

# House of Lords Select Committee Review of Licensing Act 2017 – Supporting Information

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## 1. Introduction/Background

- 1.1 On 25 May 2016, the House of Lords appointed a Select Committee to “consider and report on the Licensing Act 2003”. The report of this Committee, “The Licensing Act 2003: post-legislative scrutiny” was published on 4 April 2017.
- 1.2 The introduction to the report concludes that ‘while the implementation of the Act leaves a great deal to be desired, to a large extent this is caused by an inadequate statutory framework whose basic flaws have, if anything, been compounded by subsequent piecemeal amendments. A radical comprehensive overhaul is needed, and this is what our recommendations seek to achieve’.

## 2. Supporting Information

- 2.1 Key conclusions and recommendations in the report include the following:

- The Government made a substantial error in creating new committees for local authorities to deal with licensing. The evidence received about the poor operation of licensing committees was convincing and the committee was extremely concerned by what it heard. Planning committees are more effective and reliable, and are well-equipped for making licensing decisions. They should take over the licensing function. Coordination between the licensing and planning systems should begin immediately.
- Licensing appeals should no longer go to magistrates' courts but should, like planning appeals, go to the planning inspectorate.
- The Late Night Levy does not pay for the cost of policing as intended, and in its current form is fundamentally wrong in principle and in practice. Unless amendments already made prove effective, the Late Night Levy should be repealed. So should Early Morning Restriction Orders, which no local authority has yet introduced.
- Fees for licensing should be set locally, not nationally. In doing so, local authorities must bear in mind that there are doubts about the legality of any element of a fee which goes beyond what is needed to process the application.
- There is no justification for the Licensing Act not applying to sales airside at airports.
- The legality of Minimum Unit Pricing is still under consideration by the Supreme Court. If it is found to be lawful and is introduced in Scotland, and is found to be effective in cutting down excessive drinking, England and Wales should follow Scotland's lead.

- Scotland's example should also be followed in helping disabled people to access licensed premises by requiring an application for a premises licence to include a disabled access statement
- There is not presently a case for further deregulation
- Creation of a national database for personal licence holders
- An 'Agent of Change' principle be adopted in both planning and licensing guidance to help protect both licensed premises and local residents from consequences arising from any new development in their nearby vicinity
- Notices of application should not need to be given by an advertisement in a local paper.

2.2 The Chairman of the Committee, Baroness McIntosh of Pickering, said:

"It was a mistake and a missed opportunity to set up new licensing committees when the planning system was already available to regulate the use of land for many different purposes. The planning system is well suited to dealing with licensing applications and appeals, and the interests of residents are always taken into account".

The Committee was shocked by some of the evidence it received on hearings before licensing committees. Their decisions have been described as 'something of a lottery', 'lacking formality', and 'indifferent', with some 'scandalous misuses of the powers of elected local councillors'."

2.3 The Berks and Bucks Licensing Group are compiling a response to an Institute of Licensing Survey on the report to inform further discussions with bodies such as the Local Government Association.

### **3. Options for Consideration**

3.1 Report for Members Information

### **4. Proposals**

4.1 Members to note the report

### **Conclusion**

4.2 Information report only

### **5. Consultation and Engagement**

Not applicable

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### **Background Papers:**

None

### **Subject to Call-In:**

Yes:  No:

Report is to note only



**Wards affected:**

Whole of District

**Strategic Aims and Priorities Supported:**

The proposals will help achieve the following Council Strategy aim:

**MEC – Become an even more effective Council**

The proposals contained in this report will help to achieve the following Council Strategy priority:

**MEC1 – Become an even more effective Council**

The proposals contained in this report will help to achieve the above Council Strategy aims and priorities by \*(add text)

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## Appendix B

### Equality Impact Assessment - Stage One

We need to ensure that our strategies, polices, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) A public authority must, in the exercise of its functions, have due regard to the need to:**
  - (a) *eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
  - (b) *advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:*
    - (i) *remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;*
    - (ii) *take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;*
  - (c) *foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.*
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

**Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.**

<b>What is the proposed decision that you are asking the Executive to make:</b>	Not Applicable for Information Only
<b>Summary of relevant legislation:</b>	
<b>Does the proposed decision conflict with any of the Council's key strategy priorities?</b>	
<b>Name of assessor:</b>	
<b>Date of assessment:</b>	

<b>Is this a:</b>	<b>Is this:</b>		
<b>Policy</b>	<b>Yes/No</b>	<b>New or proposed</b>	<b>Yes/No</b>
<b>Strategy</b>	<b>Yes/No</b>	<b>Already exists and is being reviewed</b>	<b>Yes/No</b>
<b>Function</b>	<b>Yes/No</b>	<b>Is changing</b>	<b>Yes/No</b>
<b>Service</b>	<b>Yes/No</b>		

**1. What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?**

<b>Aims:</b>	
<b>Objectives:</b>	
<b>Outcomes:</b>	
<b>Benefits:</b>	

**2. Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.**

(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)

<b>Group Affected</b>	<b>What might be the effect?</b>	<b>Information to support this</b>
Age		
Disability		
Gender Reassignment		
Marriage and Civil		

Partnership		
Pregnancy and Maternity		
Race		
Religion or Belief		
Sex		
Sexual Orientation		
<b>Further Comments relating to the item:</b>		

<b>3. Result</b>	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	Yes/No
Please provide an explanation for your answer:	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	Yes/No
Please provide an explanation for your answer:	

If your answers to question 2 have identified potential adverse impacts and you have answered ‘yes’ to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

<b>4. Identify next steps as appropriate:</b>	
Stage Two required	
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	

Name:

Date:

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Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) ([rachel.craggs@westberks.gov.uk](mailto:rachel.craggs@westberks.gov.uk)), for publication on the WBC website.