

19 October 2016

Report of	Head of Professional Services	Author	Jon Ruder
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Title	House of Lords' Select Committee / Licensing Act 2003		
Wards affected	Not applicable		

**This report concerns the Council's response to the House of Lords' request for information on the operation of the Licensing Act 2003**

## 1. Decision(s) Required

- 1.1 To note the response submitted by the Licensing, Food Safety Manager to the House of Lords' Select Committee on the Licensing Act 2003 request for information.

## 2. Alternative Options

- 2.1 The alternative option was not to respond to the request for information.

## 3. Supporting Information and Proposed Response

- 3.1 The House of Lords set up a Select Committee in May 2016 to look at the effectiveness of the Licensing Act 2003. Local Authorities were requested to submit their views by way of written evidence and set out at Appendix 1 is an outline of the response sent by the Licensing, Food Safety Manager; the original was submitted by way of an online form. The consultation links were sent to Members of the Committee on 9 August 2016 together with an invitation to submit their own views should they wish. The Select Committee is expected to report in March 2017.
- 3.2 The intention of the Licensing Act 2003 was to provide greater freedom to the hospitality and leisure industry, as well as giving consumers more choice. At the same time the legislation was intended to grant authorities the appropriate powers to deal with misuse of these freedoms.
- 3.3 The Select Committee is gathering evidence in relation to the following specific areas –
- the balance between rights and responsibilities of both the industry and the public;
  - the powers of enforcement authorities, including the police;
  - the impact that any greater availability of alcohol has had on the health of the population;
  - whether the Act has made it easier or harder for communities to enjoy activities that have to be licensed under the Act;
  - the role of licensing in shaping local areas, for the benefit of the economy and the local community;
  - minimum unit pricing and its potential impact; and
  - fees and costs associated with the Act.

#### **4. Strategic Plan References**

- 4.1 The Council's response was made having full regard to its Strategic Plan as the findings and recommendations of the Select Committee may change the laws which currently govern licensing. The Council adopted a new Licensing Policy which came into effect on 1 January 2016. This Policy aims to contribute to the Council's vision of creating a vibrant, prosperous, thriving and welcoming borough through promoting a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability. Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the Borough. Additionally, effective regulation plays an essential role in enabling businesses to thrive and contribute to the Borough's economy.

#### **5. Standard References**

- 5.1 There are no publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.

## House of Lords Select Committee on the Licensing Act 2003

1. Are the existing four licensing objectives the right ones for licensing authorities to promote?

Yes

2. Should the protection of health and wellbeing be an additional objective?

Yes.

3. Should the policies of licensing authorities do more to facilitate the enjoyment by the public of all licensable activities?

The Council is already doing this in its new policy. The Policy aims to promote a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability. The Council's Policy sets out clearly what the Council wishes to encourage and identifies how we want the town to grow and diversify

4. Should access to and enjoyment of licensable activities by the public, including community activities, be an additional licensing objective?

No

5. Should there be any other additional objectives?

No

6. Has the Live Music Act 2012 done enough to relax the provisions of the Licensing Act 2003 where they imposed unnecessarily strict requirements?

Yes

7. Are the introductions of late night levies and Early Morning Restriction Orders effective, and if not, what alternatives are there?

No, the Council would wish to see the introduction of area specific late night levy to enable the Council to target those areas of the borough where there are problems such as the town centre.

8. Does the Licensing Act now achieve the right balance between the rights of those who wish to sell alcohol and provide entertainment and the rights of those who wish to object?

The power to call a review is poorly used by the general public in our area and therefore doesn't operate as a check on the system in the way that it was designed to do.

The processes need to be more easily understood by the public who interact with licensing relatively rarely as opposed to businesses who can afford to employ professionals to do their application work and who use it more frequently and are therefore more familiar with the process.

9. Do all the responsible authorities (such as Planning, and Health & Safety), who all have other regulatory powers, engage effectively in the licensing regime, and if not, what could be done?

The Council hosts a responsible authority meeting where all the responsible authorities are represented, although some more frequently than others. There is a lack of involvement from the Children's Safeguarding Service in responding to enquires. The Fire Service play an active role in our enforcement group but there is a lack of meaningful information from the service in relation to applications. The Council receives useful data from the Ambulance Service in relation to Ambulance call outs and receives some A&E data although this needs to be improved in order for it to be useful.

