

TEMPORARY EVENT NOTICES (QUESTIONS 19 – 20)

Consultation Question 19: What would be the consequences of amending the legislation relating to Temporary Event Notices (TENs)? (See sub questions 19a to 19d)

OVERARCHING GENERAL COMMENTS ON TENS

CONSULTATION RESPONSES

“Prior to the General Election, DCMS carried out a detailed consultation on proposed reform of the TENs regime. This included a number of sensible suggestions, including many which would have made the regime more responsive to business needs. Indeed it proposed expanding the number of TENs per premises per annum and streamlining the procedure for applying for them. These proposals were evidence based and attracted support from many groups. The Government response to the consultation exercise appears does not appear to be reflected in this new set of proposals and we are keen to understand what evidence has emerged between the earlier consultation and this to justify a reversal of policy.” (Trade Respondent)

“There are several possible solutions to these problems, all presumably needing legislation.

- repeal this section of the Act and grant freedom to village halls and church halls and sports groups from the need for a licence*
- confine the use of TENs to such groups*
- ensure that all licensing conditions on premises licences apply to TENs on licensed premises*
- Accept applications only from personal licence holders*
- remove the 96 hour facility*
- allow interested parties as well as responsible authorities to be involved in the licensing regime for TENs.*
- include all four licensing objectives in the eligibility to make representations.”*

(Public Respondent)

NATIONAL EVENTS

Many trade representatives did not see that there were any problems with TENs and did not understand why they needed to be changed. Several questioned what evidence the proposals were based on. Local government representatives were more welcoming of some of the proposals.

Some local authority and community representatives cited issues with public nuisance as a result of TENs.

Police representatives were generally in favour of the proposals on TENs as they felt they needed more time to consider applications and would welcome greater powers for local licensing authorities.

Several representatives of community organisations expressed concerns that proposals would

increase the burden on voluntary and community groups by increasing bureaucracy and cited difficulties with the inflexibility of the current TENS system.

Several trade representatives said that the proposals would increase bureaucracy and costs for business and result in restrictions upon spontaneous events. A suggestion from a legal representative was that a waiver should be introduced as with sex licensing, where a premises can quickly ask for a waiver for a simple exemption.

REGIONAL EVENTS

The main themes emerging from discussion regarding the range of proposals around Temporary Event Notices (TENS) at the Regional Events were:

- A range of comments focused on reducing “red tape” for small scale TENS. These included:
 - Ensuring uniform rules and procedures across all areas
 - A 2 tier approach to TENS with a very simple, low threshold process for charity, community and school events and another more demanding tier for bigger or commercial events. This 2 tier approach could allow smaller scale events to have a shorter notice period
 - Smaller temporary events could have a limit on the number of people who can attend – this may help to define the size or type of an event
 - Some felt that the proposals in the consultation for TENS would actually increase bureaucracy
 - Some suggested reducing the fee for those not running commercial events
- Another set of comments focused on the key problems with the current TENS system. These included:
 - Some felt that the cumulative impact of temporary events or licensed premises in the area should be considered as part of the process
 - Regular issues that arose include the length of time for applications being too short, that other bodies and responsible authorities should be allowed to potentially oppose them, no central database of TENS to check on numbers held, and that the form was not well designed
 - Some felt that the TENS process over rode the democratic process of licensing for premises
 - Some suggested that licensed premises should have to apply for a variation of licence rather than for a TENS or that larger events would require “super TENS” application process

Consultation Question 19a: All the responsible authorities can object to a TEN on all of the licensing objectives?

