

**TITLE OF REPORT:** Case Law and Legislation Update  
**REPORT OF:** Mike Barker, Strategic Director, Corporate Services & Governance

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### **Purpose of the Report**

1. To inform the Committee of recent cases and amendments to legislation affecting the Licensing and Gambling Acts.

### **Legislation**

2. The Policing & Crime Act 2017 approved the amendment of the Licensing Act 2003 to place cumulative impact policies on a statutory footing by introducing the concept of "cumulative impact assessments", which will enable the Council to identify parts of the Borough where it is considered likely that it would be inconsistent with the Authority's duty to promote the Licensing Objectives to grant any further premises licences or club premises certificates in those places. This new statutory power will supplement the work being undertaken to develop 'local licensing guidance' which will help inform applicants, licensees and residents of the issues of particular concern in certain parts of the Borough. The date for the amendment to the Licensing Act to come into force is yet to be appointed.

### **Case law**

3. With regard to the Licensing Act, the Scottish case of *Martin McColl Ltd v West Dunbartonshire Licensing Board* (2017) LLR 551 illustrates the approach that the Courts take to cumulative impact as above. The Scottish legislation is slightly different and refers to 'overprovision' in certain areas. In the case in question the Licensing Board had refused to grant a provisional premises licence for a convenience store to begin selling alcohol on the basis that the applicant had not done enough to rebut the presumption to refuse due to existing overprovision in the relevant area. The Sheriff found on appeal that the Licensing Board had acted properly in making its decision, and emphasised the importance of giving full and clear reasons when making such decisions.
4. Members will also note the separate report regarding minimum unit pricing and the recent decision of the Supreme Court in the case of *Scotch Whisky Association and others v The Lord Advocate and another* (2017) UKSC 76.

5. With regard to the Gambling Act, the Court of Appeal case of Greene King Brewing and Retailing Ltd v Gambling Commission [2017] EWCA Civ 372 confirmed that the Gambling Commission had been entitled to refuse to grant operating licences to Greene King which would have enable the company to provide facilities for playing unlimited stake and prize bingo in its pub premises. The Commission formed the view that it would be harmful to the statutory Licensing Objectives for such high stakes gambling to be available in pubs, and the Court found that it was reasonable to anticipate that visitors to a pub, after consuming alcohol, might be vulnerable to available high stake gambling.

### **Recommendations**

6. The Committee Members are asked to note the content of this Report.

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**PLAN REF:**