



HOUSE OF LORDS

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The Select Committee on the Licensing Act 2003

Inquiry on

THE LICENSING ACT 2003

Evidence Session No. 2

Heard in Public

Questions 16 – 30

WEDNESDAY 12 JULY 2016

10.45 am

Witnesses: Councillor Tony Page, Councillor Debbie Mason, Mr David Banks, Councillor James Lewis and Councillor Peter Richards

Members present

Baroness McIntosh of Pickering (Chairman)
 Lord Blair of Boughton
 Lord Brooke of Alverthorpe
 Lord Foster of Bath
 Baroness Greender
 Lord Hayward
 Baroness Henig
 Lord Mancroft
 Lord Smith of Hindhead
 Baroness Watkins of Tavistock

Examination of Witnesses

Councillor Tony Page, Deputy Leader, Reading Borough Council and Licensing Champion for the Local Government Association, **Councillor Debbie Mason**, Portfolio Holder for Safety and Well-being, Rushcliffe Borough Council, **Mr David Banks**, Executive Manager Neighbourhoods, Rushcliffe Borough Council, **Councillor James Lewis**, Deputy Leader and Executive Member for Resources and Strategy, Leeds City Council, and **Councillor Peter Richards**, Chairman of the Licensing and Regulatory Committee, Stratford-on-Avon District Council

Q16 The Chairman: Good morning, ladies and gentlemen. May I give you a very warm welcome to our proceedings? We are very grateful to you for joining us. Just to remind you, the session is open to the public, is broadcast live and is subsequently accessible on the parliamentary website. Thank you all for coming. Where you agree, do not feel that you have to add anything. If you feel that something has not been said that is helpful, do please chip in. You will be sent a copy of the transcript to check for accuracy in a few days after today's session, and please advise us of any corrections that you would like to make as quickly as possible. Equally, if you wish to clarify or amplify any points that you have made during the evidence session, please feel free to provide any supplementary evidence to us. Could I ask you each in turn to introduce yourselves?

Councillor Peter Richards: Good morning. I am Councillor Peter Richards from Stratford-on-Avon District Council. I am the sitting chairman of our regulatory and licensing committee.

Councillor James Lewis: Good morning. I am Councillor James Lewis, deputy leader of Leeds City Council, and licensing is in my portfolio.

Mr David Banks: I am David Banks, executive manager for neighbourhoods at Rushcliffe Borough Council.

Councillor Debbie Mason: Councillor Debbie Mason, portfolio holder for community safety and health and well-being.

Councillor Tony Page: Councillor Tony Page, deputy leader of Reading Borough Council and lead member for transport, planning and the environment, but I lead for the LGA on licensing matters.

Q17 The Chairman: Could I just say at the outset that I have a modest shareholding in Diageo, I am honorary president of Pickering Conservative Club and I am a member of the all-party parliamentary groups on beer, wines and spirits? Under the Licensing Act currently there are four objectives. Do you believe that these are the right ones, were there any

omissions and, in particular, do you consider that health and well-being should be added to this list?

Councillor Tony Page: Chairman, we do not all propose speaking on every question, for the reasons you have rightly identified. Perhaps I could ask Councillor Lewis to lead off on this. We have tried to allocate our answers to assist you.

Councillor James Lewis: In Leeds, in certain areas where we recognise that alcohol and alcoholism is a serious health concern, we have taken the approach of issuing local licensing guidance to applicants under the Act. That is not a cumulative impact policy that we have used in certain areas to restrict the number of licensed premises, and it is not an attempt to reduce overall the number of licensed premises, but it is an attempt to make it clear to people, when they are applying, what their obligations are.

To try to reduce the amount of harmful consumption, we condition applications; there can be no advertising of alcohol promotions in windows, higher-value alcohol should be placed behind the counter so that it cannot be easily shoplifted, and alcohol should not be displayed right in the door where people can grab it and run away with it, which has been a problem in a number of areas. The area that is covered is the LS10 and LS11 area of inner south Leeds. If anybody is familiar with Leeds, it is where Leeds United Football Club is; that part of the city. It is an area where we recognise that alcohol has a detrimental impact on health. Alongside obesity and smoking, it causes serious health concerns, so this is an attempt to use the Licensing Act and conditions to regulate it; it is not about taking or stopping licences outright but about ensuring that conditions are attached to the granting of licences to try to reduce the impact of alcohol in the area, particularly off-sales.

The Chairman: Do you think that is working, or would having a national objective set in the revision of the Act strengthen what you are doing?

Councillor James Lewis: I think a national objective would make it clear for all areas that this is targeted specifically on an area where the joint strategic health needs assessment has highlighted alcohol as a huge concern. If it were in an Act it would mean that this consideration could be made to all licensing applications. I do not believe that it is a burden on the process because, again, it is about conditions; it is not about granting or refusing, and it would also make very clear the responsibilities that licensees, particularly for off-sales, have to try to reduce harmful alcohol consumption.

The Chairman: Could you identify additional costs if public health or health and well-being were added as a national licensing objective?

Councillor James Lewis: I do not believe so. We have a relatively low number of appeals on licensing decisions in Leeds, which shows that my colleagues on the licensing committee generally make the right decision. This includes applications in the area covered by this policy, so I do not think it would add extra costs to the system. I think it would add some clarity right from the start, because we are seeking not to increase the number of refusals but to condition the successful applications and make sure that they are being responsible in the way they act. I do not think that will add extra costs.

The Chairman: Are you concerned that the provisions of the Equality Act 2010 as a reason for refusing a licence are held in regard by the licence applications that are being made?

Councillor James Lewis: I do not believe so in Leeds, no.

The Chairman: There is no problem with applying the Equality Act in this regard.

Councillor James Lewis: I do not believe so, no.

The Chairman: Does anybody have a contrary view?

Councillor Tony Page: I am not aware of that either, Chairman. I would make the point that an LGA survey of public health officers showed that there is overwhelming support for that fifth objective to be added, and we believe that licensing decisions could be made more effective by the addition of that objective. It is not that every application would necessarily be subject to a response from the health side, but it would enable a wider range of factors to be taken into account in a way in which they cannot at the moment. Just to quote from the survey, respondents identified that, without the subjective, objections were often unenforceable and that evidence and insight from public health was not heard, despite local health data being used effectively by public health, so there is a real need to enable that to be brought into the decision-making process.