CONSULTATION RESPONSES

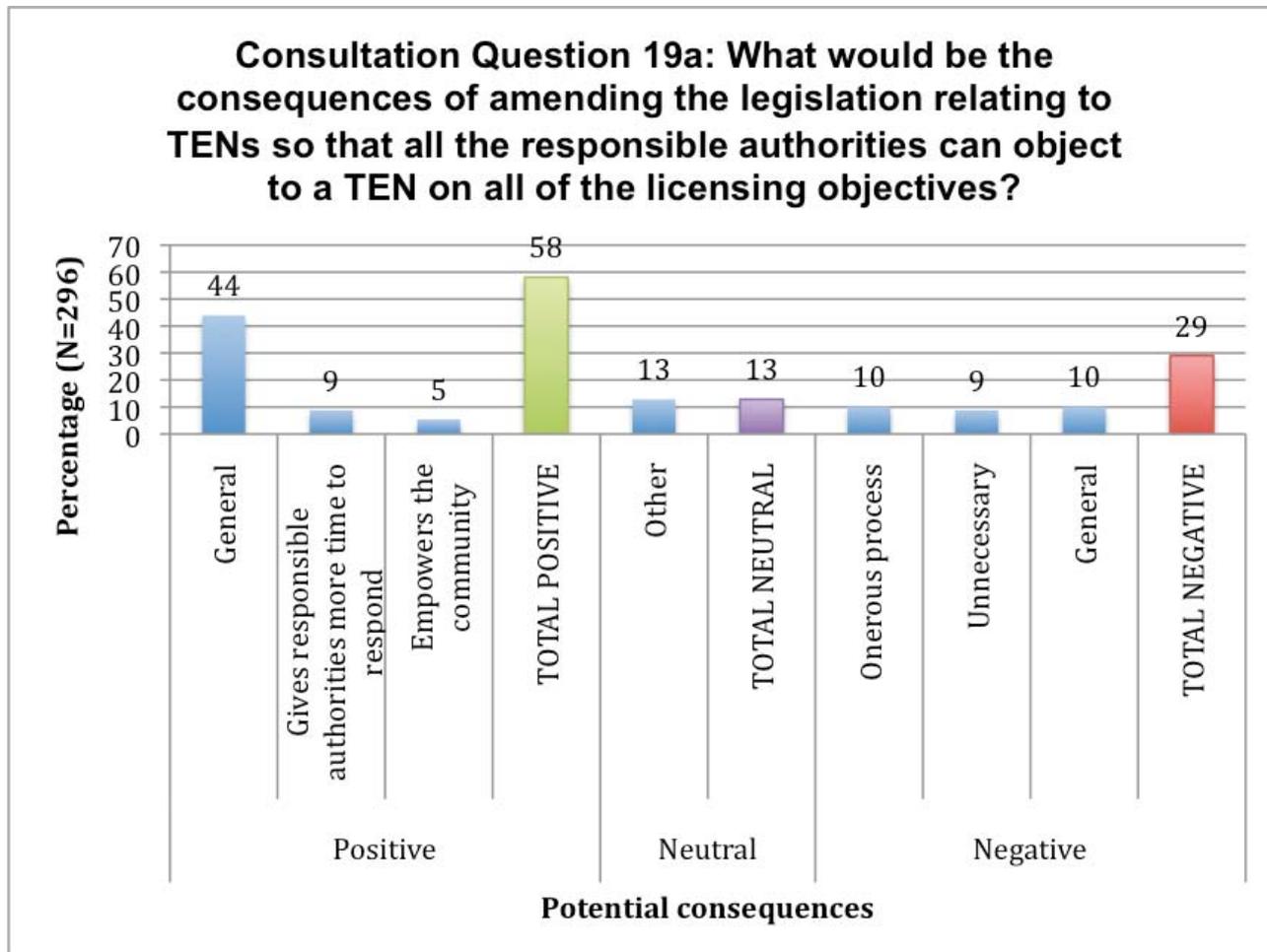


Figure 22

Responses to this proposal were broadly positive, with the majority approving of the benefit to the community. Of the minority opposing the proposed measure, it was regarded as potentially onerous and unnecessary.

“[We] fully support this proposal and believes that this is long overdue and common sense. All members can cite applications under the present system which have caused them serious concern on safety or public nuisance grounds however they have been unable to make objections.” (Police Respondent)

“The proposal is supported and it is recommended that the licensing authority is also involved in TENS consultations. Including all responsible authorities and the licensing authority in the consultation process will ensure that the three other objectives are factored into the TENS risk assessment. The inability to take account of these matters has resulted in TENS being issued for premises that are totally unsuitable for the proposed events. For example, the Council currently has serious concerns regarding premises operating under TENS and the lack of public safety consideration given by premises users:

- Example 1: the premises user wanted to hold an event on a green space in the middle of a

busy road. No experience of arranging events and no consideration given to public safety

- *Example 2: a premises user applied for a TEN allowing the sale of alcohol and regulated entertainment in respect of former warehouse type premises already being used for religious services. The Police found a substantial number of propane cylinders stored outside in the area for which the TEN was sought. Disturbingly, the fire exit had been bricked up. Thankfully, the applicant withdrew the notification after discussion with the Police.*
- *Example 3: TEN was sought for 499 persons in a former office block; the means of escape in case of fire was totally inadequate.”*

(Licensing Authority Respondent)

“The requirement to open TEN applications to comments from all responsible authorities will increase business costs of application and significantly slow down the process.”

(Trade Respondent)

NATIONAL EVENTS

There were objections from some legal and trade representatives about allowing relevant representations from all responsible authorities as this was not seen to be necessary. In other meetings there was general agreement across sectors that this was not necessary.

Consultation Question 19b: The police (and other responsible authorities) have five working days to object to a TEN?

