



### ACS Submission: Policing and Crime Bill

1. ACS (the Association of Convenience Store) welcomes the opportunity to respond to the Public Bill Committee's call for evidence to inform their consideration of the Policing and Crime Bill. ACS represents 33,500 local shops across the country, including the Co-operative Group, Spar, Costcutter and thousands of independent retailers. This briefing sets out ACS' views on Part 7 of the Bill relating to changes to the Licensing Act 2003. We have two main concerns relating to the Bill:
  - a. Clause 87 will remove parliamentary sign off of the section 182 guidance which informs local authorities and licensees how to interpret the Licensing Act. Changes to this document have a significant impact on licensees so we are seeking reassurance that the Home Office will commit to consult extensively with on-trade and off-trade representatives before any changes are made to the section 182 guidance if they are no longer going to go before parliament.
  - b. We welcome the Government's approach to the Modern Crime Prevention Strategy published in March 2016<sup>1</sup> and want to work closely with the Home Office to deliver proposals contained in the strategy. However, we do not believe it would be appropriate to use the Policing and Crime Bill as the legislative mechanism to deliver legislative changes in the Strategy at a late stage in the Commons Bill process. Local authorities, off-trade and on-trade representatives need time to consult with relevant stakeholders and ensure any legislative changes are fit for purpose.
2. We have expanded on these points in more detail below and would be available to provide further evidence to the Public Bill Committee. If you have any further questions, please contact Julie Byers, ACS Public Affairs Executive, at [Julie.Byers@acs.org.uk](mailto:Julie.Byers@acs.org.uk) or call 01252 515001.

#### Clause 87 - Licensing Act 2003: guidance

3. Clause 87 proposes that the section 182 guidance, which is used by licensees and local authorities to interpret the Licensing Act, should no longer be laid before Parliament for approval. The section 182 guidance has been cited as "*the key document on which local authorities rely, in their role as licencing authorities*"<sup>2</sup> to uphold licensing objectives.
4. Parliamentary scrutiny of the section 182 guidance is an important process to ensure that Ministers or Home Office officials do not attempt to deliver significant changes to licensing policy or the interpretation of licensing policy. It is particularly important as the section 182 guidance can have a significant impact on licensees and local

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<sup>1</sup> [Home Office Modern Crime Prevention Strategy, Chapter 7, Alcohol As A Driver of Crime](#)

<sup>2</sup> [House of Commons Research Briefings: Alcohol: objecting to a licence](#)

authorities' application of licensing law as the examples provided below will demonstrate.

5. ACS is concerned that removing the requirement to table the section 182 guidance before Parliament will mean that changes to the guidance can be implemented without proper scrutiny. A number of significant changes have been made to the guidance over recent years (as demonstrated in the examples below) and only on two occasions (2007, 2012) has the guidance had any formal consultation. ACS is seeking reassurance that if the section 182 guidance will not be tabled before Parliament, the Government will commit to formalising their consultation process with local authority and industry representatives before changes to the section 182 guidance are brought forward. We would also welcome clarity on who will have ownership of the section 182 guidance and on the changes made to the guidance going forward.
6. See below for examples of significant changes which have been made to the section 182 guidance in the last two years without a formal consultation process:
7. Addition of the Portman Group Code as a licensing condition: In 2014, the section 182 guidance was revised to include a specific reference to the Portman Group Code as potential licensing condition. Concerns were raised about the operational challenges that retailers would face, particularly independent retailers receiving notification of amendments to the group code. Moreover, the Portman Group is a non-statutory body set up to encourage responsible marketing practices by alcohol suppliers. Their inclusion within the section 182 is a step towards giving them statutory status.
8. Establishing the primary use of a forecourt: In order for a convenience store with a forecourt to sell alcohol, it must prove that its prime function is as a retail outlet. The section 182 guidance was amended so local authorities could request information at any point in time to establish the primary use of the forecourt, not just at the point of application. This could have significant cost and administrative implications for the business and such changes should have been subject to consultation.
9. Reference to use of health data relating to health harms for local authorities: New sections have been added to the section 182 guidance which determine how local authorities should use alcohol related health data in relation to licensing decisions and licensing reviews. The use of health data will have significant implications for licensees and local authority licensing departments and should therefore be subject to formal scrutiny.
10. The changes outlined above have been introduced without a formal consultation with industry stakeholders and local authorities. The only consultation that took place was the tabling of the revised guidance in Parliament. We would welcome assurances that formal consultation will take place among local authority and industry stakeholders on any changes made to section 182 guidance if it is no longer being tabled before Parliament. This will ensure that any revisions made to the guidance will be proportionate, workable and not place undue burdens on licensees or local authorities.

