

LG Group On-The Day-Briefing: The Police Reform and Social Responsibility Bill

1st December 2010



Headlines – Policing

- The Bill seeks to introduce **directly elected Police and Crime Commissioners**, with first elections scheduled for May 2012.
- The LG Group agrees that local accountability needs to be improved and communities should be given a say in how their streets are policed.
- However the LG Group does not believe introducing Commissioners is the best way to do this since it could weaken the ability of the police, councils and other public services to cut crime. It could also fragment local partnerships. The LG Group has instead developed an alternative model¹ for improving police accountability in England, based on existing best practice.
- The Bill also seeks to introduce **Police and Crime Panels** to scrutinise the work of Commissioners. The Bill proposes these will have a minimum of ten directly elected representatives – councillors in England, and councillors or Assembly Members in Wales.
- The Police and Crime Panels will be able to veto a Commissioner's proposed budget by a three quarters majority vote. They will also be able to veto any candidate recommended by the Commissioner for Chief Constable.
- Both these powers given to the Panels have been called for by the LG Group, and as such are strongly welcomed.

Headlines – Licensing

- The Local Government Group welcomes the Government's desire to rebalance the Licensing Act by better supporting licensing authorities to take action locally, within a revised licensing framework.
- Licensing premises to sell alcohol is only one of several factors that affect how people consume alcohol, and other interventions – such as increasing the cost of alcohol – may be a more effective way of achieving the government's stated policy goals. The LG Group regrets therefore that nothing has been included on the face of the Bill on the below cost price sale of alcohol.
- However the Home Office has committed² to "taking forward proposals to implement the ban on sale below cost without delay" via alternative means. The LG Group will therefore be seeking clarification on how this will be implemented, and reassurance that the burden of implementing and enforcing such a ban would not fall on councils.
- Operating the licensing system has cost council tax payers over a £100 million more than was anticipated. In the current economic climate, Government must do all it can to allow councils to spend flexibly in response to local needs and to recover costs wherever possible.

¹ This model looks to: reinforce links between neighbourhood policing, councillors and local residents; integrate police within councils at a management level; and offer real financial savings. The model is set out in 'Improving police accountability – the LGA's proposal' published in July 2010 <http://www.lga.gov.uk/lga/aio/12504618>

² This commitment has been published within the Government's response to the recent Home Office consultation on rebalancing the Licensing Act 2003. This is available at:

<http://www.homeoffice.gov.uk/drugs/alcohol/rebalancing-consultation/>

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England / Wales

Whilst this document covers proposed changes made under the Police Reform and Social Responsibility Bill relevant to both England and Wales, the Welsh Local Government Association has adopted a slightly different position to the Local Government Group on strengthening police accountability in Wales. For more details, please contact the Welsh Local Government Association³.

Policing

Police and Crime Commissioners

Under the Bill's proposals:

- Police Authorities will be abolished and replaced with Police and Crime Commissioners for each force outside of London, with the Mayor of London taking the role in the capital. Their salaries will be set by the Home Secretary on the advice of the Senior Salaries Review Body, and many of their functions are broadly similar to those of Police Authorities.
- Elections for commissioners will be every four years from May 2012 and held on the same day as local elections. The elections will be by the supplementary vote system and Commissioners will be limited to serving two terms.
- Commissioners will be required to produce a Police and Crime Plan, consulting local people on its content. Chief Constables will also have to have regard to the Plan.
- Commissioners will be 'responsible authorities' under the Crime and Disorder Act 1998, and have a duty to co-operate with the criminal justice system.
- Commissioners will have to publish information to allow local people to assess their performance and that of Chief Constables.