Councillor Debbie Mason: Certainly, in Rushcliffe and in Nottinghamshire, our experience is that the four objectives are the right ones. I sit on the health and well-being board too, and when we have had talks with public health and on the health and well-being board, the evidence indicates that they can provide little firm evidence on each application. This can be a barrier, so we find that there is little evidence to help in the application process. That is not to say that there is no place for it, but when looking at specific applications we find it difficult to make it meet what it should be doing.

Q18 The Chairman: You have pre-empted a question in a sense: what is the relationship between the licensing authority and the health and well-being boards? Are many people like you on both?

Councillor Debbie Mason: I have found in Nottinghamshire that I am one of the few who do that. It makes for quite a large portfolio, but it is very interesting being on the South Nottinghamshire Community Safety Partnership and the health and well-being board and being vice-chairman of the Police and Crime Panel. Although it leads to a lot of work, there is a benefit to being at those meetings with the police. The police attend the health and well-being boards, if not all the time. They are made aware of them and have the ability to attend.

The Chairman: Would any of you like to comment?

Councillor James Lewis: On the relationship between the health and the well-being boards, there is no overlap in Leeds between licensing and the health and well-being board, but the evidence from the joint working between the council and the health services on life expectancy and preventing immature death is used to inform the approach taken to local licensing guidance and therefore to some of the conditions that are put on applications. The individual members may not overlap, but we try to reflect the priorities of the health and well-being board in the local licensing guidance in Leeds. I think that adding public health as an objective to the Licensing Act would formalise that relationship. If it is helpful, I could supply the Committee with a copy of the guidance that we send to all applicants in the area I have referred to, which sets out very clearly the evidence used.

The Chairman: That would be of interest. Lord Foster.

Lord Foster of Bath: Perhaps you could help me, as I am slightly confused. We have heard from the LGA that the majority of members want a fifth objective to be included. We have heard from Councillor Lewis that you are finding a way of doing that, but, Councillor Mason, you seem to be implying that, were that fifth objective to be there, you do not believe that sufficient data is being collected that would help you to apply and make use of that objective. Is that correct and, if so, what additional data should be collected?

Councillor Debbie Mason: Yes, I do not believe that the data is always collected to make certain that it is there and ready when an application comes in. Most of what we get from

Rushcliffe and the health and well-being board and from the health agenda is more perhaps for ward level and, although it is perhaps not directly responsible, Healthwatch. We also get data from the police, but particularly from health. Certainly, from my point of view, the detail that would be needed for an application to bear serious relevance is not quite there yet.

Q19 Lord Smith of Hindhead: I will have to declare my list of interests, but it will save me having to do so at a later stage. I am the chief executive of the Association of Conservative Clubs, I am the chairman of CORCA, the Committee of Registered Clubs and Associations, which encompasses most of the club organisations in the UK, I am on the APP executive of the beer group and of the non-profit-making club group. I am the trustee of over 200 clubs and I am an honorary member of many clubs, including the Carlton Club, which makes it rather surprising that I am still alive, actually.

I have a quick question for Councillor Lewis. You mentioned that in your part of Leeds you put conditions on the licence to prevent establishments from promoting sales of alcohol. Are you saying, for example, that if Tesco or Aldi is promoting 20 cans of Carling at £10.99, which they are at the moment, in that particular patch of Leeds you will not allow them to put the posters up in their windows?

Councillor James Lewis: Yes, that is correct.

Lord Smith of Hindhead: So despite the national promotional campaigns of major supermarkets, they have to comply with that in your particular patch.

Councillor James Lewis: Yes, that is correct. In the areas that we are referring to, which is not the entire Leeds City Council area, they are not allowed to promote alcohol in their windows, and that is a condition on their licence.

Q20 Baroness Henig: To declare my interests, I am the non-executive chairman of a company that, among other things, employs door supervisors, I am president of the Security Institute and a member of the all-party parliamentary groups on beer, wine and spirits. When 24-hour licences were being discussed, the expectation was that the staggering of closing times would lead to a consequent reduction in alcohol-related crime. Has this happened? There seems to be evidence that the staggering of closing times has simply pushed the violence back into the middle of the night, so I wondered what your experience had been on this.

Councillor Tony Page: First, the number of 24-hour licences is actually very small, so it is very difficult to extrapolate from a fairly small number. I am just looking at the figures. Nearly half of all the 24-hour alcohol licensees are actually hotel bars, and supermarkets and stores account for nearly another third. One of the problems I would identify in a city area, which has received a lot of opposition from police, is the number of petrol stations that have been applying for 24-hour licences. We have had four or five in Reading alone that have been resisted with the help of the police. The argument for selling alcohol between 2 am or 3 am in the morning and 6 am or 7 am is, in my view, pretty tenuous, but there have often been applications for 24-hour licences to cover that period. The police would take a view that that is a period of the night when there should be minimal opportunities to buy from places such as petrol stations. There has been insufficient evidence of 24-hour licences among clubs and pubs, although it is relatively limited in my experience. I do not know whether any of my colleagues want to add to that.

Mr David Banks: Certainly Rushcliffe's experience is that we had a number of applications at the outset for premises that wanted longer hours. The reality is that they have not gone on

to use those hours, and most premises are shutting at around 12 am to 12.30 am, so that is our experience.

Baroness Henig: Is that true of Leeds as well, obviously being a very big metropolitan area?

Councillor James Lewis: The experience in Leeds is that it has not resulted in the staggering of opening times; it has, as you correctly identified, resulted in a lengthening of opening times. No venue is going to want its competitors to have the advantage over them of an extra hour at the end of the night or early in the morning, so the pattern in Leeds city centre has been exactly as you have identified. Also, in some of the market towns that form part of Leeds City Council district, it may not be as late at night, but certainly all the venues will seek the same licensing hours, and if one asks for an extension the rest follow suit.

Councillor Tony Page: According to our LGA figures, there are only 831 pubs, bars and nightclubs with 24-hour alcohol licences across the country, so it is not a significant sample as a percentage. There are 204,000 premises licences.

