

DCMS REVIEW OF THE LICENSING ACT 2003 SUMMARY OF FINDINGS

This first review of the Licensing Act reveals a mixed picture.

Its introduction has not led to the widespread problems some feared. Overall, crime and alcohol consumption are down. But alcohol-related violence has increased in the early hours of the morning and some communities have seen a rise in disorder.

Our main conclusion is that people are using the freedoms but people are not sufficiently using the considerable powers granted by the Act to tackle problems, and that there is a need to rebalance action towards enforcement and crack down on irresponsible behaviour.

There is clear evidence from a number of evaluation projects and official statistics that the negative forecasts about the impact of the new legislation have not materialised:

- There is no evidence of 24 hour drinking, with only a minority of premises securing 24 hour licences and very few actually utilising those hours. There have been only limited changes to actual opening hours.
- The overall volume of incidents of crime and disorder has remained stable and not risen.
- There is no evidence of increases in overall alcohol consumption.
- There has been no serious adverse impact on the provision of live music.

A number of positive trends have emerged from the introduction of the new regime:

- Transfer of alcohol licensing to local authorities is viewed as a success.
- The alcohol licensing system is more democratically accountable and residents are better able to influence licensing decisions.
- There is much better partnership working between local authorities, the police and other responsible authorities and licensees.
- The new powers, including the ability to review licences, have been welcomed by local authorities and the police, and are being used to good effect.
- The administrative arrangements for the new regime appear to have delivered the administration cost savings to businesses, third sector and other licence holders of around £99m a year.

There are, however, some aspects that require further attention:

- While some areas report improvements in dispersal from licensed premises because flexible opening hours have helped to smooth the peaks of trouble, there is no clear picture of consistent improvements in all areas.
- While there has been a small fall in serious violent crimes, the impact on overall crime levels appears to be limited, with evidence of some displacement into the small hours.
- The use of the new legislation, in conjunction with other interventions and as part of a coherent strategy, may vary between different authorities and areas.
- There has yet to be a discernible change in the diversity of evening and late night venues, although there is some evidence of good practice and success in certain areas.
- While benefits in terms of bureaucracy and red tape have been delivered, some stakeholders are experiencing difficulties, which suggest that the regime could be more proportionate in its application.
- While the impact on live music has been broadly neutral, reform has not led to the increases in events hoped for by Ministers, and the regime may be disproportionate for some types of live music events and other types of events.

The 2003 Licensing Act was a significant change in the way a number of activities were licensed and involved nearly 400 licensing authorities, 200,000 licence holders, responsible authorities and local people in every part of England and Wales. In general, the new licensing system appears to be functioning smoothly and has delivered a number of positive outcomes.

‘Whilst acknowledging that it is probably still too early to draw any firm conclusions about the new regime, the feedback we have received from stakeholders that have engaged with us throughout the review process – both local government and fee payers – has been generally positive about the intent of the Act. It seems to us that new licensing systems are working now that they are starting to settle down.’

KEY CONCLUSIONS

The Licensing Act could be used more effectively in some areas, in conjunction with other interventions, as part of a coherent and effective local strategy.

The National Audit Office report, *The Home Office: Reducing the risk of violent crime* recommended:

'To improve the effectiveness of violence reduction at a local level the Home Office should: Work with the Department for Culture, Media and Sport to raise awareness amongst Partnerships and the police about how the Licensing Act has been used successfully in some areas to reduce alcohol related violence and ensure that all areas are using the Act to its maximum potential to reduce the risk of violent crime.'

Several studies concluded that the impact of licensing cannot be considered independently of other factors. A report for the Alcohol Education and Research Council (AERC) published in January 2008 found that:

"Assessing the impact of the Licensing Act 2003 will require time. Furthermore, in the light of other interventions – such as the development of local alcohol policies and strategies and encouragement to mount partnership, multi-agency responses to prevention and harm reduction – it is unlikely that change can be attributed to any one kind of intervention."

Future monitoring should therefore focus on the effectiveness of national and local alcohol strategies, as well as the impact of late night drinking patterns on crime and disorder.

This suggests identifying and disseminating best practice, and that the Government should help partners understand how to use the Act to its maximum potential to tackle alcohol related problems (e.g. tough conditions which can be applied to retailers who are selling irresponsibly).

This effort will be assisted by the new Beacon Council theme 'Afterdark', to be launched on 4 March 2008 which will identify good practice in the development of a thriving, diverse, accessible and safe night time economy. Programmes such as the roll out of Best Bar None and the Civic Trust's purple flag initiative⁸ will also be important in the context of encouraging and disseminating best practice and celebrating success.

