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**Report of the Assistant Chief Executive (Corporate Governance)**

***Licensing Committee***

**Date: 2nd June 2009**

**Subject: The Policing and Crime Bill**

**Electoral Wards Affected:**

All

**Specific Implications For:**

Ethnic minorities

Women

Disabled people

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**Executive Summary**

This report advises the Licensing Committee of the main proposals concerning the regulation of licensed premises in the Policing and Crime Bill.

**1.0 Purpose of this Report**

- 1.1 This report informs Members of the provisions of the Policing and Crime Bill, and in particular draws the attention of Members to those proposals which impact on the regulation of licensed premises.
- 1.2 Members are invited to respond to the Home Office consultation on a proposed code of practice for alcohol retailers ("the Code").

**2.0 Background Information**

- 2.1 In December 2008 the government published the Policing and Crime Bill ("the Bill") The Bill aims to increase the effectiveness and public accountability of policing. The Bill also contains provisions relating to the regulation of alcohol licensing and sex establishments.
- 2.2 The Bill intends to introduce the following provisions for alcohol licensing:
- a) A statutory Code of Practice on the supply of alcohol;
  - b) Mandatory licensing conditions;
  - c) Discretionary local licensing conditions that can applied to groups of two or more premises imposed by a local authority; and
  - d) A requirement for the display alcohol unit content and health related information at the point of sale.

- 2.3 The Bill also aims to tighten the regulation of lap dancing establishments. It is proposed that the statutory definition of “sex establishments” will now include lap dancing establishments and that they will not be classified as regulated entertainment under the Licensing Act 2003. The Bill proposes these establishments are to be called “sex encounter venues” and will be licensed by local authorities.
- 2.4 Local authorities will be permitted to grant licences for lap dancing establishments and impose conditions. A local authority will be able to restrict the number of licensed lap dancing establishments within its area. Members will recall the licensing of sex establishments is matter for Licensing and Regulatory Panel.
- 2.5 The Bill is currently being debated in the House of Lords. It is unclear at this stage when the bill will be made law. The Code is subject to a public consultation which runs from the 13th May 2009 to the 5<sup>th</sup> August 2009. Licensing authorities have been invited to respond to this consultation. The consultation response forms are attached to this report at **Appendix 1**.

### **3.0 Main Issues**

- 3.1 Central government recognises that there is a need for some alcohol retailers to raise standards in how licensed premises operate. The Bill contains provisions for a new code of practice to those who supply alcohol. The main aim of the Code is to raise standards in the alcohol industry by addressing those practices that are seen to encourage irresponsible drinking. The Code will be broken down into four distinct constituent parts.
- Mandatory conditions introduced by the Secretary of State.
  - Discretionary local licensing conditions
  - Point-of-sale alcohol unit content and health information
  - Guidance.

Members are invited to consider **Appendix 2** to this report which succinctly summarises the proposed Code.

#### **3.2. Mandatory conditions.**

Under the Bill the Secretary for State will have the ability to apply mandatory conditions to all existing premises which hold a premises licence or club premises certificate which allow the sale or supply of alcohol. The same will also be true of licences and certificates granted after the Bill becomes law. The Secretary will also have the discretion to designate which premises these conditions will apply to or exclude certain premises from the mandatory conditions regime.

Once the Bill becomes law the Secretary of State will set out what the conditions will be, which premises the conditions will apply to and when they will take affect. The mandatory conditions will therefore be imposed by way of an Order sometime after the Bill becomes law. The mandatory conditions will be retrospective.

The Home office has prepared a proposed list of mandatory conditions which are attached to this report at **Appendix 3**. Members will note from this document the Home Office believes these proposed conditions will address industry practices which encourage or condone irresponsible drinking.

These proposed conditions are subject to the consultation exercise. The Secretary State will have regard to the consultation responses when making the final decision on the composition of the pool of mandatory conditions.

### 3.2 Discretionary local licensing conditions.

The Bill proposes that local authorities should have the ability to impose conditions on groups of two or more premises at the same time, where the licensing authority is satisfied it is necessary and proportionate to do so. In reaching this conclusion the licensing authority will be expected to follow a statutory procedure set by the Secretary of State. An illustration of how this procedure may look is attached at this report at **Appendix 4**.

### 3.3 Under the Bill licensing authorities will be able propose the imposition of conditions in this manner after concluding that:

- There has been nuisance to members of the public, or a section of the public, or disorder, on or near the premises;
- The nuisance or disorder is associated with the consumption of alcohol on the premises or supplied by the premises;
- There is likely to be a repetition of nuisance or disorder that is so associated;
- It is appropriate to impose the conditions for the purposes of mitigating or preventing the nuisance or disorder.

### 3.4 These discretionary conditions will be drawn from a pool of conditions to be set by the Secretary Of State. Again this list is currently subject to the same consultation exercise as the proposed mandatory conditions. The proposed list of conditions is attached at **appendix 5**.

### 3.5 Under the proposals licensing authorities can be more proactive and initiate the imposing of conditions to address groups of existing licensed premises, undermining the licensing objectives in a particular locality. Their discretion in imposing the local conditions will not be based on representations received made after an application for a new licence or a variation. The Bill also provides that responsible authorities can invite the licensing authority to consider imposing the conditions.

### 3.6 Point-of-sale alcohol unit content and health information

Under the Bill there are proposal to supply information to drinkers about the alcohol content of drinks and the health risks of excessive and binge drinking. These proposals are summarised in Appendix 1 will be enforced by regulations issued under the Food Safety Act 1990 rather than the Licensing Act 2003.

### 3.7 Statutory Guidance.

Central Government intends to issue statutory on the proposal in the Bill once they become law. This will certainly mean that the section 182 Guidance that Members are familiar with will be revised. At the appropriate time Officers will draw any revisions made to Members of the Licensing Committee in the most appropriate manner.

3.8 This guidance is likely to set out central government's expectation that licensing authorities adopt the "yellow card/red card" approach when considering breaches of the proposed conditions.

3.9 Responsible authorities will be expected to review premises that breach these conditions. Responsible authorities will be expected to seek a robust package of conditions to prevent further breaches. The premises is essentially given a "yellow card" and put on probation. Should the premises continue operate in a manner that undermines the licensing objectives, then it will reviewed again. If the licensing authority is satisfied there has been a continued failure to promote the licensing objectives, the premises will be expected to have its licence revoked. The revocation of the licence being the "red card."

### **4.0 Implications for Council Policy and Governance**

4.1 The measures contained the Bill remain proposals subject to a public consultation and the scrutiny of Parliament. There are no implications for Council Policy until such proposals become law.

### **5.0 Legal and Resource Implications**

5.1 No significant resource implications identified.

### **6.0 Recommendations**

6.1 Members are requested to:

6.2 Note the contents of this report and the terms of the consultation on the Code.

6.3 Appraise Officers of their response to the consultation and ask that Officers draft a formal response to the consultation.

6.4 That the draft response be cleared by the Chair of the Committee before the consultation ends.