Councillor Peter Richards: Experience in Stratford, in a similar way to Rushcliffe, is that licences have been applied for to stay open longer, but the pubs and clubs do not necessarily use those licences to stay open for 24 hours. What we have found is a culture shift in the times when members of the public are enjoying a drink. Typically, we now see that they pre-load before coming out to a pub, coming in for a drink at 9.30 pm or 10 pm and then staying through until 2 am, which is a shift from where we were before, when people would be coming out to the pub at 7 pm and you would see them leaving at around midnight. If any crime and disorder does occur, that has shifted to slightly later in the evening at a point where, typically, police shifts have stopped and these crimes may not be reported as well as they would be otherwise. Similarly, council enforcement is not occurring as it should at that time of night, so I do not think that some of the reports are necessarily getting through.

Baroness Henig: So you are suggesting that data is not being recorded and that there is crime but it is not being picked up?

Councillor Peter Richards: I think there could very well be crimes that are not being picked up. Very obviously, serious crimes are reported immediately, but I am sure there are small problems that occur at pubs that are not being picked up.

Baroness Henig: This is interesting, because the Security Industry Authority—my previous area of experience—certainly seems to have data suggesting that door stewards are reporting a fair amount of violence later on in the night, but that does not seem to be reflected in the figures. That would in a sense confirm what you are saying.

Councillor Peter Richards: Yes

The Chairman: Is there any evidence of a café culture that was behind the original applications?

Councillor Debbie Mason: Yes, we do have a café culture in our main urban part, which is closest to the City of Nottingham, on Central Avenue in West Bridgford. It has been very successful and it has made our main area really quite vibrant. With that vibrancy, however, come challenges. One of the challenges when it first started was the café culture at night, but we worked with the police on public order areas and on different ways of talking to the people who have businesses there. During the day, the area where the café culture is as opposed to the bars, which tend to be further along the avenue, is very distinct. There are mothers, parents, children. It is very family-orientated. It is still fairly family-orientated until about 9 pm. Then the area changes and the café culture becomes a more vibrant evening environment in West Bridgford. This has been helped by the council working closely with the licensees, the businesses and a number of restaurants too to try to keep that café culture in

some way. At night, you could say that it is quite a different part of the economy, but we have worked hard to make it vibrant and at the same time safe. We are only two miles from the centre of the City of Nottingham, so we have to keep a close eye on it, as do the police, and we have worked well with them and with the taxis and the whole night time economy.

Baroness Watkins of Tavistock: I have no relevant interests to declare. Is the environment in any of your areas significantly different during university and college term times, or is there no variation?

Councillor Debbie Mason: We have Universities near us, and certainly we have students stay within West Bridgford, and you cannot say that it makes no difference. However because of the high quality of businesses and premises in West Bridgford, they tend to go into town. If they come into West Bridgford, on the whole they do not cause too much of a problem when they are enjoying themselves, but a watch has to be kept on it. I go out, as many councillors do, with the Nottinghamshire Police licensing officer, the local police and local council officers and keep a regular check on this, because it is so important not to let it become like a city. It is a challenge all the time. The students are a part of this, but on the whole they are fairly well behaved.

Q21 Lord Brooke of Alverthorpe: My interest are that I am vice-chair of the All-Party Parliamentary Group on Alcohol Harm, I am on the All-Party Parliamentary Group on Obesity and I am a patron of the British Liver Trust and of a rehab centre, Kenward House, down in Kent. I would like to pick up the theme of the differences in challenges for the licensing authorities between rural and city areas. Could you give us an insight into the differences that might be experienced and whether the Act, as it is presently drawn up, is sufficiently flexible to deal with the differences?

Councillor Peter Richards: The Stratford-on-Avon district is very obviously a rural district. We have areas within the district that are town centres and more rural residential areas. Our experience has been that the more rural residential areas tend to experience more problems through noise nuisance and licensees perhaps extending their hours where they shouldn't do and conducting business that they shouldn't be. They feel that they get away with that behaviour because they are far away from the town centres, and the police do not necessarily come out to enforce on these issues. With the district council, again the rural premises expect enforcement not to come out to them because they are further away from the city centre. Generally that does not tend to be a problem, but very obviously there is a cost to enforcement. As things stand, the fees associated with licences limit the amount of enforcement that we can conduct. If we could lift those fees or raise them, we might be able to reduce the issues that we experience.

Lord Brooke of Alverthorpe: Picking up on the point that you just made about licensing fees, when the 2011 Act was going through the Government intended then to cover your costs for your licensing activities and explored the possibility of devolving the right and responsibility for fixing the fees down to the local level. In the event, they did not do that. Could you comment on the latest state of play on this and what should happen in the light of the consultation run by the Government in 2015, in which the majority of the evidence was against any such changes? I understand that they are now doing a further consultation on this. Perhaps you could bring us up to date on your experience.

Councillor Tony Page: The LGA has just commissioned, and the CIPFA undertook, a survey of the Licensing Act fees. That has just been published and I will ensure that the Committee is sent a copy. The estimate in this survey—about a third of councils participated—is that licensing authorities across England and Wales have an annual net deficit of just over £10

million, and we believe there is a very strong case for local government to secure and achieve full-cost recovery. We are not looking to make money out of it, but we are looking for our fees to cover the essential parts of issuing, administering and enforcing. That is critical, as Councillor Lewis said, because the legitimate responsible pubs, clubs and premises will expect an authority to come down hard on those who do not abide by the law, and clearly that requires a properly resourced enforcement section dealing not only with licensing but with planning, although planning is a separate discussion.

On the licensing front, there is a clear need for us to be given the ability to set fees in a way that delivers full-cost recovery. It can be done transparently so that the industry locally can see that we are not making a profit and we can show how the costs are attributed to officers and other functions. Things such as temporary event notices are a real bane. Some of us object to the principle of them, because they are no longer for voluntary organisations, they are abused regularly by pubs and clubs, and for £21 they in no way cover the costs to the local authority in administering, let alone enforcing. We can present, I think, a compelling and comprehensive case for being allowed to set our fees locally within the parameters of full-cost recovery. I will send that report to you. I do not know whether any colleagues want to add to the cry for local fee-setting.

Councillor Peter Richards: I think you are absolutely right that one of the benefits of the Licensing Act is its flexibility and the fact that councils can make decisions based on their own local context. Similarly, being able to do that for fees would be very beneficial.

