



LEGAL

Clifton Davies Consultancy Ltd

Clifton Davies Consultancy Limited specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. The views expressed by David Clifton and Suzanne Davies are given without any assumption of liability on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct. E: dc@cliftdavies.com / sd@cliftdavies.com W: cliftdavies.com

What lies ahead?

Suzanne Davies comments on a recent House of Lords debate about licensing reforms

There was a time last year when it looked as if 2018 would see major reform of the licensing regime in England and Wales. This followed the damning indictment by a House of Lords Select Committee on the manner in which local authority licensing committees presently consider licence applications.

However, it all effectively came to nothing because in its response to that report, published last November, the government made it clear that it has no intention to be hasty in instigating a "radical comprehensive overhaul" of the Licensing Act 2003, of the type contained in the Select Committee's 70 far-reaching conclusions and recommendations.

Instead, the government appeared to think that the serious shortcomings identified in the report would be satisfactorily remedied merely by more consultations, more guidance and more training. Many from within and outside the industry considered this to be a woefully inadequate, ill-considered and dismissive response.

It was therefore with considerable political diplomacy that Baroness McIntosh of Pickering, chair of the Select Committee, moved the following motion for debate by the House of Lords just before Christmas: "This House takes note of the Report from the Select Committee on the Licensing Act 2003".

Introducing the motion, she focused on the principal recommendations in her Committee's report, saying: "Applicants, businesses, residents or the lawyers representing them were all critical of the decision-making generally and, in some cases, the denial of basic justice... while better training and guidance may help, they cannot mend the basic flaws of the system."

Responding on behalf of the government, Baroness Williams of Trafford acknowledged that improvements in practice could be made but focused on a licensing handbook that is being written by the Local Government Association, describing it as "a valuable guidance document for those working in the licensing regime on a day-to-day basis" that would "fulfil a role that the statutory Section 182 guidance cannot". We all await that apparent cure-all guidance with considerable interest.

She went on to say that "changes introduced by [the] Policing and Crime Act will improve the Late Night Levy and aim to increase its use by making it more flexible, fairer to business and more transparent". So far, only eight local authorities have brought in a Late Night Levy – Newcastle upon Tyne, Nottingham, Southampton, Islington, the City of London, Chelmsford, Camden and Cheltenham, the last of which subsequently abandoned it in favour of its existing Business Improvement District scheme. It has been reported that the total income generated by the levy has been "hugely disappointing", with Katherine Brown, chief executive of the Institute of Alcohol Studies, describing it as "ineffective and under-deployed". It should have been scrapped altogether.

So is there any good news? Depending on your viewpoint, the head of the NHS is considering the introduction of a national network of city centre "drunk tanks" to relieve pressure on A&E departments, commenting that "NHS doesn't stand for National Hangover Service" – the Home Office will apparently consult later this year on extending licensing controls to airport bars and the Planning (Agent of Change) Bill, which would require property developers to take account of pre-existing live music venues before moving forward with a building project, has received its first reading in the House of Commons. More news when we have it! 🍷

QUESTIONS & ANSWERS

Q: Can we no longer serve steaks on a wooden plate?

A: A £50,000 fine was recently imposed on a Birmingham restaurant for serving food on unhygienic wooden boards. That case was very much decided on its own specific facts. However, it is worth taking into account the following comment made by the Food Standards Agency on its website: "Wood is generally not acceptable as a food contact surface as it is difficult to clean and disinfect and may shed splinters, but it may be acceptable for the storage and maturation of hard cheeses only on this surface, as long as the surface is well maintained."

Q: Are licensing fees going to be set locally in future?

A: The short answer is "not at the moment". A previous such proposal was rejected in 2015. The government's current position was summarised in December as follows: "Recent Budgets have offered business rate relief to pubs following the recent revaluation of business rates. A move to locally set licensing fees or an increase in the centrally set fees at this stage would undermine the assistance that the rate relief has given licensees. The government therefore considered that now is not the time to make changes to licensing fees, but the policy will be reconsidered in due course."

Q: My Freedom of Information request about a licensing matter has been refused by the council. What can I do?

A: Without knowing more, I can only say that the council should have told you why it cannot provide the information you requested. It might need you to be more specific about what you want or it might be taking the view that disclosing the information would be harmful to another person or it would be against the public interest to disclose it. The council can also refuse your request if it will cost more than £450 to find and extract the information. Ultimately, if you remain dissatisfied, you can complain to the Information Commissioner's Office.