LG Group view

- The LG Group supports making the police more responsive to the public, but does not believe introducing directly elected individuals is the best way of doing this. The LG Group has developed an alternative model for strengthening police accountability⁴ in England based on existing best practice. This alternative model seeks to reinforce the links between neighbourhood policing teams, councillors and local residents.
- The LG Group has registered concerns that the introduction of Commissioners could fragment local partnerships as competing electoral mandates pull the police and councils in different directions.
- However the Group welcomes the appointment of Commissioners as 'responsible authorities', giving them a statutory duty to work with councils and the probation service on community safety matters.
- The LG Group will be seeking further clarification on the costs of the Commissioner elections to ensure these can be recovered by local authorities.

The role of the Police and Crime Panels (PCPs)

³ <http://www.wlga.gov.uk/english/>

⁴ Set out in 'Improving police accountability – the LGA's proposal' published in July 2010 <http://www.lga.gov.uk/lga/aio/12504618>

Under the Bill's proposals:

- Councils will have to jointly establish a Police and Crime Panel to scrutinise the work of their Commissioner.
- These will consist of a minimum of ten councillors and two co-opted members. In Wales the panel will additionally include a member appointed by the Welsh Assembly Government. The Panels will have to represent the political make up of the local area.
- The Panel will review and report on the draft Police and Crime Plan, review the annual report, review or scrutinise decisions taken by the Commissioner, and publish any reports it makes to the Commissioner.
- The Panel will have the power to require the Commissioner and members of their staff to attend Panel meetings and respond in writing to any report it issues. The Panel will be able to suspend the Commissioner if they have been charged with an offence carrying a sentence of two or more years in prison.
- The Commissioner's proposed budget will be presented to the Police and Crime Panel, which will then review it and issue a report on it, with there being a power of veto for the Panel based on a three-quarters majority vote.
- Police and Crime Panels will appoint an acting Commissioner from amongst the Commissioner's staff if the Commissioner is incapacitated or is suspended.

LG Group view

- Government has responded favourably to the views of the LG Group put to them prior to the Bill's publication in respect to Police and Crime Panels.
- The LG Group welcomes the power of Police and Crime Panels to veto a Commissioner's proposed budget by a three quarters majority vote as opposed to through a public referendum, which would be costly and time consuming. However, the Group feels that a veto by a two thirds majority vote would be preferable to increase the authority of Panels.
- It is also sensible for the Panels to hold a power of approval over a Commissioner's recommended appointment for the post of Chief Constable.
- Furthermore it is positive to see that the vast majority of Panel members will be democratically elected representatives, including members from District Councils.

The relation of Commissioners and Community Safety Partnerships

Under the Bill's proposals:

- Commissioners and Community Safety Partnerships will be able to enter into collaboration agreements covering more than one partnership, to produce strategies for reducing crime and disorder. A Commissioner will be able to compel partnerships to produce strategies if they are not doing so.

LG Group view

- Community Safety Partnerships should not be forced to come together at a force level but rather should be encouraged to do so voluntarily by Commissioners.

Chief Constables and Police and Crime Commissioners

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Under the Bill's proposals:

- Chief Constables will have to obtain the views of people in a neighbourhood about crime and disorder through regular meetings with local police officers and the public.
- Commissioners will be able to appoint, suspend or dismiss the Chief Constable, although the power to appoint deputy and assistant Chief Constables will sit with the Chief Constable not the Commissioner.
- The appointment of a Chief Constable will be subject to approval by the Police and Crime Panel who will be able to veto candidates on a three-quarters majority vote, although a veto by a two thirds majority vote would be preferable to increase the authority of Panels.
- If the Commissioner wishes to dismiss a chief constable the Panel will have to hold a scrutiny hearing and make a report to the Commissioner.

LG Group view

- The LG Group welcomes the ability of Police and Crime Panel's to veto Chief Constable candidates on a three-quarters majority vote, although the Group feels that a veto by a two thirds majority vote would be preferable in order to increase the authority of Panels.
- The Home Office's commitment to the protection of police operational independence will make it difficult for Commissioners to hold Chief Constables to account, and provide a means for Chief Constables to sidestep answering to the Commissioner should they so wish.
- It is right that the police operate free from political interference, but all public officials including Chief Constables should be fully accountable.