Lord Blair of Boughton: On temporary event notices, if you were going to change the system in this way, would you be able to distinguish between a genuine community-based temporary event, which probably does not cost more than £21, and the abuse by licence holders? I would not want to see the fees for temporary events for communities being wiped out.

Councillor Tony Page: The original intention was for this to be used by local voluntary groups, and we could still see the regulations more tightly drawn to deliver that. I do not think any of us would want to see those groups in any way hindered by TENs. I can give the example of Reading, where we have the annual rock festival. We get floods of TENs from pubs and clubs that are looking to ride the wave of local business and dispense with all the hours and conditions that they would normally have to comply with. That was not the intention of the original TENs provision.

Councillor James Lewis: A simple change to TENs could be where they are applicable to a premises that already has a licence. The existing licence conditions could remain while the TEN is in place. That would be a simple step that would stop an abuse of the system, so that the PTA wine and cheese evening could still go ahead at a £21 charge but existing licensed premises would have to properly apply for the change that they require.

Q22 Baroness Greender: Since we are doing TENs to death, I had better declare my interests as the proud owner of a temporary event notice for last Saturday at a primary school fair, for which I paid the £21 fee. Certainly one discussion that we had with colleagues of yours at the LGA was whether, if that is the kind of thing that you want to encourage, you want more of that. This is at the very heart of Lambeth. The school has 60% free school meals. You want exactly that kind of thing with alcohol sold along with Halal chicken. It was a very diverse community moment, of course, and a triumph last Saturday. I invited you all, but where were you?

Lord Hayward: It was not on the hashtag.

Baroness Grender: That is the kind of thing that presumably you want to encourage, and almost want to go to no fee, or at least a lower fee, to encourage. Meanwhile, I suggest, the kind of profiteering side on which TENs are being misused in a way is where you want to make the money, but I would like to hear your view because I would hate the conversation to pass by with a suggestion that that in any way goes up.

Councillor Tony Page: I think we would all agree absolutely with what you have said.

Baroness Grender: That is good enough for me.

Lord Smith of Hindhead: I do not think it is quite accurate to say that TENs were introduced into the Act solely for community or other groups to hold events. There was a case against the Commissioner of the Metropolitan Police some years back that allowed private members' clubs to hold up to 12 events a year to which non-members could be invited. In fact, the original thought behind the TEN and the fact that it was originally at 12 events was the direct result of that, and it can give some licensed establishments the ability to open up. So it was not completely for that. I know that it has only recently gone to 15, but the Act allows these temporary event notices to be used and it is limited. I am just interested in how they can be abused.

Councillor Tony Page: I would say that they are being abused in the way Councillor Lewis rightly identified. Many established pubs and clubs will look to piggy-back on to other events. Some 132,000 TENs were issued last year. In my experience locally, only a handful of those would have gone to the voluntary organisations or even to the clubs that you refer to, and they cause a real headache for the local police.

The other thing about TENs, of course, is that there is a very limited period of time—I think it is only 72 hours—for the local police or our environmental health officers to put in an objection. Putting the application in on a Friday afternoon is often a very popular trick, because that time gobbles up the weekend and you have virtually no time to respond, so there are also procedural issues with TENs. If you would like more evidence, I am sure that we could arrange it.

The Chairman: A little note would be very helpful, if you could give us one.

Baroness Grender: One that sets out the data.

Lord Hayward: Can I just establish that you said that £10 million is the deficit? A pretty high proportion of that is reflected in Westminster, is it not, in that it has historically produced by far the largest deficit?

The Chairman: Do you have the breakdown?

Councillor Tony Page: I do not have that detail with me. I have the survey here.

The Chairman: Could you provide us with that?

Q23 Lord Hayward: Moving to the question of the off-trade, I assume that licensing objectives apply equally to the on-trade and the off-trade, but is it possible to trace the problems arising from pre-loading, and for that matter post-loading: in other words, people returning after nightclubs, one venue or another, to individual premises licensed for off-sales? I am sorry. I forgot to declare my interests. I have a declarable interest in Diageo and an interest in Marston's, which is not declarable in terms of the size but I will declare it. I was the chief executive of the Beer and Pub Association and I am a member of the all-party beer group, and I should perhaps observe in passing that I have known Councillor Page for probably more years than he or I would want to remember and that my most regular visits to nightclubs are actually in Leeds.

Councillor Tony Page: Not Reading?

Lord Hayward: Not Reading. I now revert to the question of the off-trade and individual premises and post-loading, et cetera.

Mr David Banks: On off-sales trade, we do some very good work with Nottinghamshire Trading Standards, which provides intelligence-driven work to target particular premises and to undertake test-purchasing that allows us to challenge and take action against those off-licences, particularly in relation to underage sales. That is probably a more significant problem than pre-loading, certainly in our own experience.

The Chairman: Is that shared?

Councillor Tony Page: Certainly we and the local police regularly test-purchase with underage children, and it is a problem. Unfortunately, you cannot test-purchase with drunks, which is harder, so there is an enforcement issue in that aspect. I therefore very much agree with David's comments.

The Chairman: I think the old adage of "drunk as a lord" has gone and it is now "more drunk than your doctor". Would anybody else like to comment?

Lord Hayward: Following on from that, the law was originally seen as tackling on-premises, although it applied to off-premises. Given the change in the balance of sales, do you think the law is now adequate to deal with the increase in both off-sales and online sales?

Councillor James Lewis: Referring back to my previous comments, trying to condition the premises in a geographical area not to produce off-sales overall but to try to reduce the type of alcohol that is sold and the growth of it is a recognition of the impact that off-sales can have. It is very hard to tie it down to individual shops and it can sometimes be a futile wild goose chase. The ward I represent is a large number of quite close-knit villages, so the shopkeepers know who is coming in and out in relation to test-purchasing, according to anecdotal evidence, so rather than chasing individual licensees it is about using a conditions approach to try to reduce the impact. The approach that we have taken in Leeds is to try to get a more responsible approach across the industry.

Councillor Tony Page: Local government cannot substitute for what should be a national decision about the debate on minimum pricing, and there is a debate there. Some of us believe in, and would support, minimum pricing. The LGA does not have an official position on that, but it is a debate that I think is wrong to dump on local government; we cannot resolve that locally.

