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

### Licensing Committee

Date: 1 December 2009

Subject: The Policing and Crime Act of 2009

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**Electoral wards affected:**

All electoral wards

**Specific implications for:**

Ethnic minorities

Women

Disabled people

Narrowing the gap

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### Executive Summary

1. This report updates the Licensing Committee on the progress of the Policing and Crime Bill since summer 2009. The report confirms the Bill has now received Royal Assent and sets out the provisions that survived the passage of the Bill through the House of Lords. Finally this report is for the information of Members.

## **1.0 Purpose of this report**

- 1.1 This report informs Members that the Policing and Crime Bill (“the Bill”) has received Royal Assent and has now become the Policing and Crime Act 2009 (“the Act”). The Act is not yet in force.
- 1.2 The report also indicates which of the alcohol related proposals of the Bill form part of the Act. This is for the information of Members only at this stage.

## **2.0 Background information**

- 2.1 In December 2008 the Government published the Policing and Crime Bill. The Bill aimed to increase the effectiveness and public accountability of policing. The Bill also contained provisions relating to the regulation of alcohol licensing and sex establishments.
- 2.2 The main provisions of the Bill were set out in a report brought before Licensing Committee on 2 June 2009. This report also invited Members to respond to a Home Office consultation on a proposed Code of Practice for alcohol retailers.
- 2.3 The June 2009 report set out the main provisions of the Bill in relation to alcohol licensing, which were:
- (a) A statutory Code of Practice on the supply of alcohol;
  - (b) Mandatory licensing conditions;
  - (c) Discretionary local licensing conditions that could be applied to groups of two or more premises imposed by a Local Authority; and
  - (d) A requirement for the display of alcohol unit content and health related information at the point of sale.

## **3.0 Main issues**

- 3.1 The Bill aimed to raise standards in how licensed premises were operated by the introduction of a mandatory Code of Practice. The mandatory Code contained four distinct constituent parts.
- New mandatory conditions introduced by the Secretary of State
  - Discretionary local licensing conditions
  - Point of sale alcohol unit content and health information
  - Guidance

### Mandatory and Discretionary local Conditions.

- 3.2 The Act provides the Secretary of State with the power to introduce new mandatory or discretionary conditions in addition to those already permitted. The new conditions will be introduced via secondary legislation. Any new conditions relating point of sale alcohol unit content will be introduced under food safety legislation. At the time of writing there has been no indication when these regulations will be drafted and laid before Parliament. Officers will keep Members informed on the progress of these proposals and when the relevant regulations are consulted upon and laid before Parliament.

## Individual members of Licensing Authorities to be interested parties.

- 3.3 On 19 November 2009 the Bill was subject to a number of amendments in the House of Lords. The Lords amended the Bill to allow amendments to the Licensing Act 2003. The Lords inserted a clause into the Bill which amended section 13 and Section 69 of the Licensing Act 2003. This clause now forms part of the Act.
- 3.4 Section 13 was amended to include local ward councillors within the definition of interested party for the purposes of premises licences. The amendment to section 69 is identical except this section applies to club premises certificates.
- 3.5 In practical terms this that local ward councillors can make representations about applications for and variations of premises licences. This also means the same in terms of club premises certificates. It should be noted that the amendment to the Act does not include any reference to vicinity. Local ward councillors will not be restricted to making representations about premises in their local vicinity. Councillors as interested parties will also have the same rights to instigate reviews and make representations about minor variation applications. Representations made by councillors will also of course be subject to the same restrictions therefore representations must be relevant. Representations must not be frivolous, vexatious or a repetition.
- 3.6 The Secretary of State's guidance about these or any changes to the licensing laws has not been published. Officers anticipate that the guidance will have to be revised to take into account these potentially far reaching amendments.

## **4.0 Implications for council policy and governance**

- 4.1 The Act has not yet been brought into force. To be brought into force it requires the Secretary of State to appoint a day. Members will also note that many of the provisions relating to the Code of Practice for the retail of alcohol will require the laying of regulations before Parliament before they become effective. Without the full terms of the Act being enforced there are no implications at this time.
- 4.2 The amendments made directly to Sections 13 and 63 of the Licensing Act 2003 in r will have implications for the Council's statement on licensing policy. The Statement is due to be reviewed in any event next year. This revision will take into account the amendments made to the Licensing Act 2003.

## **5.0 Legal and resource implications**

- 5.1 No significant resource implications are identified.
- 5.2 Once the provisions are fully brought into law the Licensing Authority will of course be required to adhere to those provisions or face legal challenge.

## **6.0 Recommendations**

- 6.1 Members are requested to:
- 6.2 Note the contents of this report.