

**Local Government Association (LGA) Briefing,
Policing and Crime Bill
House of Lords, Committee Stage
Wednesday 26 October**



Key messages

- We **support Amendment 190 tabled by Baroness Walmsley** which seeks to prohibit the use of police stations as places of safety. The LGA supports the position that a police station is not an appropriate place of safety for a person of any age experiencing a mental health crisis. We are calling for additional funding to ensure new places of safety are available in residential, hospital and care settings.
- We are calling for **further clarity on Amendment 193 to insert a new clause after Clause 81, tabled by Baroness Walmsley**. This seeks to ensure a person detained in a place of safety under section 135 or 136 of the Mental Health Act 1983 shall have the right to an appropriate adult. We would like to understand whether section 2 (b) of the amendment would enable an Approved Mental Health Professional (AMHP) to also act as an appropriate adult in this instance
- The LGA **supports Amendment 209C to insert a new clause after Clause 122, tabled by Baroness Williams of Trafford**, which seeks to ensure licensing authorities give regard to cumulative impact assessments when determining or revising licensing policy. This clarifies that licensing authorities have a legal right to publish cumulative policies that enable them to take into account the impact of multiple existing premises in an area when considering whether further authorisation in that area should be made.
- We also **support Amendment 209D to insert a new clause after Clause 122, tabled by Baroness Williams of Trafford**, on late night levy requirements. The amendment would allow licensing authorities to decide whether a late night levy should apply to premises in a particular part of their area, rather than to whole local authority areas.
- **We support Amendment 211 to insert a new Clause after Clause 122, tabled by Lord Brooke of Alverthorpe**, to amend Section 4 of the Licensing Act 2003 to promote the health and wellbeing of the locality and local area. In 2016 an LGA survey of Directors of Public Health revealed that many directors found practical barriers to effectively contributing a health perspective to licensing decisions. 89 per cent of Directors of Public Health who responded said a health and wellbeing objective would be helpful to themⁱ. **We recommend Amendment 210 on compliance with the provisions of the Equality Act 2010 should be considered as part of the health and wellbeing objective.**
- **The LGA supports Amendment 214 to insert a new clause after Clause 122, tabled by Lord Bishop of St Albans, Lord Beecham and Lord Clement-Jones** which places conditions on the availability and use of gaming machines

Briefing

in licensed premises. Recent research indicating higher levels of problem and at risk gamblers near clusters of betting shops highlights why councils need extra powers to limit the availability of betting shops and gaming machines in their communities.ⁱⁱ

- The LGA supports the intention of Amendment 221 to insert a new clause after Clause 145, tabled by Lord Rosser, to ensure that children who have been or are suspected to have been sexually exploited receive the mental health support they need. However, we would suggest that additional investment is needed in Children and Adolescent Mental Health Services (CAMHS) to address the fundamental challenges that services face.

Amendment Statements

Amendment 190, by Baroness Walmsley, to prohibit the use of police stations as places of safety

This amendment is welcome recognition of the important role that councils play in the provision of places of safety through local social services under the National Assistance Act 1948. We support the position that a police station is not an appropriate place of safety for a person of any age experiencing a mental health crisis. Additional funding should be made available to ensure new places of safety are available in residential, hospital and care settings.

The Government's recent investment of £15 million in grants to create new places of safety is a positive step.ⁱⁱⁱ However, the funding has been allocated directly to NHS Trusts and police force areas, rather than to local authorities. Given that a place of safety includes residential accommodation provided by local social services, we would suggest local authorities should have access to this funding.

Amendment 193, by Baroness Walmsley, Detention under the Mental Health Act 1983: Access to an appropriate adult

We are calling for further clarity on Amendment 193, tabled by Baroness Walmsley, which seeks to ensure a person detained in a place of safety under section 135 or 136 of the Mental Health Act 1983 shall have the right to an appropriate adult. Local authorities are the primary providers of an appropriate adult, and they currently provide an Approved Mental Health Professional (AMHP) when there is a case for an individual to be detained under section 135 or 136 of the Mental Health Act 1983.

We would like further clarity on whether section 2 (b) of the New Clause would enable an AMHP to also act as an appropriate adult in this instance. We would have concerns about the resource implications of an expectation that councils would provide additional appropriate adults, which is not a statutory duty for councils, but something they do still provide. This New Clause should be considered alongside the Home Office's review into the definition of an appropriate adult and their provision.

Amendment 209C to insert a new clause after Clause 122, tabled by Baroness Williams of Trafford, on cumulative impact assessments

This amendment clarifies that licensing authorities can publish cumulative impact policies that can be taken into account when considering licensing applications in the area to which the policy applies.

Councils recognise the significant and positive impact that licensed premises and activities have on their local areas, and the importance of delivering their licensing responsibilities effectively. There are many benefits to having a successful and diverse licensed sector; ranging from employment; cultural and tourism value;

community and social hubs; and general wellbeing.

However, licensed activities can also impact negatively on an area; with risks arising from drunkenness, violence, anti-social behaviour, noise and disturbance. These problems can be compounded where there are multiple premises in an area, and, in some cases, a cumulative impact policy will be appropriate in order to identify specific risks or circumstances that need to be managed in those areas.