The Chairman: What about taxation as an alternative, as we have on cigarettes?

Councillor Tony Page: Yes, indeed. That is what I mean under the heading of minimum pricing, but how it is achieved is a matter on which central government has to have a view. Clearly the health service has a view that it feeds in at various levels nationally and locally, and we have recently had some very compelling evidence presented to us. That debate not only has to be conducted through health and well-being boards, and bringing the health objective on board would strengthen that debate locally, but ultimately it has to be a decision that the national Government accept.

Q24 Lord Smith of Hindhead: I would like each of you to give me a yes or no on whether you think pre-loading has any effect on the problems that occur in the night-time economy in your areas.

Councillor Tony Page: Yes, it does cause problems. I think most of us would say yes.

Councillor Debbie Mason: Yes.

Lord Smith of Hindhead: So you all agree that pre-loading is an issue when it comes to the problems that occur in the night-time economy.

Councillor Tony Page: The police locally, and Reading cannot be any different in this, actually have a lot of sympathy with clubs that admit somebody who appears to be sober who has already had two or three pints, the full impact of the alcohol has not set in, and they might not even buy a drink, but they may already be causing trouble and may already be worse for wear. Other than breathalysing them on the door, which I suppose ultimately would be possible, I can think of no other way of dealing with it.

Councillor Debbie Mason: We had a trial period when the security staff on the door actually had their own breathalysers. Obviously they did not test everybody who came in; they selected people whom they viewed as probably having pre-loaded either at home or elsewhere. It worked, and there was no anti-feeling, people were quite open to it, but there is a resource issue there and who takes the hit on that resource. Are we actually asking the premises to take that hit on the doormen they provide—they had armbands to identify that they were authorised—or do local authorities do that, in which case we are back to fees? When legislation comes forward to local councils, we are expected somehow to supply these resources as well as officer time. Some of it is quite hard to quantify, especially when it comes to members, because we were very supportive of that across all parties, but there is a cost and you just have to look at what is happening.

Councillor Peter Richards: I think it is fair to say that the majority of, if not all, members of the public going out to enjoy a night out will pre-load to some extent, but the issue is the extent to which they pre-load. Some will overly pre-load, some will have a couple of glasses of wine, and it is usually those who are excessive before going out who cause issues. Birmingham City Council trialled the breathalysers at nightclubs to great effect, and as Councillor Mason said very few people had any issue with being asked to be breathalysed. Typically it was the people who had excessively pre-loaded who caused a problem, in which case you have immediately singled out the people who are likely to cause a problem, at which point they can be asked politely to leave. I think that it is something that could well be supported.

Councillor James Lewis: While we are on the subject of private drinking, one issue to raise from Leeds is not just the pre-loading, and I agree with the comments that have been made. We also recognise as a city that we need to reduce the incidence and recurrence of domestic violence. In many ways, the aspect of pre-loading and the availability of alcohol for people to drink at home impacts on that agenda as well. Again, it is very difficult to tie down to individual licensees or premises, but the overall approach would be to reduce the quantity and availability of very strong alcohol.

Lord Blair of Boughton: This is just an observation from last week. Central government spoke to representatives who said that they had no evidence of pre-loading. Would the LGA be able to provide us with evidence that most licensing authorities are worried about this?

Lord Mancroft: Just listening to you, it sounds as though you regard this as a really major problem, if not the major problem—the thing about which you appear most animated. Is that right? Has the Licensing Act made it worse and is it getting worse?

The Chairman: The Institute of Economic Affairs says that overall alcohol consumption has decreased by 17%. You appear not to agree with that.

Councillor Tony Page: We can certainly provide some evidence in answer to the question about pre-loading, and we will work on that.

Councillor James Lewis: I think that the overall quantity of alcohol sales might be reducing. I have two points to make. First, the harm that we are seeing from alcohol being sold is not reducing. Recognising the health impacts of alcohol on premature death in parts of Leeds,

other health indicators suggest that there are still issues to be dealt with, even though the overall quantity might be reducing. Secondly, on the night-time economy, we are seeing a shift away from people having a couple of pints three or four times a week to people having one big night out. That has an impact on the night-time economy, on the bar economy and again on people's behaviour, because they are consuming a lot of alcohol one or two nights a week, even if they are not drinking on a daily basis.

Q25 Lord Smith of Hindhead: There are a couple of questions rolled into one under item four, so I will separate them out. We have some evidence that shows that there has been a significant decline in the number of nightclubs and private members' clubs. Obviously the two establishments are very different animals operating under different parts of the Act. The nightclubs are usually under premises licences as proprietary clubs, whereas members' clubs are under Part 2 of the Act and run by the committees. There are also some statistics on the number of personal licence holders increasing from just under 300,000 to just under 600,000, but the number—

The Chairman: A short question please.

Lord Smith of Hindhead: It is relevant, my Lord Chairman. The number does not apply because, as you have already pointed out, there are only 204,000 premises licences operating and the number of personal licence holders is not relevant to that. We have seen a dramatic reduction in the number of nightclubs and also in the number of private members' clubs down from 17,000 to 15,400, but at the same time we have seen a very slight increase in the number of premises-licensed establishments being open. In your experience of these things, do you think that this reduction in nightclubs and private members' clubs and the overall slight increase in premises licences is in any way linked to the Licensing Act?

Councillor Peter Richards: In Stratford-on-Avon, we no longer have any nightclubs. When I moved there in 2007, we had seven nightclubs, so very clearly there has been a decline.

The Chairman: It is your fault. You are evidently not going out enough at night.

Councillor Peter Richards: Evidently not. I would not say that was down to stringent laws from the Licensing Act, but I do think the Licensing Act has had an impact, and that impact has come about from pubs being able to stay open longer. We talked about the café culture earlier, we now have a pub culture where pubs can have more live music and recorded music later into the evening. I think people are more inclined now to go to a pub and speak with their friends and have a drink in a comfortable environment rather than go to a nightclub that is loud.

Councillor James Lewis: I think a night out with Lord Hayward sounds like an exciting prospect in Leeds. Our experience in Leeds, as a big city, is that before the Act nightclubs had a very specific purpose that was about people wanting to drink late in the evening. Now, when many of our city centre bars are open until 4 am, if people want a later drink they do not need to go to a nightclub specifically. It is a change in the trade that has been caused by the Act, but I do not think it has been detrimental overall to the number of venues opening; it is just that their purpose in licensing has changed.

