

# TAUNTON DEANE BOROUGH COUNCIL

## LICENSING COMMITTEE – 28<sup>TH</sup> APRIL 2009

### Report of the Licensing Officer

#### POLICING AND CRIME BILL

##### 1. Purpose of Report

- 1.1 To inform members that the Policing and Crime Bill was introduced to the House of Commons on 18<sup>th</sup> December 2008 and is likely to take effect during Summer 2009. The Policing and Crime Bill is made up of seven parts, the purpose of this report is to summarise these parts and explain the impact that the legislation is anticipated to have on Licensing Authorities.

##### 2. Background

- 2.1 The Bill seeks to do the following:

- Place a duty on police authorities to have regard to public views in policing areas.
- Introduce measures to protect vulnerable groups such as prostitutes including sex offender prevention orders and foreign travel orders.
- Introduce provisions to prevent low level crime and disorder by introducing mandatory licensing conditions relating to alcohol, amend police powers to deal with children drinking alcohol in public, increasing penalties for those who sell to children and those who refuse to stop drinking in public.
- Implement main recommendations of Asset Recovery Action Plan (2007) and strengthen arrangement for recovery of assets obtained through criminal means.
- Implement key recommendations of Independent Review of Airport Policing.

##### 3. Summary of Parts of the Bill

- 3.1 Part 1: Police Reform

This includes additional duties of police authorities to have regard to public views on policing in their area.

- 3.2 Part 2: Sexual Offences and Sex Establishments

Introduction of measures to reduce the demand for prostitution. A new offence of paying for sex with someone who is controlled for gain will be introduced and courts will be given powers to make premises closure orders where there is evidence of the premises being used for activities relating to certain prostitution and pornography offences. The Bill will implement the recommendations from 'Tackling the demand for prostitution: A Review'. Also amends how lap dancing is licensed so that it is treated in the same way as other sex establishments.

### 3.3 Part 3: Alcohol Misuse

The Bill will amend police powers to reduce alcohol misuse and to deal with young people drinking alcohol in public. Provisions will also be introduced to raise maximum penalties for premises that sell alcohol to young people and those people who refuse to stop drinking in public and provisions to allow the Secretary of State to create, through Secondary Legislation, mandatory conditions relating to alcohol to be added to premises licences that include the licensable activity of the sale of alcohol.

### 3.4 Part 4: Proceeds of Crime

Additional powers for the police aimed at improving the recovery of criminal assets.

### 3.5 Part 5: Extradition

The Bill amends and clarifies a number of provisions within the Extradition Act 2003.

### 3.6 Part 6: Aviation Security

The Bill enhances airport security.

### 3.7 Part 7: Miscellaneous

The Bill includes provisions for Criminal Records Bureau to supply criminal convictions certificates to employers and to include 'right to work' information on standard and enhanced disclosures and changes the name of the Independent Barring Board to the Independent Safeguarding Authority relating to checking of school governors.

## 4. Summary of effects of Bill on Taunton Deane Borough Council

Two parts of the Bill have an effect on Licensing Authorities, Part 2 and Part 3 the following sub-paragraphs summarise the main changes below:

### 4.1 Part 2: Sexual Offences and Sex Establishments.

**Clause 25 of the Bills: Regulation of Lap Dancing and other Sex Encounter venues and Schedule 3: Lap Dancing and other Sex Encounter Venues: transitional provisions.**

A new category of 'sex establishment' called a 'sex encounter venue' will be inserted into Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Licensing of lap dancing and pole dancing clubs and other similar venues under the regime set out in the 1982 Act, which is currently used to regulate establishments such as sex shops and sex cinemas.

A Sex Encounter Venue will be defined as a premises where certain entertainment is provided or permitted to be provided, by or on behalf of the

organiser in front of a live audience for the financial gain of the organiser or entertainer. The entertainment may take the form of a live performance or live display of nudity and must reasonably be assumed to have been provided solely or principally for the purpose of sexually stimulating any member of the audience. An audience can consist of just one person.

Any premises that provides relevant entertainment less than once a month are not sex encounter venues.

This bill includes an order excluding certain types of performance or displays of nudity, for example, during a theatre production.

Sub-paragraph (10) of the Bill provides definitions including the meaning of nudity in men and women.

The bill includes the provision so that it doesn't matter whether those admitted to the premises pay for admission to or membership of the club.

The bill also provides powers to Local Authorities to limit the number of sex establishments of a certain type in a locality as well as the number of sex establishments generally and the Local Authority can refuse an application on this basis.

The bill also provides power to Local Authorities to prescribe regulations, standard terms and conditions for sex establishment licences and the standard conditions on a sex encounter venue licence can be different to those on other kinds of sex establishment licences.

Copies of the regulations must be made available by Local Authorities upon request and payment of a reasonable fee.

Local Authorities will be able to charge for grant applications, vary applications, renewal applications and transfer applications.

Secondary legislation will make transitional provisions.

#### **4.2 Part 3: Alcohol Misuse.**

##### **Clause 31: Mandatory licence conditions relating to alcohol and Schedule 4: Mandatory Licensing conditions relating to alcohol.**

The Bill will amend the Licensing Act 2003 to create enabling powers that allow the Secretary of State to set out in Secondary Legislation a small number of mandatory licence conditions (no more than nine). These conditions will be aimed at reducing and dealing with the abuse of alcohol and will apply to all new and existing premises licences and club premises certificates which permit the sale of alcohol. The Secretary of State will also set out a larger number of permitted conditions, which the Licensing Authority can, in consultation with Responsible Authorities apply to more than one licensed premises or club at a time.

All the conditions relate to the four licensing objectives set out in the Licensing Act 2003 and the new conditions will take precedence over any existing licensing conditions. The bill basically provides the enabling powers for a mandatory code of practice for alcohol retailing.

The mandatory list of conditions of up to nine will be mainly prohibitive and will be set down by the Secretary of State after consultation with relevant stake-holders. This process is taking place at the moment. The conditions are likely to be aimed at stopping promotions that encourage people to drink more, helping consumers make an informed choice when purchasing alcohol about the amount of alcohol their drink contains and to complement the Licensing Act in tackling underage sales.

As previously mentioned, Licensing Authorities will also be given the power to impose blanket conditions on premises in a locality where there has been significant alcohol-related nuisance or disorder. This imposition can either be instigated by the Local Authority or by a Statutory Responsible Authority on application. The pool of conditions will again be set down by the Secretary of State and are likely to be aimed at the following:

- Stopping promotions or activities aimed at encouraging people to drink more than they might otherwise.
- The training of staff to complement the Licensing Act and to ensure that problems are minimised e.g. training in areas like refusing sales, conflict management and dispersal of customers.
- The responsible management of the premises to ensure that incidents of crime and disorder are minimised.
- To ensure the orderly dispersal of customers from premises to minimise likelihood of crime and disorder occurring.
- Risk assessments being undertaken to minimise the likelihood of crime and disorder occurring.

A list of permitted conditions which Local Authorities can impose, the procedure for imposing and advertising them and the procedure for varying, reviewing and appealing against them will be specified by the Secretary of State in Secondary Legislation and Statutory Guidance in due course.

- 3.6 There are no financial resources available for Licensing Authorities to administer or enforce the Act once made. Existing premises licences and club premises certificates will not be replaced however each licence holder will receive an amendment to their licence by way of new conditions. Taunton Deane Borough Council has over 400 premises licences and club premises certificates so there will be additional work for the Licensing Unit between August and October 2009.

#### **4. Recommendations**

- 4.1 None, this report is provided for information purposes only

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