

House of Lords Licensing Law Review – The Government Responds

In April 2017 I published a Briefing summarising the report published by the House of Lords Select Committee (“the Committee”) concerning the Licensing Act 2003 (“the 2003 Act”). The remit of the Committee was to conduct a post-legislative scrutiny of the 2003 Act, which came into force in August 2005.

On 6 November 2017 the Government published its long awaited response to the recommendations made in the Report. I set out below the main recommendations of the Committee and the Government's responses.

Minimum Pricing

Assuming that minimum pricing is brought into force in Scotland, if such a policy is successful, the Committee recommends that it is adopted in England and Wales.

- The Government states that minimum unit pricing remains under review. Subject to the outcome of the legal case between the Scottish Government and the Scotch Whisky Association (ruling from the Supreme Court awaited) and any subsequent decision of the Scottish Government to introduce minimum unit pricing for alcohol, the Government will consider the evidence of its impact once it is available.

Integration of power

The Committee recommends that the functions of licensing committees and sub-committees be

transferred to the planning committees. The Committee propose that this be trialled in a few pilot areas but the debate and consultation on transferring the powers starts now.

- This was considered by many to be the trailblazer, the main recommendation. The Government recognises that the Committee raises important points on the effectiveness and consistency of the licensing process and decision making and that improvements could be made in some local areas.

There is also good practice in many local areas and the Government wishes to build on these. There is no intention to transfer the functions of licensing committees to planning committees. The Government accepts there should be improved training and stronger guidance on how licensing hearings should be conducted.

Off Licences

The Committee recommend that legislation based on the Alcohol etc (Scotland) Act 2010 be introduced to further regulate off licences.

- The Scottish laws are more restrictive for off licences: restrictions on price of multiples, price promotions, control on the location of alcohol within a store, Challenge 25.

The Government does not intend to introduce such legislation. Research suggests that the Scottish measures have had little or no impact. The Research showed that the ban on multi

buy promotions resulted in households buying alcohol on more occasions but buying fewer products per shopping trip. Bans on price promotions are not effective and are easily circumvented.

Licensing fees

The Committee recommends that licensing authorities be given the power to set licensing fees locally.

- The Government intends to make no change to the existing fees in the immediate future.

Appeals

The Committee urges local authorities to publicise the reasons which have led them to settle an appeal and should hesitate to settle where residents have expected to rely on such decision. Furthermore, the Committee recommends that appeals be referred to the planning inspectorate and not the Magistrates Court, following the same process as planning appeals.

- The Government sees no reason to change the law. It is already clear that reasons should be publicised.

TENs

The Committee recommends that the licensing authority also be given the opportunity to object to a TEN application.

- The power to object to a TEN is limited to the police and environmental health teams. The Government does not see any reason to change this but will recommend that licensing authorities consider how to bring TENs to the attention of residents who may be affected.

Early Morning Restriction Orders

The Committee recommends that, in due course, the measures be repealed as no such orders have been introduced

- Surprisingly the Government considers the EMRO to be a "powerful tool" and should be available to any licensing authority wishing to use it. This is bit like most of the tools in my tool box. Unused!

Late Night Levy

The Committee recommends that the levy be repealed as they believe it has failed to achieve its objectives. However, the Committee recognises that the Government may wish to retain it and should they do so, recommends that the funds collected from the levy be divided 50/50 between the police

- The late night levy will be retained and extended to premises providing late night refreshment. The level of the charge will be the subject of a consultation.

The Government does not intend to change the 70:30 split which it considers appropriate.

Newspapers

The Committee recommend that notice of an application should not need to be given by an advertisement in a local paper. Notices should be given predominantly by on-line notification systems run by the local authority,

- The Government believes that the removal of the requirement to advertise details in a local newspaper would be a step backwards from the efforts the Government has made to empower local people and local areas in tackling alcohol-related problems. The Government has no plans to change this requirement

Conclusion

So after all that what has been achieved? Very little! There is an acceptance that there should be training for Councillors and the police and ... er ... that's about all folks. I dread to think how much this has all cost.

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