CONSULTATION RESPONSES

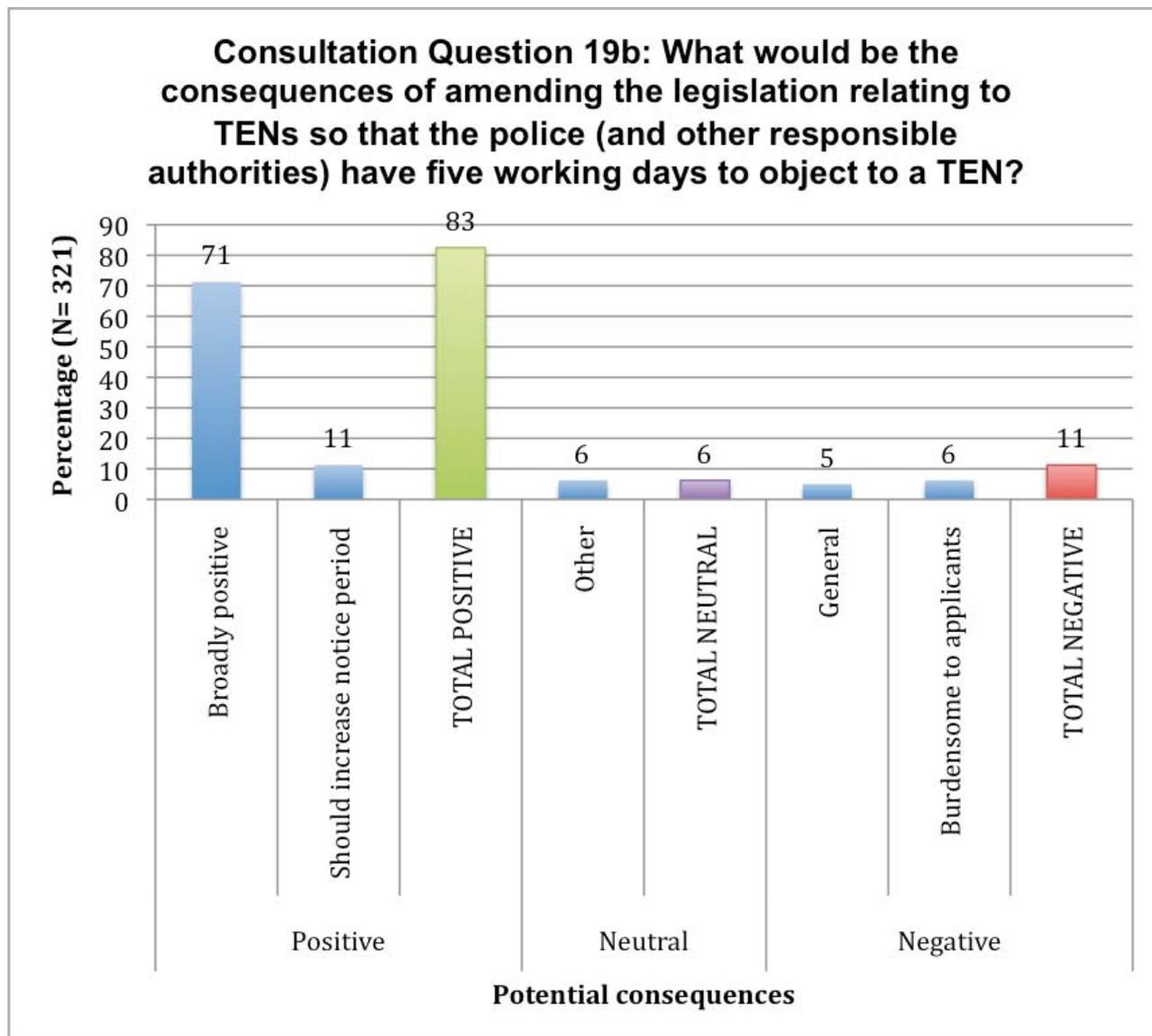


Figure 23

This proposal attracted very little opposition. The vast majority regarded the proposal positively with a number proposing an increase to the objection period.

“Any increase in time is wholeheartedly supported by all members although concerns have been raised that the collection of all responsible authority objections could become an additional workload for the licensing authority which may require even further time”

(Police Respondent)

“Whilst we supported the DCMS proposal to extend the objection period to 2 full working days we cannot support a proposal to extend it further as this negates the whole purpose of a TEN.”

(Trade Respondent)

“We would be pleased to support this.” **(Trade Respondent)**

NATIONAL EVENTS

At a meeting of police representatives, police representatives were unanimously in favour of this proposal. A police representative suggested that criteria should be agreed to allow for basic screening of low-risk applications to reduce burden.

Consultation Question 19c: The notification period for a TEN is increased, and is longer for those venues already holding a premises licence?