Licensing

New powers for councils

Under the Bill's proposals:

- Licensing authorities will become 'responsible authorities', gaining the power to intervene in licensing applications and to take action against existing premises licences where there are problems.
- The 'light touch' regime for 'temporary events' will be modified to allow council's environmental health departments to intervene if events would disrupt or endanger the local community.
- The loophole which previously allowed premises to avoid existing controls by using temporary event notices will be closed – licensing authorities will be able to insist that existing licensing controls remain in place, and that the local community is properly protected.
- Councils will also be given more flexible powers to allow temporary events to go ahead, rather than having to adhere to the current rigid rules which have led to the cancellation of events, despite their potential benefit to the local community.
- The maximum period a temporary event can last will be extended to seven days.
- Licensing authorities will gain a crucial new power to suspend licences where annual fees are not paid. This will help councils to recover money owing and to tackle the minority of rogue businesses who do not comply.

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LG Group view

- The LG Group called for and therefore welcomes these proposals, as they will reduce bureaucracy and speed up the process of dealing with complaints for concerned residents and businesses. Crucially the new Temporary Events powers will enable councils to protect local communities from noisy, disruptive or dangerous events, whilst adopting a more flexible approach to the vast majority of temporary events.
- The LG Group is concerned however by the extension of temporary events to seven days' duration, an increase from the current three day limit per event. This change could result in more contentious, costly disputes between operators, the police, councils and the local community and the Group has a number of concerns it will be raising in detail as the Bill progresses.

Licensing Fees

Under the Bill's proposals:

- No announcement has been made on the Government's proposals for reforming licensing fees.

LG Group view

- The LG Group is concerned that the licensing system is being overhauled but that there has been no announcement from government on the crucial issue of fees, particularly given some of the proposals will add to burdens on councils. The local council tax payer is still subsidising the licensing system, due to the shortfall between centrally set fees and the true cost of administering the licensing system in most areas.
- The Group will be urging Government to introduce amendments to the Bill to enable local government to charge locally set fees reflecting licensing costs.

Late night levy

Under the Bill's proposals:

- Councils will be able to require late night operators who supply alcohol between midnight and 6am to pay a levy in addition to their existing licence fees. The levy would be payable to licensing authorities, who would then deduct their administrative costs and could then use up to 30% of the levy income in providing extra measures to reduce or prevent crime and disorder. The remaining 70% of levy income must be paid to the police.

LG Group view

- The late night levy does not address the fundamental problem of council tax payers subsidising the licence fees, as the bulk (70% minimum) of the levy is payable to the police.
- Councils want to encourage thriving town centres and night time economies, and the Group is concerned that this is an overly bureaucratic charge that does not allow councils the flexibility they need to provide the high level of services in the night time economy that business and communities deserve.

Other changes to the licensing system

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Under the Bill's proposals:

- The burden on councils to produce, consult on and publish a licensing policy statement every three years will be replaced with a system by which councils can update policies whenever necessary.
- The extension of "Early Morning Restriction Orders to be applicable between 24:00 and 06:00 (previously 03:00 to 06:00)
- Fines for underage sales will be doubled from (from £10,000 to £20,000).

LG Group view

- The Group welcomes the proposal to introduce a more flexible system of local licensing policy-making, as it allows councils to respond to the needs of the community and of businesses, rather than to Whitehall-imposed timescales
- The Group supports the intention to reduce underage sales and increase operator awareness of the seriousness of licensing offences. We are unconvinced however that operators who previously did often accept two-day closures, would be willing to consent to a seven-day closure, and may instead opt for trial at the magistrates' court and attempt to delay / avoid closure.

Seizure powers under byelaws

Under the Bill's proposals:

- Local authorities will be able to seize and retain property in connection with any breach of a byelaw.

LG Group view

- The LG Group welcomes these new powers which will allow councils to clamp down on breaches of trading standards.