Local Government Association briefing:
Local Government Ombudsman (Amendment) Bill –
House of Commons Committee Stage
To be held on 11 January 2012

What the bill is trying to do

Under the bill as drafted, councils will be required to provide written reasons for rejecting event applications on the same day that the decision is made, when the rejection is on grounds of health and safety. The applicant can then request the local authority review its decision. It must do so within two weeks. The council must then issue a written statement of its position.

If the local authority bans the event on the grounds of health and safety, then the applicant can appeal directly to a local commissioner or the ombudsman. Where the commissioner/ombudsman finds fault with the authority, the council must implement all recommendations within three months. The commissioner can compel the local authority to pay compensation to the rejected applicant.

LGA view

The LGA acknowledges the good intentions behind the bill, but does not believe that introducing additional legislation and bureaucracy is necessary. The proposals stand to cause confusion with existing appeals processes and will create an extra financial burden on councils without achieving better outcomes for applicants.

Councils are aware of the suggestion sometimes made that they can, on occasion, take health and safety concerns too far. Unfortunately, by taking a less cautious approach, councils can open themselves up to spurious claims that can end up costing the taxpayer significant sums. This is a problem which we would particularly welcome Government assistance in addressing.

In terms of this bill, the LGA and its member councils are keen to work with the Government on a common sense approach. Councils work with partners to ensure that event applications can wherever possible be approved. Our concern is that hasty legislation, which is not thought through properly, will create more problems than it solves for both local government and those seeking to put on temporary events.

When debating the bill, Members of Parliament should also be aware that:

- Councils have a strong track record of working in partnership with communities to run successful events that can be enjoyed by all and which deliver substantial benefits for local areas. The licensing process fosters successful working relationships and helps deliver safe events that can promote a local area.

- Councils work closely with applicants to ensure events can take place if safe and practical to do so. Imposing a two-week deadline for review creates a confrontational situation and limits the ability of the council to discuss alternative approaches to running the event, enabling it to go forward.
• The Licensing Act 2003 requires councils to always provide a reason for rejecting the application.

• There are a variety of options available for event organisers to question decisions to reject a licence. Initially, an organiser would raise the issue with the relevant service manager. The Licensing Act 2003 and Police Reform and Social Responsibility Act 2011 then provide for an appeal to a magistrate against rejections. This appeal must be lodged within 21 days of receiving the rejection notice.

• Event organisers can also use local corporate complaints procedures or local politicians and have the right to a judicial review. All of these existing appeal processes apply to any aspect of the licensing process, rather than focusing on just health and safety matters.

• For notice of a rejection to be given on the day the decision is taken is highly impractical as many licensing meetings take place in an evening. If such notice were entirely necessary, it should be at least 24 hours.

• The bill proposes extending the review process to involve the local government ombudsman. The existing appeal process takes just over 21 days from the convening of the initial licensing panel, to securing an independent review of the decision by a magistrate. Introducing a role for the local government ombudsman would increase the duration of the review process as well as the costs involved for the authority.

• The bill does not remove the right to appeal to a magistrate. The licensing authority could thus face both ombudsman and magistrate and receive different decisions from them. If the ombudsman were to replace the magistrate fully, there would be no power to force councils to grant licences.

• A standard licensing panel hearing costs between £1,500 and £2,500, dependent on who is required to attend. Requiring councils to review the decision will double the overall cost of the licensing process, making it more expensive for everyone to apply for event licences.

• A legal presence, as is likely where the ombudsman could be involved, would further increase costs. Adding an additional stage, or stages, to the process imposes extra costs on councils at a time of scarcity of resources, in terms of both financial and manpower.

• The clause within the bill as drafted allowing the ombudsman to impose compensation effectively allows an unaccountable official to decide how much compensation a council should pay, with taxpayers footing the bill. This power is also very different from the ombudsman’s usual role of pure investigation without compensation, and therefore they will not have the experience to fulfil this role.

• As a minimum, the clauses relating to a two-week review and the role of the local government ombudsman must be removed. The existing rights to review by a magistrate or a judicial review, alongside corporate complaints procedures and accountable local politicians, provide access to timely redress without imposing extra costs on councils.

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