CONSULTATION RESPONSES

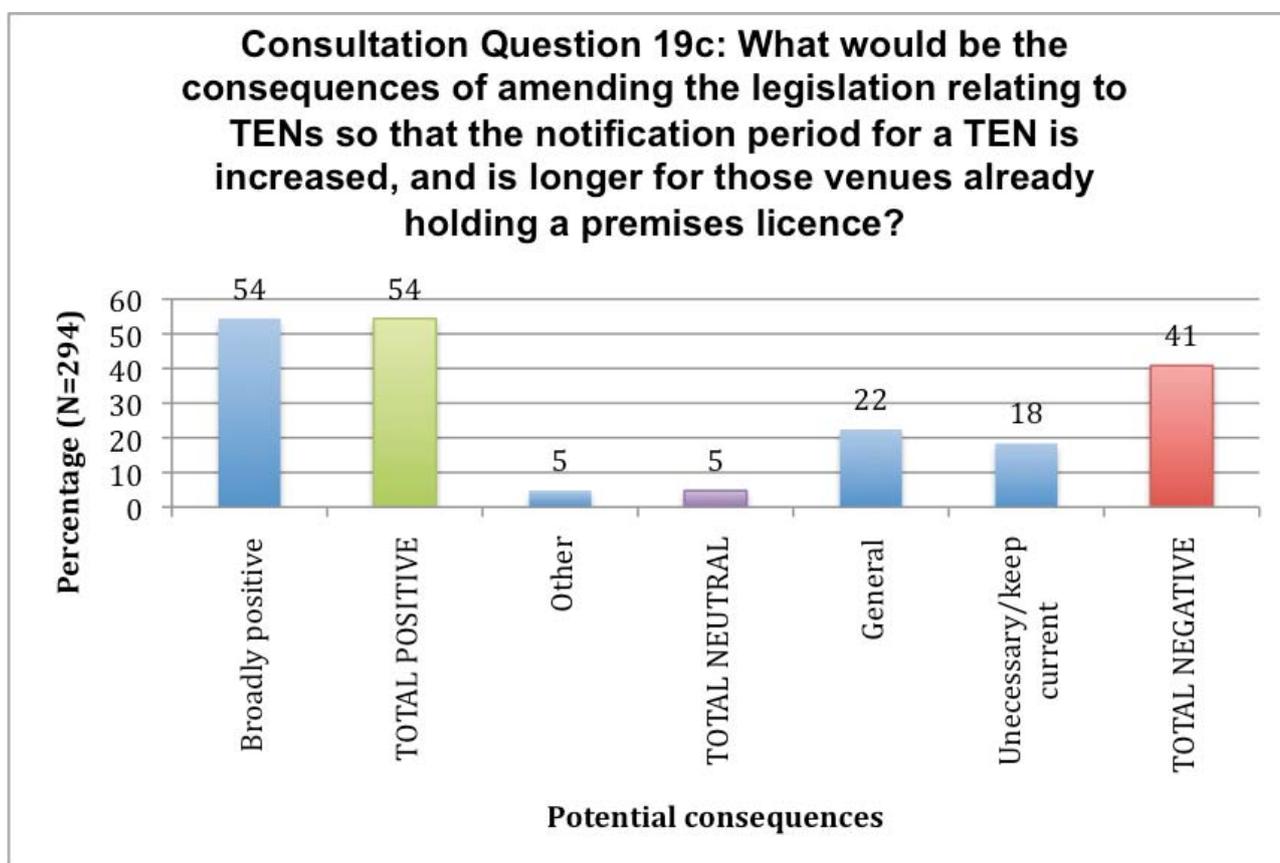


Figure 24

This proposal polarised respondents. Whilst general approval was expressed by the public and licensing respondents, trade respondents argued that it discriminated against experienced licence-holders who, by virtue of their greater experience, should experience fewer problems in holding a temporary event.

“[We] welcome the proposal to extend the notification period for the submission of a TEN from its current ten working days. This Council would prefer to see a longer notification period as possible being given. It would suggest that ideally the minimum notification period should be 20 working days, but would accept a 15 working day period and which once again would naturally align itself with the Minor Variation timescale.” (Licensing Authority Respondent)

“This proposal does not seem justified, not least since those applicants already holding a premises licence will be experienced in the sale of alcohol and managing licensed premises,

and will generally be less cause for concern. It would make more sense for such applicants to have a shorter notification period than those without such experience, but failing that we suggest that the notification period should be same for all TEN applicants.”

(Trade Respondent)

Consultation Question 19d: Licensing authorities have the discretion to apply existing licence conditions to a TEN?

CONSULTATION RESPONSES

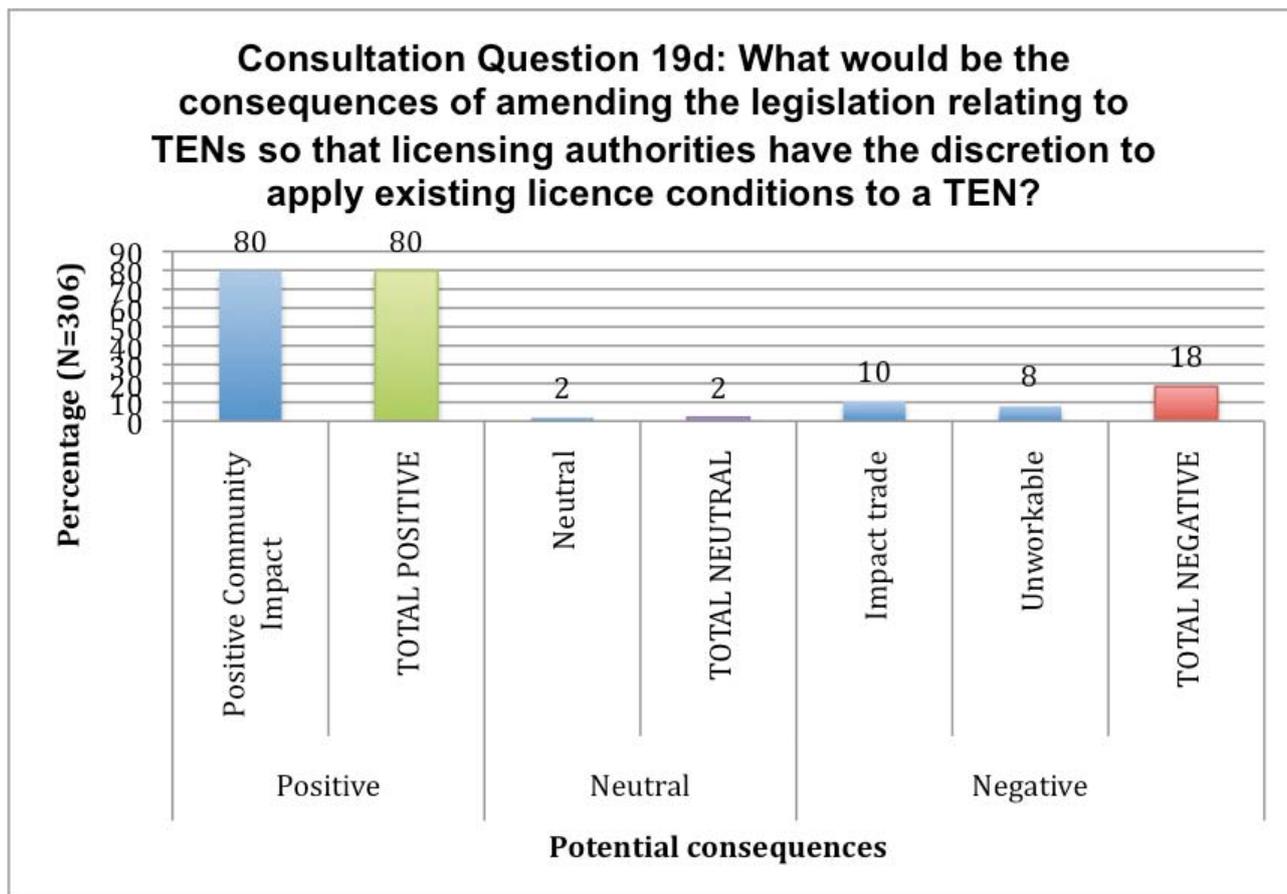


Figure 25

This measure attracted high levels of support, with a minority expressing concern over the potential impact on trade.