Cumulative impact policies therefore help signal to businesses what measures are required in order for a business to make a successful licensing application in certain areas. In a small number of cases, they may provide a basis for refusing further applications if the risks outweigh the benefits. Cumulative impact policies and assessments are an extremely helpful tool for licensing authorities in balancing the positive benefits and risks associated with some licensed businesses, and we support them being placed on a clear statutory basis.

Amendment 209D to insert a new clause after Clause 122, tabled by Baroness Williams of Trafford, to introduce late night levy requirements.

The amendment would allow licensing authorities to decide whether a late night levy requirement should apply to a particular area with regards to late night alcohol authorisations.

The Late Night Levy can be effective as it in part addresses the shortfall in income that otherwise prevents councils from taking forward innovative ideas for managing the late night economy. However, the requirement to apply it to licensed premises in the whole local authority area has limited its use to smaller urban areas, rather than larger areas in which the night time economy might be concentrated among a small number of businesses operating in just one part of the area. Councils should be able to define specific areas for the levy to apply to, which the amendment looks to achieve.

Amendment 211, tabled by Lord Brooke of Alverthorpe, to amend Section 4 of the Licensing Act 2003 to promote the health and wellbeing of the locality and local area.

Although the Act does not require substantial change, it should be amended to include a public health and wellbeing objective. The need for this objective is reinforced by an LGA survey which showed 89 per cent of Directors of Public Health support its inclusion^{iv}. We are pleased the Health Committee supported the inclusion of a public health objective in planning and licensing law, to give councils greater powers to tackle the health issues in their communities.^v

Including wellbeing as part of a health objective would encapsulate considerations such as the health impact of noise and light nuisance, which a court^{vi} recently confirmed were relevant factors in licensing decisions. It would also allow the positive mental health benefits of social engagement in the secure environment of a pub to be considered on the positive side of an application; and provide a clear framework for councils' to deliver their responsibilities under the Equalities Act 2010.

Amendment 214, tabled by Lord Bishop of St Albans, Lord Beecham and Lord Clement-Jones, seeks to place conditions on the availability and use of gaming machines in licensed premises.

Analysis of betting shop loyalty card holders shows that 28 per cent of those living within 400 metres of a cluster of betting shops are problem gamblers, compared with 22 per cent of those who don't live near them. Those living in areas with a

higher number of bookmakers were also more likely to be problem or at-risk gamblers compared with those in areas with fewer betting shops. The increased risk of being a problem or at-risk gambler was greater among those living near a cluster of betting shops. This suggests that clusters themselves may be associated with particular risks.^{vii}

With figures showing 18 per cent of problem gamblers in the UK have debts of between £20,000 and £100,000, it is clear that councils need new licensing powers to help tackle gambling harm. Cumulative impact tests need to be introduced to enable councils to reject applications for new betting shops where there are already existing clusters of shops.^{viii}

We also want the current £100 maximum stake on Fixed Odd Betting Terminals (FOBTs) in betting shops reduced to bring them in line with maximum stakes on other gaming machines allowed on high streets. It is encouraging to see the Department for Culture, Media and Sport has issued a call for evidence as part of its review into gaming machines, especially as the stakes for FOBTs will be considered as part of the review.

Amendment 221, tabled by Lord Rosser, on the duty to refer cases of child sexual exploitation

We support the intention of Amendment 221, tabled by Baroness Walmsley, to ensure that children who have been or are suspected to have been sexually exploited receive the mental health support they need. There are overarching challenges relating to assessment and access to Children and Adolescent Mental Health Services (CAMHS) which can cause a barrier to supporting children who have been or are suspected to have been sexually exploited.

By placing a statutory duty to refer, assess and support this specific group of children, there will be an additional strain on these under-funded services, and may adversely affect children who have experienced other forms of trauma and/or mental health issues. We believe that additional investment in CAMHS and greater national recognition and resourcing of the CAMHS services that councils provide would have a significant impact in supporting the mental health of all children.

ⁱ This survey has been separately submitted to the Committee following the LGA's oral evidence.

ⁱⁱ http://www.local.gov.uk/community-safety/-/journal_content/56/10180/7906898/NEWS

ⁱⁱⁱ <https://www.gov.uk/government/news/government-announces-successful-bids-to-15-million-mental-health-fund>

^{iv} <http://www.local.gov.uk/documents/10180/11493/research+-+health+-+LGA+survey+-+Public+Health+and+the+Licensing+Process+Findings+2+feb+2016/8758dd6d-da38-4221-b23e-b56790fb6e66>

^v <http://www.parliament.uk/business/committees/committees-a-z/commons-select/health-committee/inquiries/parliament-2015/public-health-post-2013-inquiry-15-16/>

^{vi} <http://www.morningadvertiser.co.uk/Legal/Licensing-law/Courts-protect-famous-music-pub-in-landmark-victory>

^{vii} http://www.local.gov.uk/community-safety/-/journal_content/56/10180/7906898/NEWS

^{viii} http://www.local.gov.uk/community-safety/-/journal_content/56/10180/7906898/NEWS