It is recognised that a strength of the new system is the ability of enforcement agencies to resolve issues without the need to go to a formal review. While this is an efficient and effective way to deal with many licensed premises, the number of licence reviews seems disproportionately low compared with, for example, the number of test purchase failures. There may be more scope to encourage further use of the review powers.

The statutory Guidance produced under section 182 of the Act was revised in 2007 and the changes have been generally well received. No significant issues were raised by stakeholders. However, the emerging message from various projects suggest there is scope for better use and understanding of the

legislation and how it can be used to promote the licensing objectives. This may not require significant change to the statutory guidance, but may instead take the form of guidance to enforcement authorities that, in due course, could be drawn together as a supplement to the guidance.

Work will also need to be undertaken with Local Authority Coordinators of Regulatory Services (LACORS) and other partners to ensure responsible authorities understand the requirements of the Act. There may also be a need to revise and update guidance to applicants and residents and ensure that the courts are aware of the options available when convicting personal licence holders.

In addition, the DCMS simplification plan has identified the need to make the licensing regime more flexible where there are no threats to the licensing objectives and to look at ways of adjusting the regime to remove unnecessary red tape. The aim is to promote better regulation by making the licensing process easier for low risk activities. This, in turn, will leave resources available to focus on higher risk applications as well as aiming to reduce paperwork for applicants, licensing authorities and responsible authorities, such as the police (for example by making it easier to make electronic applications).

Immediate actions

As a result of this evaluation and other evidence, the Government has agreed a number of immediate actions:

To make it easier to review premises where local intelligence suggests there is a problem;

To encourage the imposition of tougher sanctions on those found to be breaching their licensing conditions;

To change the offence of “persistently selling alcohol to a person under 18” from ‘three strikes’ to ‘two strikes’ in three months;

To support the police and local authorities to identify problem hotspots by ranking geographical areas and concentrations of premises on the basis of the risks they present to crime and disorder, public nuisance and children; and

To introduce a new “yellow card and red card” alert system. A yellow card will put the problem premises on immediate probation together with tough and uncompromising sanctions and a red card will lead to withdrawal of the licence.

In addition, the Home Office will bring forward legislation to:

- Increase the maximum fine for anyone not obeying an instruction to stop drinking, or to give up their drink in a designated public place from £500 to £2,500;
- Make it easier for the police to disperse anti-social drinkers;
- Extend the use of Acceptable Behaviour Contracts for young people caught drinking in public; and
- Extending the alcohol arrest referral pilots so that under-18s may also benefit from a brief intervention from a trained worker.

Conclusion

The report published today should not be the end of the monitoring and evaluation of the impact of the 2003 Act. The report published today is not the end of the story. We shall use it better to focus our scrutiny. For example, we shall we will undertake further comprehensive research into post-midnight drinking patterns and their impact on crime and order; and we shall carefully measure progress on tackling sales to minors and the protection of children from harm. Measures to toughen enforcement of the Act are only part of the Government's comprehensive strategy for combating the problems associated with alcohol. Licensing law will therefore remain an important part of the Government's National Alcohol Strategy which addresses, among other things, the need for cultural change, improved social responsibility among retailers and the need for earlier interventions with problem and harmful drinkers.

FACTS AND FIGURES

According to the DCMS Statistical Bulletin, as at 31 March 2007, there were 162,100 premises licences and 15,200 club premises certificates in force.

In the year from 1 April 2006 – 31 March 2007, over 100,000 Temporary Event Notices were given.

There were over a quarter of a million personal licence holders.

- 123,700 licences and certificates in force were authorised to sell alcohol:
- 32,900 premises licences were authorised for off-sale of alcohol only.
- 28,100 licences authorised on-sale of alcohol only, of which 4,900 were club premises certificates (e.g. political clubs, workingmen's clubs, British Legion etc)
- 62,700 allowed both on and off sales, of which 7,300 were club premises certificates. [approx. 70% response rate]
- Just over 50,000 premises were licensed for late night refreshment. [72% response]
- 72,600 premises licences and 9,100 club premises certificates were authorised for any form of entertainment. Over 260,000 regulated entertainment activities were authorised; the most common types of which were playing of recorded music and the staging of live music. [This is based on 68% of all LAs]
- 5,100 premises have 24 hour licences.
- 3,320 of which are hotel bars which have always been able to serve their guests alcohol for 24 hours.
- 920 are supermarkets and stores. We do not have any data on actual opening times of such premises, although one of the trade bodies representing the off-trade has suggested that one of its largest members reports that 15% of their stores with 24 hour alcohol licences do not actually open their stores for 24 hours. Others choose not to open their alcohol aisles for 24 hours, often following discussions with the police about local issues.
- 470 pubs, bars and nightclubs have 24 hour licences, but there is no evidence that more than a handful operate on that basis.
- Over 6,600 applications went to a committee hearing in 2006/07. [81% response rate]