“Under current legislation, premise’s licences have numerous conditions attached and yet it is possible for a TEN to be obtained for the same premises with the same activity and have no conditions applied whatsoever. This is illogical and we believe that licensing authorities should have the power to apply conditions. We would also request that consideration be given to the ability to impose conditions on TEN applications where there is no current premises licence.”

(Police Respondent)

“[We] welcome this proposal but would caveat this by saying that conditions should only be added where the licensing authority has received a relevant representation from a responsible authority which necessitates the imposition of existing licence conditions in order to promote one or more of the four licensing objectives. This would ensure that the procedure

for submitting a TEN still retains an element of a light touch approach and would not place onerous conditions on a one off event at a community hall or village hall for example.”

(Licensing Authority Respondent)

“This proposal appears unnecessary as in most cases the business will simply carry over relevant existing conditions. It is also potentially disproportionate as some conditions will not be appropriate to private functions.” **(Trade Respondent)**

“While we do not object to this in principle, there will generally be certain conditions which could not be applied as they would conflict with the purpose of the TEN. For example, TENs are often used to extend existing permissions for hours in order to accommodate a wedding party for example or other celebratory events. In such cases, the existing condition on hours could not be applied.” **(Trade Respondent)**

NATIONAL EVENTS

Some trade representatives suggested that this proposal would negate the purpose of having a TEN and may result in unintended consequences such as increased numbers of “lock-ins”. Police representatives were generally in favour of this proposal.

Consultation Question 20: What would be the consequences of:

Consultation Question 20a: Reducing the number of TENs that can be applied for by a personal licence holder to 12 per year?

CONSULTATION RESPONSES

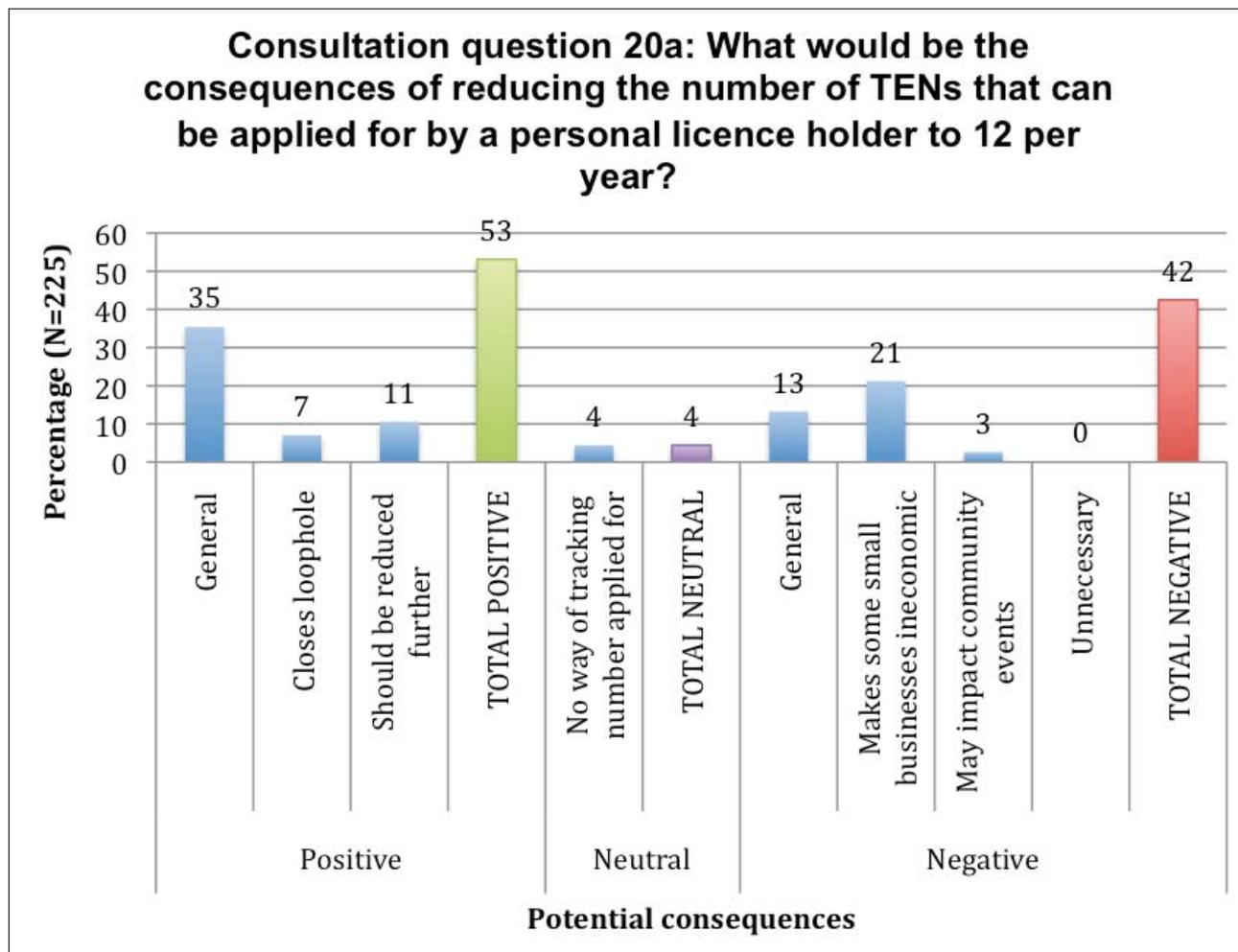


Figure 26

Again, the proposed measure found overall support. However, 42% expressed their opposition to the proposal, with a large number expressing concern over the impact on businesses that rely on TENs as part of the business model: in particular, entertainment or hospitality events that occur in multiple locations.