Lord Smith of Hindhead: So it is a change of fashion and people just want to go out and have a pizza and a late-night drink. Does anybody have anything to say about members' clubs that is different from nightclubs?

Councillor Tony Page: We have the same number, so I do not think there has been any particular impact of the Act on those.

Councillor Debbie Mason: I have found in Rushcliffe and probably some of the surrounding areas that actually the members' clubs have declined. I think it is the way of life that is

passing by rather than the Act. People do not go to members' clubs; they want more freedom to meet their friends in different premises.

The Chairman: Thank you. Could we turn to planning and licensing?

Q26 Lord Foster of Bath: Rather boringly, I have no interests to declare; I feel I am following Councillor Richards. The Act was meant to balance culture and tourism alongside the protection of local residents. When I had the opportunity to take Lord Clement-Jones's Live Music Bill through the House of Commons, which of course amended the Act, the biggest concern was that this was going to lead to further conflicts between local residents and licensed establishments putting on live music, and of course there are examples of that. I am interested in whether you think the current legislation, which covers noise and other things, is sufficiently balanced.

I also want to add the planning side of things and the issue of an existing licensed premises with new buildings being put around it. You will be well aware that there is already guidance that makes it very clear that councils are encouraged to consider appropriate measures, but the change that was brought in on 6 April 2016 for permitted development from office to residential was a much tighter introduction, and the agent of change was brought in. Do you believe that should apply in all cases of new residential premises near existing licensed ones?

Councillor Debbie Mason: We have found that the relationships over the differences between planning and licensing are absolutely central to it. Certainly in Rushcliffe we have looked at that. The relationship has grown and it has been effective on working with the Act rather than perhaps against it. As an example of how effective it is, prior to the implementation of the Act a number of premises in West Bridgford had planning restrictions on the use of the outside of the premises so that they could trade inside but not outside later in the evening, which helped the people and the residents around it. That changed when the smoking ban came in under the health agenda and the Health Act, so rather than smoking inside people were legally required to smoke outside. There was nowhere to go outside on the premises, so they were outside on the streets, the pavements, everywhere. This caused noise and disruption to the local residents, and perhaps when the Health Act came in this was not fully understood. We got the planning and the licensing services to work together to tell the premises, "If you want to keep your high-level status in West Bridgford, you must work with us to try to balance out the requirements so that planning and licensing can help you to use those outside areas rather than the pavements". As I say, there was a joint approach between planners, licensing, the police and the elected members, who were very important because they had the local evidence and they knew their area, to allow them to apply for extended hours under planning to allow the public to use that outside area but to be controlled by door staff. While they were on the pavements, they could not be controlled by door staff and there was a reliance on the police who, being in a semi-rural area, were not always there straightaway. We have worked around that. We are not a city, and I have to say that we do not have the huge problems that cities sometimes have, but it worked for us. This has reduced the number of noise complaints. We worked with the residents as well so that we could try to satisfy everybody.

Councillor Tony Page: Lord Foster is quite right that the prior approval changes that were introduced, which initially were for a three-year trial period, have been disastrous in city centre areas, because the planning controls have gone. I represent the central area of Reading where long-established pubs and clubs, which have been delivering a good service, suddenly find that an office block above them has been converted into residential, people

move in and a complaint is made, which I think is a bit of a cheek because if you move into the central area of a city you must expect some noise, particularly if you are moving above a pub or club. This obliges environmental health officers to take steps under the legislation that they work under, which could lead to a review of the premises' licence. That is not natural justice. I think it is very unfair on responsibly run premises. We, as the local planning authority, have no powers to control that because of the prior approval changes. We cannot require proper insulation to be put in and we do not control the size of the accommodation. It has been a disaster.

Lord Foster of Bath: I am sorry to interrupt, but let us be clear. My understanding—I raised this on the Floor of the House and I had a response from the Minister who confirmed it—is that, as from 6 April this year, you have powers to ensure mitigation measures in the case of an office to residential permitted development. I have the ministerial response here. The Minister could be wrong, but I think it is really important that we check this out.

Councillor Tony Page: We will certainly pursue that, but I think the Minister might like to review the actual fact on the ground.

Lord Foster of Bath: For new developments, I would agree with you.

The Chairman: We have your evidence about the conflict with the environmental health officers. If there is anything you would like to elaborate on, that would be very helpful.

Baroness Grender: If we can move on from the prior approval issue, which is clearly an issue, are you all confident that planning and licensing talk to each other enough? Could more be done to improve that and, if so, what?

Councillor Peter Richards: Yes, I believe that to a large degree they do talk well together. I have experience of a gentleman who has applied for an alcohol licence and it has been granted for his property, but he does not have planning permission for a change of use of that property to an event property. Very clearly, there has been a mix-up on which comes first, and I think it should be made very clear in the Licensing Act that, in order for someone to apply for a premises licence, they must have prior planning consent to do so. [All other witnesses signified assent.]

The Chairman: Thank you very much indeed. That is very helpful. Could we turn to implementation and decision-making?

Q27 Baroness Watkins of Tavistock: Case law says that the power of licensing committees is a power delegated on behalf of the people who you represent but that it might be very difficult to reach a holistic and balanced decision that considers everybody's interests. Is that how members of licensing committees see their role: trying to get a balance? Can you talk us through when that might be difficult and whether political issues have influenced decisions?

Councillor Peter Richards: As I mentioned before, I chair our licensing committee at Stratford-on-Avon Council, and I do believe that the members understand very clearly that it is our responsibility to make a balanced decision. We have members from all parties sitting on these panels, and at no stage have I ever experienced any political influences. It is made very clear by our solicitors and in our briefing documents what we are looking to achieve and aiming at and the reasons why a particular licence may be in front of us, and a decision is made based on the legal framework by which we are bound, so I think we make very good decisions. I think that is evidenced by the fact that very rarely do we have any appeals, and as and when those appeals come forward they are usually dismissed.

Baroness Watkins of Tavistock: Is it a very difficult decision, or is the guidance so clear that you can almost at a first glance see how something is going to go, or is there sometimes a real debate about the balancing of issues?