## **Modern Crime Prevention Strategy**

11. We welcome the recent publication of the Home Office Modern Crime Prevention Strategy and its focus on partnership working. The convenience sector is committed to working with the Home Office and local authorities in order to tackle alcohol-related crime. The Modern Crime Prevention Strategy also included proposals to make some legislative changes, for example, giving Cumulative Impact Policies (CIPs) statutory footing.
12. ACS has not called for a change to the status of CIPs in guidance or in legislation but understands the Government will be proceeding with this. Any legislative changes of this nature should be delivered after careful consideration, allowing enough time for full public consultation and for Parliament to debate the issues.

#### *Cumulative Impact Policies (CIPs)*

13. The Modern Crime Prevention Strategy announced that CIPs would be placed on a statutory footing. ACS has not called for CIPs to be placed on a statutory footing and we have concerns that in doing so many local authorities will attempt to restrict the number of licensed premises in an area. The Policing and Crime Bill is **NOT** the right legislative mechanism to deliver CIPs on a statutory footing. This Bill is in the late stages of the legislative process in the House of Commons, which would reduce the time for members to debate the issues, while no public consultation has taken place about changes to CIPs.
14. Placing CIPs on a statutory footing will have a serious impact on local shops and their ability to expand and invest. CIPs introduce a 'rebuttable presumption' for all alcohol licensing applications in a CIP area, meaning local authorities will automatically refuse a licensing application in a CIP area regardless of the due diligence and good practice the retailer displays. This is unfair, undemocratic and places retailers in an impossible position of having to show that they will not have a negative impact on the licensing objectives. How can licensees prove they will not have a negative impact?
15. Despite claims that a cap on the number of off-trade premises would affect the level of alcohol harm, no causal link has been established<sup>3</sup>. Limiting licences only deters new stores from opening and protects businesses operating irresponsibly from more compliant and responsible competition. ACS believes that to prevent alcohol-related harm, local authorities must focus on the quality and compliance of retailers in the market and not on the volume. This can be achieved by using existing penalties to remove licenses from irresponsible retailers that do not support the licensing objectives and engage in illegal activity like the sale of non-duty paid or illicit alcohol.
16. Putting CIPs on a statutory footing will require careful consideration and debate about a range of issues and should not be introduced without regard for the concerns of local shops, other licensees and local authorities' views. There are significant discussions required about; the evidence thresholds required to introduce a CIPs, the type of evidence used to justify a CIP (local and up-to-date), the annual evaluation process of a CIP policy and a mechanism for businesses to appeal decisions.
17. The introduction of CIPs will also have serious implications for investment on high streets at a time when vacancy rates across the UK remain stubbornly high at

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<sup>3</sup> Alcohol Concern's/ University of West England Report: [One on Every Corner](#) states in its methodological qualification that it does not prove a cause and effect of alcohol harm and availability. Also lack of reliable health data and exclusion of regions undermines the report's assertions.

12.7%<sup>4</sup>. It will limit communities' ability to access a range of other essential services offered by local shops such as bill payment services (53%), Post Offices (20%), and free to use cash machines (38%). ACS' Community Barometer<sup>5</sup> identifies that convenience stores are in the top three businesses on high streets that have the most positive impact on communities.

**For more information on ACS' submission, please contact Julie Byers, ACS Public Affairs Executive at 01252 515001 or email [Julie.Byers@acs.org.uk](mailto:Julie.Byers@acs.org.uk)**

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<sup>4</sup> [Local Data Company 2015](#)

<sup>5</sup> [ACS Community Barometer 2015](#)