10. Do other stakeholders, including local communities, engage effectively in the licensing regime, and if not, what could be done?

No, there is a problem with local communities being aware of applications. They also fail to use the tools available to them such as making representations and asking for reviews possibly because of a fear of the cost implications of doing so. Clarity in relation to the issue of awarding costs may encourage local communities to take a more active role.

11. Licensing is only one part of the strategy that local government has to shape its communities. The Government states that the Act “is being used effectively in conjunction with other interventions as part of a coherent national and local strategy.” Do you agree?

Yes. Licensing forms one part of the strategic plan for the Authority.

12. Should licensing policy and planning policy be integrated more closely to shape local areas and address the proliferation of licensed premises? How could it be done?

It would be of benefit to integrate the systems so that there was consistency of hours across the two regimes and for the Licensing to be able to have regard to the local plan. However, it would be from planning to determine the specifics of where a premises is permitted.

13. Are the subsequent amendments made by policing legislation achieving their objects? Do they give the police the powers they need to prevent crime and disorder and promote the licensing objectives generally? Are police adequately trained to use their powers effectively and appropriately?

The Police play an active part in our Licensing Enforcement Group. However generally we are concerned at the lack of licensing knowledge in the wider police force.

14. Should sales of alcohol airside at international airports continue to be exempt from the application of the Act? Should sales on other forms of transport continue to be exempt?

We cannot see a good reason why they are exempt. There may be difficulties in licensing moving transport, but not at terminals/transport hubs.

15. The Act was intended to simplify licensing procedure; instead it has become increasingly complex. What could be done to simplify the procedure?

Deregulation has made the entire system more complicated for all parties including applicants. The process itself if followed correctly is relatively straightforward, it is the deregulation which has introduced complexity into the process. We would also recommend removal of the newspaper advert for new and variation licence applications. Anecdotal evidence suggests these are not useful to members of the public.

16. What could be done to improve the appeal procedure, including listing and costs? Should appeal decisions be reported to promote consistency? Is there a case for a further appeal to the Crown Court? Is there a role for formal mediation in the appeal process?

The reporting of appeal decisions would be helpful to ensure consistency. Mediation is at the heart of the licensing process in the authority and mediation within the appeal environment would be useful enabling both sides to come to an agreement. The current delay in getting a court date can mean the position changes significantly by the time of the hearing. There should not be any further appeal to the Crown Court as this would involve additional cost and work for all parties involved.

17. Given the increase in off-trade sales, including online sales, is there a case for reform of the licensing regime applying to the off-trade? How effectively does the regime control supermarkets and large retailers, under-age sales, and delivery services? Should the law be amended to allow licensing authorities more specific control over off-trade sales of “super-strength” alcohol?

There is a case for reform as the current legislation doesn’t deal with off sales adequately and contributes to the problems of pre loading etc. The council has voluntary agreements in place

with premises concerning the sale of super strength alcohol and would welcome changes to make these legally enforceable.

18. Should alcohol pricing and taxation be used as a form of control, and if so, how? Should the Government introduce minimum unit pricing in England? Does the evidence that MUP would be effective need to be “conclusive” before MUP could be introduced, or can the effect of MUP be gauged only after its introduction?

Pricing is only one component in a person’s decision to drink and therefore its effectiveness as a form of control is constrained. We do not believe the introduction of a MPU will have a significant impact; the mandatory conditions are sufficient although they need to be made easier to interpret and use. There is no need for further control which would place additional burdens on already stretched service areas.

19. Do licence fees need to be set at national level? Should London, and the other major cities to which the Government proposes to devolve greater powers, have the power to set their own licence fees?

No, the costs everywhere are different and should be set locally. Major cities don’t merit special consideration.

20. Are there any elements that could be borrowed from other licensing regimes abroad?

Patterns of drinking would seem to be embedded in national identities rather than established by licensing regimes and therefore we don’t believe a regime borrowed from another country is likely to be successful in the UK. The introduction of the Licensing Act 2003 was intended to encourage a European café culture. The outcome however, was in general only to move opening hours later into the evening with little or no move to diversification and a café culture.