“Reducing the number of TENS that can be applied for by a personal licence holder by over half the current level (50) seems rather draconian and perhaps does not take into account the involvement of personal licence holders in local communities, where they can be the TEN applicant for a number of different events on behalf of different community groups during any one year.” (Trade Respondent)

NATIONAL EVENTS

Community representatives were concerned that this may restrict community events organised by personal licence holders such as the village landlord. In general, trade representatives also objected to this proposal.

Consultation Question 20b: Restricting the number of TENs that could be applied for in the same vicinity (e.g. a field)?

CONSULTATION RESPONSES

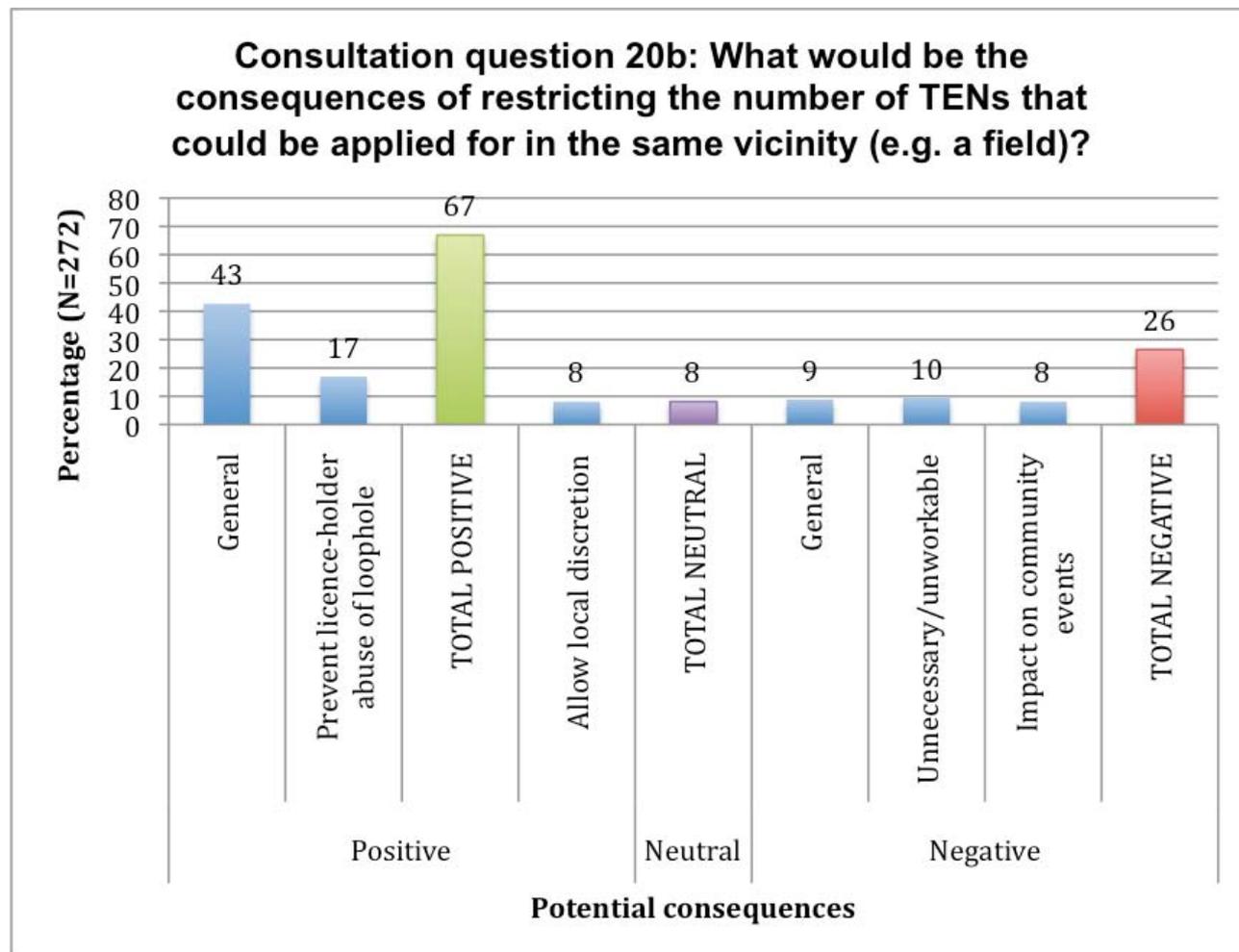


Figure 27

The majority of respondents approved of the proposed measure: many felt that the existing regulations allowed TENs applicants to hold multiple TEN licences for the same event, staying within the letter of the regulations but not the spirit. Those opposing the regulations claimed that the proposed measure might adversely affect community events.

NATIONAL EVENTS

Police representatives suggested that the main issue with having multiple TENs in a single vicinity were around public safety issues which cannot currently be considered, as objections can only be made on crime and disorder grounds. It was suggested that allowing objections to be made on other licensing objectives would enable public safety issues to be considered.

