



Licensing team update — May 2017

# Hotel and leisure Election special

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**Welcome to our May 2017 bulletin, in which we consider topical issues for the licensing leisure sector. In this edition we focus on the possible impact of the 2017 General Election; updates on the "late night levy", the implications of the Immigration Act 2016 and proposed reform to the Licensing Act 2003.**

### Lend me your vote!

Given the importance of Brexit to the main political parties, it is perhaps not surprising that their manifestos are light on commitments for the leisure sector. The Labour Party has pledged its support to the "sugar tax" and promised a national review of the sustainability of local pubs. The Liberal Democrats propose a minimum price for alcohol, but this will be subject to the outcome of a legal challenge to the Scottish scheme. The Conservatives have focussed on reform to business rates with more frequent revaluations.



Source: Shutterstock

### Late Night Levy

As mentioned in previous bulletins, adoption of the levy remains at low levels. However, two further authorities have decided to introduce the levy. Liverpool Council's levy took effect on 1st April 2017 and Tower Hamlets Council's will take effect on 1 June 2017. Of interest to operators are the variations between authorities in exemptions from the levy. Liverpool Council has restricted these to premises supplying alcohol between midnight and 06:00 on New Year's Day and (to prevent

double-counting) premises where the ratepayer is already payer a Business Improvement District levy imposed to reduce crime and disorder. Tower Hamlets has the same exemption for New Year's Day but also includes certain hotels; theatres; cinemas; bingo halls and community premises such as amateur sports clubs. If you are facing the prospect of a levy, we can check whether there is a transition period during which you could vary your licensing hours to avoid liability.

### Immigration Act 2016

From 6 April 2017, the Immigration Act 2016 has imposed a requirement on individuals applying for a personal licence to be entitled to work in the UK. Guidance issued by the Home Office states that an individual is disqualified from applying for a personal or premises licence by reason of their immigration status if:

- Leave to enter or remain in the UK is required but has not been granted; or
- The individual's leave to enter or remain in the UK is invalid or has ceased to have effect or contains restrictions prohibiting the carrying out of licensable activities.

The guidance also contains anti-discrimination guidance for licensing authorities in that they should: "demonstrate a fair, transparent and consistent application process." The guidance makes it clear that: "Assumptions should not be made about a person's right to work in the UK or their immigration status on the basis of their nationality, ethnic origin, accent, the colour of their skin, or the length of time they have been living in the UK". If a licensing authority decides not to issue someone with a licence due to the fact that, for example, they are not a British citizen, this will be directly discriminatory on grounds of race. Licensing authorities should also be wary of instituting a policy of favouring the local workforce over another group, for example EU nationals, when it comes to issuing licences as such a policy will be indirectly discriminatory and will have to be objectively justified. Such justification will in all likelihood be difficult.

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**Reform of the Licensing Act 2003**

On 4 April 2017, the House of Lords' Select Committee published its report recommending far reaching reform of this Act. The headlines:

- Local authority licensing committees are not effective, resulting in "haphazard decision making". Instead, responsibility should be transferred to the greater resourced and more experienced planning committees with a right of appeal to planning inspectors.
- Promoting health and well-being should not be added to the four existing licensing objectives as the Committee considered that (although a laudable overall government strategy) it was not: "capable of relating to specific premises and particular licensing applications."
- In addition to police and local environmental health officers, licensing authorities should have the power to object to temporary event notices.
- As no Early Morning Restriction Orders have been made restricting early morning alcohol sales they should be abolished.
- The low level of take-up of the late night levy (together with the impression that it is being used as additional general taxation) means that it too should be abolished.

Whether or not the report's recommendations are implemented may depend upon the outcome of the General Election.

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