

23 February 2015

## **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

<b>Contact officer:</b>	Ellie Greenwood
<b>Position:</b>	Senior Adviser
<b>Phone no:</b>	020 7664 3219
<b>E-mail:</b>	Ellie.greenwood@local.gov.uk

## **Regulatory services update**

### **Licensing issues**

#### ***Licensing reform***

1. The Autumn Statement in December included an announcement on licensing reform. Government has accepted the LGA's argument for licensing reform, and has called for councils to move towards creating a single online application process for licensing by 2018.
2. Officers are working with officials from the BRDO to identify the necessary steps for taking this forward. It is intended that this work should build on the findings of the current pilot project in Cornwall, which is exploring how to join up different licensing functions across the council.

#### ***Taxi licensing / Deregulation Bill***

3. The LGA has raised serious concerns that council licensing teams are experiencing difficulty in accessing data that is crucial in undertaking background checks to determine whether an individual is a fit and proper person to hold a taxi / PHV licence.
4. Several police forces have advised councils that they will no longer provide information on criminal investigations involving prospective taxi drivers. This is because they do not believe it is unlawful for them to do so, despite Home Office guidance that advises that it is.
5. Separately, the Disclosure and Barring service has told a number of councils they can no longer check whether a prospective taxi driver has been barred from working with children or vulnerable adults unless the driver is to work on a school transport contract. We have highlighted this in a press release, and with relevant departmental officials. We are also seeking to place an oral Parliamentary question to raise this directly with the Ministers concerned.
6. Proposed amendments to attach additional safeguards to the remaining two taxi licensing clauses in the Deregulation Bill have been rejected by the House of Lords, meaning the clauses are likely to be passed in their current form. Officers will work to provide guidance to councils on overseeing the changes as and when the Bill is passed. We will also push for a full taxi licensing reform Bill as a priority for the next government.
7. Our contribution to developing this reform bill will be informed by sessions in the two Taxi and PHV Licensing conferences being held on 19 March in Manchester and 31 March in London.

#### ***Reducing the Strength schemes***

8. The All Party Parliamentary Group on Beer held an inquiry into Reducing the Strength schemes in January, following concerns raised with the Group by various industry associations. The meeting heard from a number of different groups / individuals who raised concerns about the schemes, but regrettably did not seek to collect any evidence from councils themselves. The Group was critical of the Competition and Markets

23 February 2015

Authority for a perceived failure to investigate breaches of competition law linked to the schemes.

9. Following the session, the CMA have reviewed the LGA guidance and suggested minor tweaks to reinforce key points about the competition law risk. We have circulated the guidance to all councils with a covering letter highlighting continued concern about these schemes and the need to ensure schemes comply with competition law.

### ***Licensing conference***

10. Cllr Page gave the keynote address at a busy annual licensing conference chaired by Cllr Spicer. Around 100 delegates attended and heard updates on a huge range of issues including licensing fees and the Hemming case, local gambling regulation and licensing reform. The conference launched the Reducing the Strength guide and Local Framework on Betting.

### ***Hemming case***

11. The Hemming v Westminster case was heard in the Supreme Court in mid-January. The LGA submitted a intervention to the case in December, outlining the financial implications for councils if compliance and enforcement activity were excluded from licensing fees. HM Treasury subsequently submitted a late, but mostly helpful written intervention arguing that the EU Services Directive was not intended to be construed as narrowly (ie, excluding compliance and enforcement costs) as suggested by Hemming's legal team.
12. The verdict in the case has yet to be announced. However, the court hearing made clear that the judgement would not apply to the Licensing Act. Therefore even if Westminster lose the appeal, the direct impact of the case will be contained.

### ***Gambling update***

13. The joint framework with the Association of British Bookmakers was launched at the annual licensing conference, and we are now working with ABB / councils to encourage them to make use of the framework.
14. In early March, the LGA will jointly host an event with Westminster and Manchester councils to launch a piece of research which we are part-funding. The research aims to help councils map area vulnerability to gambling related harm, in order to help develop targeted licensing policy statements, which councils are required to update over the next year.

### ***Public health conference***

15. Councillor Page chaired a session on public health and licensing at the LGA's Public Health conference in early February. Other speakers were Lord Brooke, Chair of the All-Party Parliamentary Group on Alcohol Harm, and Edward Kunonga, Director of Public Health for Middlesbrough, where they have achieved significant success in sharing data between partners. The session was well attended and attracted good twitter coverage.

### **Other issues**

### ***Year Ahead conference and Remodelling Public Protection report***

16. Cllr Evans participated in a political plenary alongside councillors and Parliamentarians at the annual Year Ahead in Regulatory Services in Stratford-upon-Avon on 5-6 February. The session focused on what lies ahead for regulatory services over the next Parliament.
17. In his remarks, Cllr Evans launched the LGA's short discussion paper on 'Remodelling Public Protection' which was approved by lead members at their meeting in January following feedback from the Board in September. The report aims to prompt further thinking about the future of environmental health, trading standards and licensing services, and is attached as an **Annex**.

#### ***Communications data roundtable***

18. Officers convened a roundtable on councils' use of communications data, as part of the Independent Reviewer of Terrorism Legislation's review of communications data and interception powers. Officers from trading standards and corporate fraud teams, and from the National Anti-Fraud Network, gave a compelling outline of the important work that councils use communications data in, including tackling rogue traders, scammers and fraudulent activity. The LGA will be following up the roundtable with a submission highlighting the key points from the discussion, and was encouraged by the review team to outline calls for additional powers in this area if they would better support councils' work in this area.

#### ***Memorandum of understanding – LGA, Care Quality Commission and Health & Safety Executive***

19. The LGA has signed a memorandum of understanding with the Care Quality Commission (CQC) and Health and Safety Executive (HSE) relating to the enforcement of health and safety law. In April this year, the CQC will assume responsibility for all safety and quality of care issues relating to patient / service users in registered providers, when health and safety responsibilities transfer from councils and the HSE. The enforcement of health and safety in relation to staff and members of the public will remain the responsibility of councils (in regard to residential homes) and the HSE (in regard to nursing homes and hospitals). The MoU outlines these differing responsibilities, and how the organisations will work together in this area.