PROTECTING CHILDREN FROM THE HARM OF ALCOHOL (QUESTIONS 21 - 23)

GENERAL OVERARCHING COMMENTS

NATIONAL EVENTS

Police representatives and some representatives from children’s organisations were not clear on what doubling the fine would achieve given that large fines are not given currently.

Police representatives seemed in general to be in favour of increasing the period of voluntary closure.

One trade representative suggested that imposing a lower-limit of 168 hours would result in some premises going out of business or choosing to follow the courts process.

Consultation Question 21: Do you think 168 hours (7 days) is a suitable minimum for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?

CONSULTATION RESPONSES

Those responding to the formal consultation were asked to express a view on the following question: “Do you think 168 hours (7 days) is a suitable minimum for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?” The results are set out in Table 5:

Table 5: Do you think 168 hours (7 days) is a suitable minimum for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?

Vote	Number of responses (from a total of 316 responses)	Percentage (of those who responded to this question)
Yes	95	30%
N65	21%	
Maybe	17	5%
No response	139	44%
TOTAL	316	100%

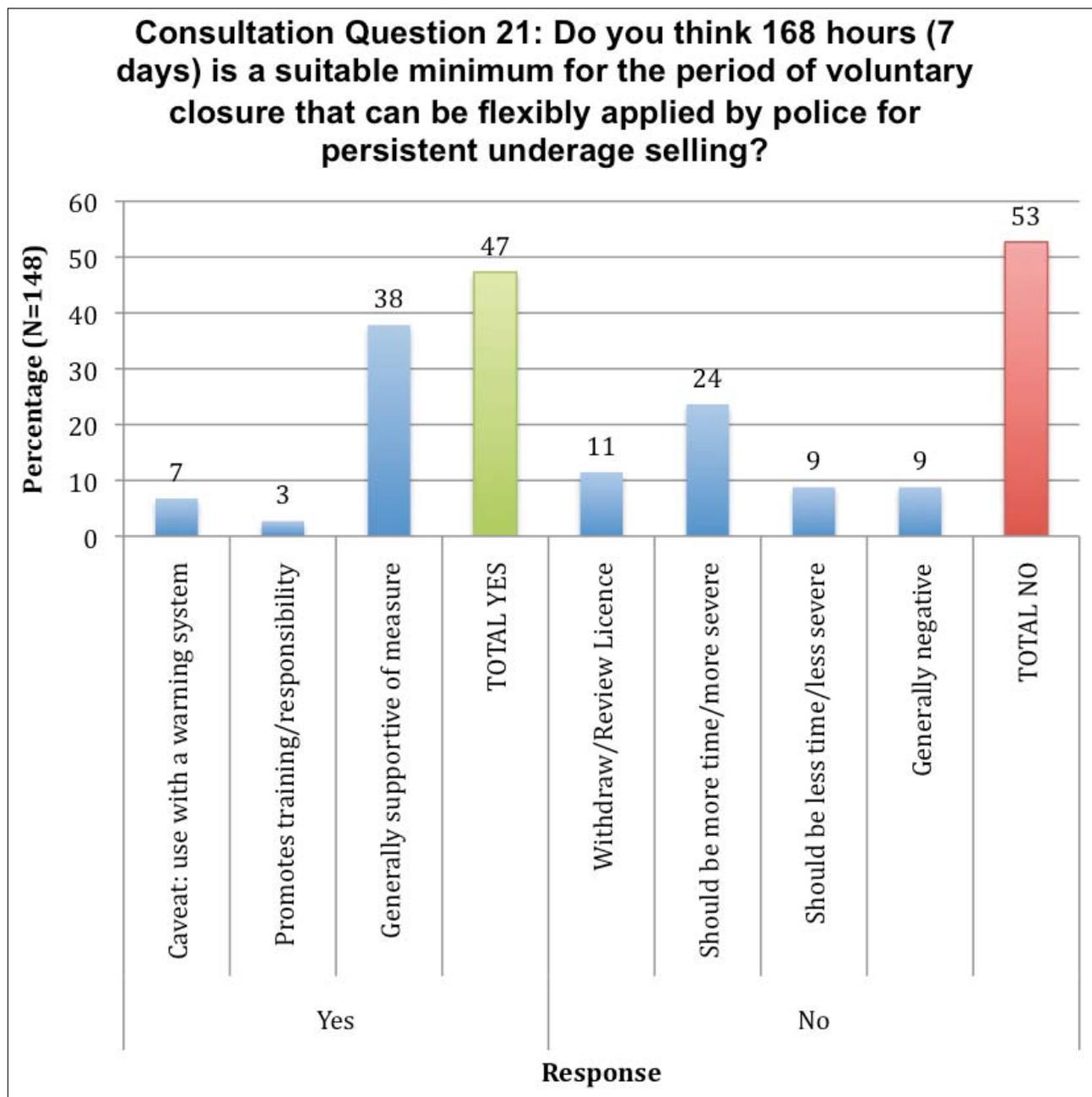


Figure 28

The chart above (Figure 31) must be read somewhat carefully. Whilst a minority (47%) supported the measure, 24% (disapproving of the measure) felt that the 7 day minimum was too low and 11% (also disapproving of the measure) felt that the licence should be withdrawn or reviewed for persistent underage selling. As such, around 82% were in favour of 7 days voluntary closure or a more severe penalty. Just 18% were either against the measure entirely, or expressed a desire for a lower minimum period.

