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Select Committee on the Licensing Act 2003
 House of Lords
 London
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Reply to: Licensing team
Telephone: 01923 278476
Our Reference: Select Response
Your reference:
Date: 2 September 2016
Email: licensing@watford.gov.uk

Dear Sirs

Watford Borough Council wish to respond to the Select Committee's call for evidence with regards to the Licensing Act 2003 ('the Act'). We are grateful for the opportunity to contribute to this Committee.

Our submission to the Committee is as follows.

The council are of the opinion that that the existing licensing objectives are sufficiently broad enough to be adequate for purpose, and therefore should remain in place and prescribed by the Act. However, it is recommended that there should be a fifth licensing objective concerning public health.

It is considered that a public health objective would be beneficial in assessing the potential impact of a licence application, as well as the risk and harm posed by existing operators. Such an objective would strengthen the council's position when it is deemed appropriate to attach conditions to a licence as an appropriate measure to promote the licensing objectives. There would obviously need to be clear guidance issued under s182 of the Act to assist in the implementation and adoption of this objective.

The impact of such an objective would only be felt with more informed data being gathered by the NHS, Health and Wellbeing boards, and local authorities. The s182 guidance may be a tool with which to encourage data sharing and interpretation, although not being too restrictive so that the final decision on the use of the data is made at a local level.

The success of a public health objective will also depend heavily upon the national approach towards alcohol. Councillor Tony Page, in his submission to this Committee in July 2016 stated that, although alcohol sales may be reducing, the overall harm that the country is seeing from alcohol is not reducing, and that there has been a significant shift towards people focussing on one or two big nights out in the week. In this regard, we request that the Committee urges the Government to issue a clear statement on alcohol and its place within society. A clear statement of intent is required to



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assist the decision making process, both in terms of licensing authorities, responsible authorities including the Police and Public Health authorities, and the courts, in order to try and reduce the harm from alcohol.

The council agrees that Cumulative Impact Policies (CIPs) should be given a statutory footing, to strengthen the ability of authorities to control the availability of alcohol and reduce alcohol-related crime and disorder, as recommended in the Home Office's Modern Crime Prevention Strategy (March 2016). It is not felt that there are many other changes required to licensing policies, provided that they remain as being set at the local level.

It is not felt that there are any additional steps which are particularly required to promote community activities and engagement, and licensing authorities can already choose to emphasise the desire for such events within their licensing policies. A few examples can be through not requiring strict conditions on community premises, providing advice to community groups to assist them through the licensing process, or by actively stating that they wish to encourage more community based events.

It is appreciated that community premises can already exempt themselves from the requirement to have a Designated Premises Supervisor, can benefit from an increased number of Temporary Event Notices as a result of the Deregulation Act 2015, and can provide deregulated entertainment without the need for a licence. However, there is a query over how this information is being dissipated to community premises and through communities, and it may be that this information is not being made as widely available as it could be.

The council does not feel that Late Night Levies and Early Morning Restriction Orders are necessarily appropriate tools within the licensing system and as such these have not yet been adopted within Watford. We consider a partnership approach and positive compliance to be more efficient tools in promoting standards, highlight local issues and trends, and recognising good business practice, through using Pubwatch and similar forums, the Best Bar None scheme, or even Business Improvement Districts.

We believe that it is right to review the requirement to advertise licensing applications in a local newspaper. We understand from applicants that the cost of a newspaper advertisement is disproportionate to the cost of a licence application, and is considered to be a burden upon applicants. There is also a question over how relevant it is to publish adverts in local publications, and whether this advertising is at all effective.

We wish to stress that licensing fees do need to be set at a local level, by licensing authorities, and not nationally. Doing so would allow local authorities to reflect the actual costs of processing

applications. The LGA survey into licensing fees, published July 2016, reports that local government as a whole suffers an annual deficit of approximately £10.3 million due to fees not being set at appropriate levels. The average deficit is calculated to be £29,680. It is not appropriate that residents or other licensed businesses effectively subsidise premises licensed under the Act. Local authorities have the discretion to set licence fees for other licensing regimes on a cost recovery basis, as well as through a risk based approach, and we feel that it is sensible and proportionate to extend this power to the Act. If local fees are to be adopted, and the requirement to publish a newspaper notice is scrapped, then fears over a potential rise in licensing fees can be addressed by removing the financial burden of the newspaper notice.

Notably within the LGA survey on fees, it was revealed that the fee which resulted in the highest deficit was the fee for Temporary Event Notices (TENs). We believe that there should be an increase in the cost of TENs to reflect the costs involved in processing these notices. Although there may be fears that a rise in the fees for TENs could adversely affect community associations and non-profitable organisations, these fears could be allayed by specifying organisations and groups that either would pay a reduced fee, the existing fee, or no fee at all, such as how licensing regimes already exempt certain groups from requiring authorisation. We would specifically point to Schedule 3A of the Environmental Protection Act 1990 (as amended), and the controls around distributing leaflets, which specifically exempts religious, charitable, and political organisations from requiring a consent. We feel that fees set on risk based approach would again be sensible and proportionate, and accurately reflect the cost of processing these notices, not penalising those applicants who present little or no risk.

The benefit of local licensing fees could also be felt in encouraging the resurrection of 'dead' licences and empty premises, thereby providing a boost to the local economy. If there was a mechanism in place whereby the annual licence fee could be either deferred or exempted for empty premises, because the premises is empty and therefore there is no work or enforcement required for the premises under a risk based approach, this would aid new operators to consider taking on an existing licence as they would only need to transfer the licence into their name to start benefitting from the licence. At the moment, if a premises is empty, the licence fee continues to accumulate, and after two years, it is cheaper to obtain a new licence than resurrect an existing licence. This creates an unfavourable situation where there could be two licences in place for one premises, and a growing debt associated with the licence which is not being utilised, requiring resources to chase this debt which ultimately may not be recoverable if the business failed.

An alternative solution to the problem of unpaid licence fees would be to implement the right to revoke a licence where the annual fee has not been paid, as is permitted under the Gambling Act 2005.

We do feel that the existing licensing objectives do provide a good basis with which to control premises which are licensed for off-sales. Securing statutory protection for CIPs will assist in strengthening these controls and the problems caused through a saturation of any particular type of premises, and this could include off-licences. A licensing objective which covers public health will also help in assessing the licensing of off-sales in areas where it is seen that there are dangerous levels of consumption of alcohol and the associated health problems linked to alcohol and alcohol dependency.

However, we would express that more support is needed for small and medium enterprises, particularly for off-sales. This support is needed in order to gain not only confidence, but experience too, in implementing controls and measures to support the licensing objectives. Larger businesses have significant resources at their disposal with regards to training and establishing company procedures, and these standards do not necessarily filter down to independent retailers. By building the resilience of these businesses, and promoting confidence in particular in refusing alcohol sales, we feel that the aims of the Act will be supported.

In much broader terms, the prospect of businesses only needing one permission per premises, which states what activities can be permitted on that premises, is a desirable one. There would be a benefit to applicants as well as to local authorities, not only in reducing the administrative burdens the licensing regimes present, but also in clearly stating what activities could take place on certain premises, preventing confusion and assisting in enforcement against rogue businesses. This goal may be better achieved by combining the licensing and planning regimes, which would also address the existing problem of licensing policies not always being compatible with other policies, such as planning policies, whether by content or when and how often the policies are implemented and reviewed. However, we understand that this is a largescale reform with considerable impact.

We thank you again for this opportunity to provide feedback and to voice our concerns about the current operation of the current licensing regime.

Yours faithfully

Councillor Keith Crout
Licensing Committee Chair
Watford Borough Council