Councillor Peter Richards: It depends on the case, I think. We have had extensive debates when we have gone through these panels, so it very much depends on what is put in front of us. Again, we are very lucky in Stratford in that we have an exceptional solicitor who briefs us extremely well. Similarly, in our licensing department there are people who brief us extraordinarily well, so we can make what we believe are very good decisions based on what is put in front of us and the legal framework.

Baroness Watkins of Tavistock: It is quite interesting that you do not have very many appeals. Do you have very many complaints after you have granted licences, which would be the counterargument that you may not always get it right?

Councillor Peter Richards: The majority of the complaints that we receive in our district are noise-related, and whether they are upheld or not is a decision made by the environmental health officer. Our most recent regulatory committee suggested that the majority are vexatious complaints rather than valid complaints.

Baroness Watkins of Tavistock: Is there a good feedback loop from the environmental health officer to the licensing committee, so that you learn from it?

Councillor Peter Richards: Yes.

Councillor Debbie Mason: I think that members are used to taking quasi-judicial decisions. We do that at development control and on all planning issues, so I think we are used to doing that. We also have compulsory training for both, whether it is development control or licensing, and you cannot be on that committee unless you have taken that training.

[11:50:00]

Councillor Peter Richards: That training point is a very valid point to make. While we have compulsory training, I am sometimes concerned that it is not sufficient. We have three-hours of compulsory training per year for our licensing members. As the regulatory chairman, I encourage all our members to undertake further training so that they are fully informed and can make sound decisions, which they do, but I find that sometimes we may be lacking or the councillors may be lacking. It is important that a minimum requirement for training is introduced.

Baroness Watkins of Tavistock: Obviously, at the moment, the Act does not include a requirement to think about health. Do you think that is an important issue for training, if in the future it were to become a requirement?

Councillor Peter Richards: If it were to become a requirement, absolutely, yes.

Lord Brooke of Alverthorpe: It has been represented to me that councils often do not fight certain applications because of the cost involved in the legal process and that, if they had more cash, they would resist more than they do at the moment. Is there any fact behind that?

Councillor Debbie Mason: I have no experience of that.

Councillor Tony Page: Do you mean that we are granting licences rather than turning them down? I am certainly not because, remember, the process we are dealing with involves evidence from the police and our own officers, local residents and other organisations. If a compelling case is made for either refusing a new application or a review, the committee will take it. On cost, sometimes it is amazing to see the costs that applicants will expend with some quite expensive London QCs brought down to, perhaps not intimidate, but encourage the committee in one direction. That can sometimes be counterproductive, I would say.

The Chairman: Are you convinced, with the level of evidence permissible, that the bar is sufficiently high when apparently hearsay can be taken? Do you think the level of evidence that a licensing committee hears—

Councillor Tony Page: Our lawyers and our legal advice at committee would encourage us to be very challenging. Certainly, in my experience across licensing committees, the legal advice will always remind members that hearsay is not sufficient and there needs to be the evidence. In my area, the police have upped their game considerably on the quality of the evidence they produce. I cannot remember the technical name of the recorder—

The Chairman: CCTV.

Councillor Tony Page: The body-worn cameras, plus the wider use of CCTV, are now something that they are much more familiar with and used to deploying, and the quality of the evidence from the police is much greater than when the Licensing Act first came in.

Councillor Peter Richards: I agree.

Q28 Lord Mancroft: I do not think I have any interests to declare, except that for many years I have been interested and involved in the treatment of alcoholics and drug addicts, which I am not sure is strictly relevant to this. The concept of responsible authorities is a key means through which the licensing objectives are promoted. Do you think local authority members feel well served and supported by those responsible authorities and the information that they are expected to provide, and what consequences does that have for balanced decision-making?

Councillor Tony Page: I repeat briefly that the quality of the police evidence is critical in our decisions and they are much more conscious of the need for more robust evidence than they used to produce. The police train their staff better now in the Licensing Act and in the requirements of licensing committees. One of the reasons I strongly support the health objective being added is that I think it will act as a catalyst to the health service getting more involved in the process and looking at how it deploys its evidence, and we can then have a more robust discussion about the quality of the evidence we would be looking for in some licensing decisions.

Mr David Banks: In Nottinghamshire, we are very fortunate to have a police licensing officer who provides very good case-specific and premises-specific information to licensing authorities. That allows us often to make decisions, take action and negotiate situations before even an appeal or a hearing takes place, which can also save time and costs, so that has been very effective.

Councillor James Lewis: West Yorkshire Police has dedicated licensing officers as well, which really helps that relationship. On the wider data available, we are very strong on area data linked to health and social services, which support some of the area-based approach we talked about earlier. Sometimes it is very difficult to link that to individual applications and individual premises, which means that we quite often grant with conditions rather than refuse an application. It is good on an area basis, but does not always drill down to social data or drill down to individual licences.

The Chairman: Councillor Page, when you refer to health bodies, there seems to be a glittering array of bodies in the health service. You have referred loosely to the health service; which would you argue is the most effective body that you as licensing authorities would like to relate to for this point?

Councillor Tony Page: There is the director of public health. We would like to be able to access information from the Royal Berkshire Hospital in our case and other points of treatment. There are a number of different points.

Lord Mancroft: In what way? What do you want to access them for?

Councillor Tony Page: In treating people, hospitals do not necessarily get that information—where they come from and where the incident happened. It is a pretty hit and miss affair. A

health objective and a requirement to participate more in the licensing process might focus that attention more sharply.

Baroness Watkins of Tavistock: As well as the hospitals, would the ambulance service not be a really good source?

Councillor Tony Page: Yes.

Councillor Peter Richards: The experience in Stratford District Council is that the police and environmental health frequently respond to our requests for information but other responsible authorities either do not respond at all or respond late. I am happy to take your guidance on it but I think there is a danger, if we introduce too many responsible authorities, that we are overburdening the process and I question whether we will get accurate responses back from them in a timely manner.

The Chairman: On Lord Mancroft's point, if someone was identified by the doormen at the entrance who seriously appeared to have an alcoholic problem, would they just be passed round the houses? Is there anyone to intervene to identify a service that could help an individual? I remember a time—perhaps it is not appropriate—when we had meths drinkers on the streets of Edinburgh. As a little girl, I did not know why they put purple in the methylated spirit but it was for an obvious reason because people were loading up on meths at the time. If someone has a problem, is there any service that would intervene, or do you just look at it strictly from the licensing aspect?

