



Home Office

Direct Communications Unit
2 Marsham Street
London
SW1P 4DF

Tel: 020 7035 4848
www.homeoffice.gov.uk

Mr Paul Skinner,
Leader,
Boston Borough Council
paul.skinner@boston.gov.uk

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Dear Mr Skinner,

Thank you for your letter to the Home Secretary of 13 January 2021 about changes your council proposes to the law on licensing alcohol and tobacco. I have been asked to reply as a member of the Home Office's Alcohol Team.

The first of your proposals would, in effect, suspend a premises licence to sell alcohol while the licensee appealed against a decision of a licensing committee. As you may be aware, summary review procedures allow interim steps that can include suspension of the licence prior to a hearing. That suspension may be continued pending an appeal. However, summary reviews and interim steps are reserved for cases where the premises are associated with serious crime or serious disorder or both. Many licenced premises could not trade at all without permission to sell alcohol and so suspending the licence is a serious measure. We believe that it is right that it should be reserved for the most serious cases. For the same reasons, the closure of premises alleged to be in breach of a licence condition prior to a hearing appears disproportionate.

You propose that the Government licence the sale of tobacco, in view of significant losses to the Treasury due to the illicit sales of this product. Her Majesty's Revenue and Customs (HMRC) launched a consultation in 2016 seeking views on adopting mandatory control of tobacco manufacturing equipment and whether the UK should license wholesalers, retailers and brokers of tobacco products. HMRC concluded that sales of illicit tobacco through legitimate retailers represent only a proportion of total illicit sales and most retailers are fully compliant with the law in this area. Therefore, it is difficult to make a strong case for retailer licensing as a measure to reduce illicit sales.

Retailers that choose to sell illicit tobacco do so knowingly and so breaching the terms of a licence is unfortunately unlikely to have a significant impact on behaviours. HMRC already applies a number of sanctions against retailers found selling illicit tobacco, including financial penalties.

The tobacco track and trace requirements add additional supply chain controls and some form of registration for at least part of the tobacco supply chain. HMRC is also currently consulting on tougher sanctions linked to the Track and Trace requirements for use against retailers found selling illicit tobacco.

You may be interested to know that the Government will publish a new Tobacco Control Plan for England to outline its Smokefree 2030 ambition. The Government will consider future policy proposals that will help address illicit tobacco and assist people stop smoking via this new plan, which will be published in the Summer.

You also recommend in your letter that police and senior council officers be empowered to serve fixed penalty notices for breach of licence conditions. As you will be aware, fixed penalty notices may be issued by the police, local authorities and some other agencies for a variety of offences relating to motoring, the environment, anti-social behavior and public disorder. Our view is that a broadening of the relevant offences to include any breach of premises licence conditions is unnecessary. Where there is a breach of licence conditions, it is already possible to charge the licensee with an offence under section 136 of the Licensing Act of failing to carry on a licensable activity in accordance with an authorization. It is also possible to review the licence, amending the conditions, applying new ones or revoking it. In less serious circumstances, other measures are also available to the police and local authority officers, including a formal warning or agreeing an action plan to rectify any deficiencies. We believe that this range of measures is sufficient.

You also propose that all eleven responsible authorities should be required to consider every application and review. It is right that responsible authorities should take their role seriously. However, in practical terms, setting the standard for the required evidence for consideration would be challenging. If a nil return response were acceptable, it may not lead to any improvement. If, on the other hand, a response with a significant level of detail were required to satisfy a licensing committee that there had been a careful reading of an application, the resourcing of that work would need to be addressed, or significant delays in the administration of licensing would have to be accepted.

Your final proposal is that Parliament be asked to increase the licensing fees. In 2020/21 premises licensed to sell alcohol have operated under restrictions that have varied with time and place. Recent evidence from trade organisations and other sources has revealed huge financial losses by the hospitality industry. The British Beer and Pub Association has estimated a year on year decrease in beer sales of £7.8bn in 2020. A Resolution Foundation survey published this month suggests that more than half of hospitality companies have less than three months' worth of cash reserves remaining. In the light of this, the time does not seem right to increase the financial burden on hospitality businesses by raising the licensing fees.

Thank you for taking the time to write to the Home Office.

Andy Parsons

Email: Public.Enquiries@homeoffice.gov.uk