

## **Legislative Update**

### **Purpose**

For information and discussion.

### **Summary**

Following the last Board meeting a number of Bills have been introduced into Parliament in which the Board has an interest including the Enterprise Bill, Immigration Bill and Investigatory Powers Bill. In addition the Psychoactive Substances Bill continues its passage through Parliament. This paper updates members on these Bills.

### **Recommendation**

Members are asked to note the Bills and the LGA's work in relation to them.

### **Action**

Officers to progress as directed.

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## **Legislative Update**

### **Background**

1. Since its last meeting a number of new Bills have been introduced by the government where the Board has an interest including the Enterprise Bill, Immigration Bill and the draft Investigatory Powers Bill. The Psychoactive Substances Bill that the Board has supported the introduction of has also continued to make its way through Parliament.

### **Enterprise Bill**

2. The Board has been involved with other LGA Boards in lobbying around the Enterprise Bill, which is currently completing its passage through the House of Lords. The Bill proposes to expand the primary authority scheme (where one authority agrees a contract with a business to act as the lead regulatory authority for that business, and other councils have to have regard to the plan agreed between the primary authority and the business) to cover for example single site businesses, and to involve other regulators. Having looked at the proposals the LGA has taken the view local government can in principle support these changes; although we note that much of the detail will be dealt with through secondary legislation, which we would expect the LGA to be consulted on.
3. One area where we felt the Board could usefully seek to amend the Bill was around the statutory basis for charging for the primary authority scheme. Currently, the legislation states that primary authorities should charge fees on the basis of 'the costs reasonably incurred in the exercise of functions' under the primary authority scheme. An amendment was therefore tabled in the House of Lords at the committee stage of the Bill which would have enabled primary authorities to charge on the basis of reasonable fees agreed by the primary authority and business.
4. This would mean councils could charge at less or more than cost recovery rate as long as the fee was agreed with the business. Councils would therefore be able to support their local economic development strategies by offering reduced primary authority fees to specific sectors or start-up businesses. It would also ensure that councils were not forced to charge at less than the market rate for some of the services provided, as is the case at the moment. 45 per cent of businesses surveyed by the Better Regulation Delivery Office recognised that the level of service they received was worth more than the amount they paid for it. Unfortunately we were unsuccessful in amending the Bill, but will consider whether we can make the case for greater flexibility in charging in other ways. .

### **Immigration Bill**

5. The Immigration Bill was introduced into the House of Commons in late September. It contains a range of provisions designed to tackle illegal migration into the UK by making it harder to live and work illegally in the country. As the government believes that a significant proportion of illegal working happens on licensed premises, there are changes in the Bill to the Licensing Act 2003 which would mean it is not possible to issue a licence to an illegal worker, and the employment of legal workers will become a factor that can be taken into account when issuing or revoking a licence. Licensing authorities will have to make additional checks on applicants for personal and premises licences.

6. While illegal working does occur in some licensed premises, it more commonly involves sales staff or auxiliary workers and almost never involves someone licensed to run the premises. The LGA's joint work with the National Fraud Initiative in the Cabinet Office during the past year did not reveal any illegal workers licensed to run an alcohol premises. These points were made in meetings with Home Office officials, which resulted in the measures being refined so they could be targeted more effectively.
7. Proposals were also brought forward at Committee Stage to introduce comparable checks into the taxi and private hire vehicle licensing regime, although they do not currently apply to Plymouth. Licensing authorities inform us that there are more instances of illegal working discovered when checking applicants to be a taxi driver, with around 330 applicants revealed to have no right to work by the National Fraud Initiative during the last year. The additional checks set out in the Bill should provide an additional tool for councils in ensuring that applicants are 'fit and proper' people to be driving licensed vehicles.
8. As the new licensing provisions are not burdensome for councils we have not opposed them, but have stressed that additional requirements around alcohol and taxi licensing remain light touch and do not run counter to the requirement for councils to accept all applications for alcohol licences online. In addition we have highlighted the need for the Home Office to provide licensing staff with training on identifying forged documents.
9. The main focus of the LGA's work around the Bill has been and will continue to be the changes in the Bill to the asylum support system and the implications this has for local authorities if they are faced with an increase in referrals of families who have been refused asylum. The LGA's workforce team will also be working with the Cabinet Office to assess the implications of the provisions in the Bill and the draft code of practice that require customer-facing public authority staff to speak fluent English.

### **Investigatory Powers Bill**

10. In early November, the Home Office published the draft Investigatory Powers Bill, which is intended to overhaul and update existing legislation relating to the use of communications data and surveillance powers. The draft Bill builds on recommendations made by the Independent Reviewer of Terrorism Legislation (IRTL) in his report earlier this year.
11. The draft Bill maintains councils right to access communications data and is on balance broadly positive. Councils will have powers to access a slightly wider range of communications data as the data classifications are amended, although not IP addresses (which trading standards bodies had lobbied for access to as they believe it will help them tackle crime perpetrated through on-line social media sites such as Facebook) as councils will be excluded from accessing internet connection records. Councils will also still be subject to the requirement to get magistrates authorisation before accessing communications data, in spite of the IRTL's recommendation that the requirement be scrapped.
12. We expect the joint committee of both Houses that will be scrutinising the Bill to issue an invitation for evidence shortly, and will work with advisers and the National Anti-Fraud Network to develop a draft response. Pre-legislative scrutiny is due to complete by 11 February. We are also working with the media team to correct some of the more extreme

and factually incorrect coverage of councils' powers and abilities to access data in this area, following a stream of negative coverage focusing on councils when the Bill was published.

### **Psychoactive Substances Bill**

13. Since the last Board meeting the Bill has continued its progress through the House of Commons. We have continued to provide briefings for MPs in relation to the key stages of the Bill such as Second Reading, and with the assistance of colleagues in the public affairs team continued to monitor amendments as the Bill went through Committee stage. A date has yet to be set for the final stage of the Bill in the House of Commons, after which it will pass back to the House of Lords for peers to consider the amendments made in the Commons. It may be that the Bill receives Royal Assent early in 2016.
14. Officers have already been in discussion with Home Office officials about the implementation of the legislation, and how best the LGA can support member authorities in the introduction of the new provisions once they become law. The Home Office is looking to hold workshops to provide the police, trading standards officers and community safety practitioners with an understanding of the Bill and what it means. The LGA will therefore be looking to adapt guidance produced for the police to assist trading standards and community safety officers and also publishing a guide for councillors to the new legislation and the powers councils will have.

### **Next steps**

15. Members are asked to:
  - 15.1. Note the Bills and the LGA's work in relation to them.

### **Financial Implications**

16. There are no financial implications arising from this work, as the work is being conducted from existing resources.