Councillor Peter Richards: I am not aware of any.

Lord Foster of Bath: Councillor Mason said in our earlier deliberations that if we were going to have a health and well-being fifth objective, we needed more data collected to help us. That seems to be coming up again—the responsible authority, whether a health authority or a health body, is not necessarily able to provide the information either quickly or at all, which may be because it does not collect it. Is anybody doing any work on what data would be helpful to you, and what do you suggest we recommend should be collected in that area?

Councillor Debbie Mason: Certainly, there is one health and well-being board for Nottinghamshire and another for the city, where the hospitals are, and sometimes there is not the collaboration between those two. Because our health and well-being boards are separate—

Lord Foster of Bath: Do we know what data specifically we would like them to collect?

Councillor Tony Page: We will let you have some written comments.

The Chairman: That would be very helpful.

Q29 Lord Smith of Hindhead: Under the Licensing Act 2003, it is an offence to sell or supply intoxicating liquor to anyone who is intoxicated. Do you know of any establishment that has ever been prosecuted for selling alcohol to someone who is intoxicated?

Councillor Tony Page: I cannot think of anyone in my locality. [All other witnesses signified agreement.]

Lord Hayward: I think Lord Brooke has asked my question in relation to appeals already. I would like to put on record that I am quite happy to accept Councillor Lewis's invitation to host me in Leeds in future because it would be an even more enjoyable evening if he is buying the round.

Councillor James Lewis: I am a Yorkshireman so do not get your hopes up.

Councillor Peter Richards: We have experience of one occasion where a venue's licence was put under review and that was appealed. The reason for it being appealed was purely time-sensitive in that the review happened just before the festive period, and they appealed so that they could maintain their licence through the festive period and then proceeded to

close their premises. I wonder whether we can tighten up the ruling around appeals. If a review has been undertaken, I would suggest it has been done for a reason, and appealing that decision should not allow that review to be circumvented.

The Chairman: May I play devil's advocate for one moment? We had an interesting session with Home Office officials last week where they assured us they consulted widely on a lot of the issues the Committee expressed concern about and none of the stakeholders—that dreadful term—or interested parties had come up with anything we should worry about. Do you as a group, either the LGA or individual authorities, respond to Home Office consultations under the Licensing Act? Have you, and have you expressed any concerns you would like to share with the Committee at this point? You could always send that in writing. “Complacent” is a rather overused term, but it seemed a little complacent if councillors had not responded, and we think we know councillors better than that. Is there anything you would like to share with us?

Councillor Tony Page: We have certainly responded and we can let you have some comments to show that.

The Chairman: That would be very helpful indeed. That is very kind of you. Lord Blair.

Q30 Lord Blair of Boughton: I am changing now from the actual licensing process to crime and disorder associated with licensed premises. We know that overall levels of crime have been in decline for many years so there are a couple of questions here. Is it your view that crime and disorder associated with licensing itself is going down, as opposed to the overall national picture that crime in general is going down? It would also be useful for you to confirm the state of your liaison with the police.

Mr David Banks: As I said, our working relationship with Nottinghamshire Police is excellent. There is a licensing officer there whom we work with daily. Also, it is about working relationships with the trade itself. For example, the development of robust pub watch schemes has gone incredibly well in terms of developing those relationships and encouraging good business practice in the licensed trade. Those are some of the examples that have worked well in the Rushcliffe area.

Councillor Tony Page: We also have very good working relationships. One of the problems with the figures, leaving aside the issue of classifying and the way some changes have occurred, is that overall there might have been a decline. We have, however, seen an increase in more violent assaults.

Lord Blair of Boughton: You see those as associated with licensed premises?

Councillor Tony Page: They are drink-related. That is the issue. It comes back to pre-loading and people being intoxicated. To attribute that to a licensed premises—

Lord Blair of Boughton: Not necessarily to one licensed premise but in the sense that it is a licensing issue, a drinking issue.

Councillor Tony Page: It is a drinking and alcohol-consumption issue and that is a wider problem. This is the problem that police and licensing authorities have: you cannot necessarily pin it on a particular premises. It was hard enough in the old days before pre-loading; it is even harder now.

Mr David Banks: Just to support that comment, we have really good examples where responsible businesses have employed door security staff to stop problems at the door before they go into premises. That has been held as a good example, yet it still gets reported as a crime which can unfairly penalise well managed premises.

Lord Blair of Boughton: Yes, that is always true.

The Chairman: May I press Councillor Lewis? I do not know whether this is across the piece, but you referred to the increased incidence of domestic violence. Is this something you have seen increase in the intervening years since 2005 and that you would attribute to drink-related violence?

Councillor James Lewis: To clarify the point, we recognise as a city that we need to reduce the incidence of domestic violence. One of the causal factors of that is particularly home drinking and private drinking. Rather than saying it is explicitly linked to the Act, it is certainly linked to drinking at home—drinking certain types of high-strength alcohol at home—so we are trying to reduce the availability of that type of alcohol in our communities, rather than saying that we have seen an increase since the Act and need to deal with it that way. I think it is dealing with the prevalence of alcohol in parts of our communities and its clear causal link with domestic violence. That is not the way you have expressed it, Lord Chairman, but that is certainly a priority we recognise.

Councillor Debbie Mason: One of the things that is important, when we look at figures from the police at the moment, is that figures reported at least this year need to level out and be fully understood, because there has been a change in how these incidents are recorded. It would be wise to take this year and probably next year to see some of the differences that have happened.

The Chairman: To bring the threads together, given the wealth of experience you have had in implementing the Act since 2005, is there a glaring omission or anything you believe the Committee should hear about which is either going particularly well or should be reviewed in the way the Act is applied, and the guidance to the Act as well?

Councillor Debbie Mason: I cannot think of anything.

The Chairman: I thank you very much on behalf of the Committee for giving up your time to be with us at relatively short notice. We are immensely grateful to you. We look forward to receiving the note to which you referred.

Councillor Tony Page: That has been duly noted.

The Chairman: Thank you very much.