Bill has become something of a catch-all covering such diverse subjects as the Outer Space Act, waste regulations, kite-flying and the sale of chocolate liqueurs.
2. There are a number of issues within the Deregulation Bill that are of interest to council regulatory services and in particular licensing teams. The LGA has serious concerns about proposals for deregulating private hire vehicles (minicabs), as well as suggestions for improving clauses relating to the sale of alcohol. The LGA has written to a number of MPs as the Bill has progressed through Parliament and our concerns have been quoted extensively by all parties during the reading stage.
3. The LGA has consistently argued that the Bill is a missed opportunity to take a comprehensive approach to deregulation in a number of areas, notably licensing reform. We have expressed a related concern about the tendency to take a piecemeal approach in introducing a limited number of deregulatory clauses in some areas without undertaking a wider, more coherent approach which is likely to lead to better regulation.

Issues

Taxis and minicabs

4. Private Hire Vehicles (minicabs) – The Bill contain three clauses that aim to reduce the regulatory burden for minicab drivers. These would:
 - 4.1 enable anyone to drive an off-duty vehicle;
 - 4.2 allow cab firms to transfer bookings to firms based out their own local authority area;
and
 - 4.3 extend the duration of licences to up to three years
5. These amendments are drawn from a recent Law Commission report into all taxi and minicab licensing. However, the Law Commission also proposed significant changes to enforcement powers that would be brought in alongside the amendments. Much of our concern stems from the fact that deregulation is being brought forward without the comprehensive package that the Law Commission identified is needed to make it work safely.
6. We are specifically concerned with proposals 4.1. and 4.2. The LGA has briefed MPs and Peers on the issues, as well as meeting with DfT officials. Cllr Tony Page is due to meet Baroness Kramer, as the responsible minister, to discuss our concerns further.
7. Our position reflects concerns raised with us by member authorities, taxi and minicab firms themselves, and a number of Police and Crime Commissioners. Safety organisations such as the Suzy Lamplugh Trust are also concerned about the proposal to allow anyone to drive off-duty vehicles, as the majority of these vehicles will still be fully marked up as vehicles for hire.

8. LGA officers have also explored the recent Law Commission report and identified a number of clauses that we believe should be introduced at the same time as the draft clauses to act as safeguards. We have communicated these to the Department for Transport and Parliamentarians, but believe that maintaining our delete stance is most appropriate and that a dedicated reform bill for taxi and private hire vehicles should be brought forward early in the next Parliament.
9. There is an additional complication for Plymouth Council who have their own Act regulating minicabs. Although Plymouth do not otherwise support the clauses, if the Deregulation Bill proposals pass, then Plymouth will have a substantially different scheme in operation from the rest of the country (currently, the systems are broadly comparable). Plymouth have therefore asked the LGA to lobby DfT to extend the proposals to Plymouth Council's Act. This would potentially confuse the message that we are giving about the clauses and we have suggested they approach their local MPs in the first instance. However, we propose that our briefing on this issue should include a general statement that it is desirable for all councils to have the same basic underpinning legislation in this area.

Licensing Reform: licensing review

10. The LGA has tabled an amendment to the Bill that would commit Government to a review of licensing across all departments. This is one of the key asks set out in Rewiring Licensing, and we believe is a necessary precursor to reform and modernisation of licensing. The amendment was initially tabled during both Committee and Report Stages during the Commons but was narrowly defeated in both. However, we have secured support to bring it forward again.
11. The LGA has also received a number of technical suggestions for improving the Licensing Act through our work on Rewiring Licensing. They have been tested with our licensing policy forum to assess their impact and been shown to have potential benefits for all councils. We have therefore drafted amendments to introduce them.
12. Suggestions include abolishing prescribed licensing forms; adding licensing officers to the list of people able to certify photographs, and clarifying that licences lapse if licence fees are not paid for over a year. This would remove the need for councils to chase unpaid fees from businesses that have ceased to exist, and would mirror an equivalent provision in the Gambling Act 2005.

Community and Ancillary Sellers Notices

13. These clauses introduce a new type of alcohol licence, intended for community venues and retailers of very small quantities of alcohol. The LGA is part of a working group to determine the criteria for both types of notice.
14. We support the proposal to streamline the licensing process for low risk types of premises, but are proposing minor amendments to reduce the proposed burden for councils. For instance, we propose extending the period that councils have to acknowledge the application for a CAS notice from 1 to 4 days. We also believe there is

a strong point of principle to be made here that Government and Parliament should not be micro-managing local administrative processes in this level of detail (particularly when the framework already includes an overall deadline for determining an application for a notice).

15. The framework of applying for CAS notices provide no route for an appeal, other than through judicial review which will be costly and is disproportionate to the issue.
16. Appeals are an important part of any public redress system. However, estimates from councils of the costs of providing an appeal route, via the Licensing Committee, is that it would cost £50 extra per application, bringing the total cost of a notice to £70, a significant increase on the Home Office's anticipated £20 cost. This is based on an assumption that 5% of applications go to appeal.
17. Councils are already unable to fully recover their costs under the licensing fees set centrally by Government and calling for an appeal route to be added to the CAS notice could further add to that burden. We are seeking the Board's endorsement of our view that an appeal route should be added to the CAS notice. Current indications from the Home Office are that they will not support the amendment.

Right to revoke regulation – Westminster council

18. Westminster have contacted the LGA about a proposal to create an ongoing mechanism for councils to apply to Government to scrap regulations they believe are detrimental to businesses in their area. This would be comparable to the powers set out in the Sustainable Communities Act, but with a greater economic focus. It would also provide all councils with a power comparable to the deregulatory packages offered to City Regions.
19. We wish to support Westminster's proposal and we have therefore been working with them to consider how such a framework might work, as well as encouraging them to identify regulations that the framework might be used to scrap. At this stage, we are not clear whether this will be fully developed in time to include as a proposal within our Deregulation Bill lobbying; if it is not ready in time for Report Stage then we will explore other opportunities to bring it forward.

Next steps

20. We will take forward our lobbying work on the Deregulation Bill in line with the Board's decision on the following:
 - 20.1 Does the board consider a right of appeal to be a fundamental principle of all licences, as set out in **paragraph 17**?
21. The next stage of the Bill is the Committee Stage in the Lords on 22 October, following which it will move to Report Stage in the Lords and then return to the Commons – and subsequently the Lords - for final approval.

Geographic Implications

22. All the proposals will apply to England and Wales in the same manner. The taxi and private hire clauses will not apply to London or Plymouth, which have their own private acts.

Financial Implications

23. None.