“We would raise concern that 7 flexible days could impact greatly on the premises revenue and that the licensee may choose to risk a hearing dependant upon the severity of the offence in the hope of any fine imposed is less than the expected lost revenue. To counteract this we would suggest that the Sentencing Guidelines Council reassesses the advice contained within the Magistrates’ Courts Sentencing Guidelines with specific reference to factors impacting upon offence seriousness and fine bands to ensure that a hearing is not seen as a softer alternative to voluntary closure.” (Police Respondent)

“[We] welcome the proposals to extend the voluntary closure period that the Police can offer premises as an alternative to prosecution. We are concerned however that even extending this to 7 days is not enough of a punitive measure or sanction to deter the premises in question or other premises from committing the offence again and whether or not 7 days is also enough time for staff training and other measures to be put in place by the premises so that it can effectively ‘get its house in order’. This Council would therefore wish to see a minimum of 14 days applied if this proposal is adopted.” (Licensing Authority Respondent)

“An increase from a voluntary closure of 48 hours to a minimum closure 168 hours (7 days) is a significant one. We fully acknowledge the need for premises to fully adhere to the law preventing sales to under 18s or their proxies but we would not support any such increase... The impact of the closure would also be disproportionate depending the size and resources of the operator.” (Trade Respondent)

REGIONAL EVENTS

Participants at the Regional Events were also asked to vote on the question: “What do you think would be a suitable lower-limit for the period of voluntary closure that can be given by the police for persistent under-age selling?” The results by event and the overall results are set out below:

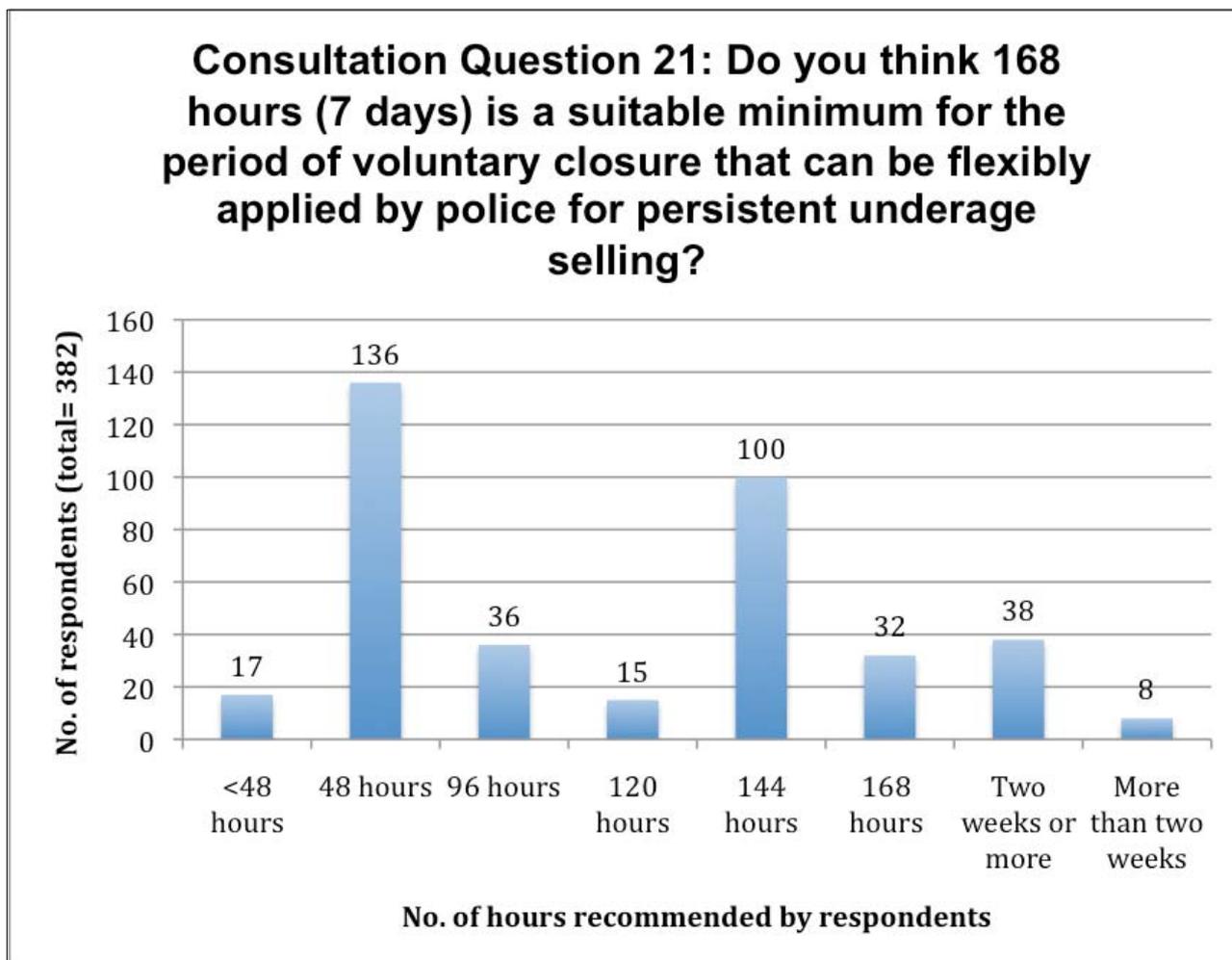


Figure 29 Voting from the Regional Events

The voting data from the Regional Events (shown in Figure 30) is purely indicative of those who attended the events, as the attendees were not a representative group of our key interest partners.

Consultation Question 22: What do you think would be an appropriate upper limit for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?

CONSULTATION RESPONSES

Those responding to the formal consultation were asked to indicate a preference for the following question: “What do you think would be an appropriate upper limit for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?” The results are set out in the chart below:

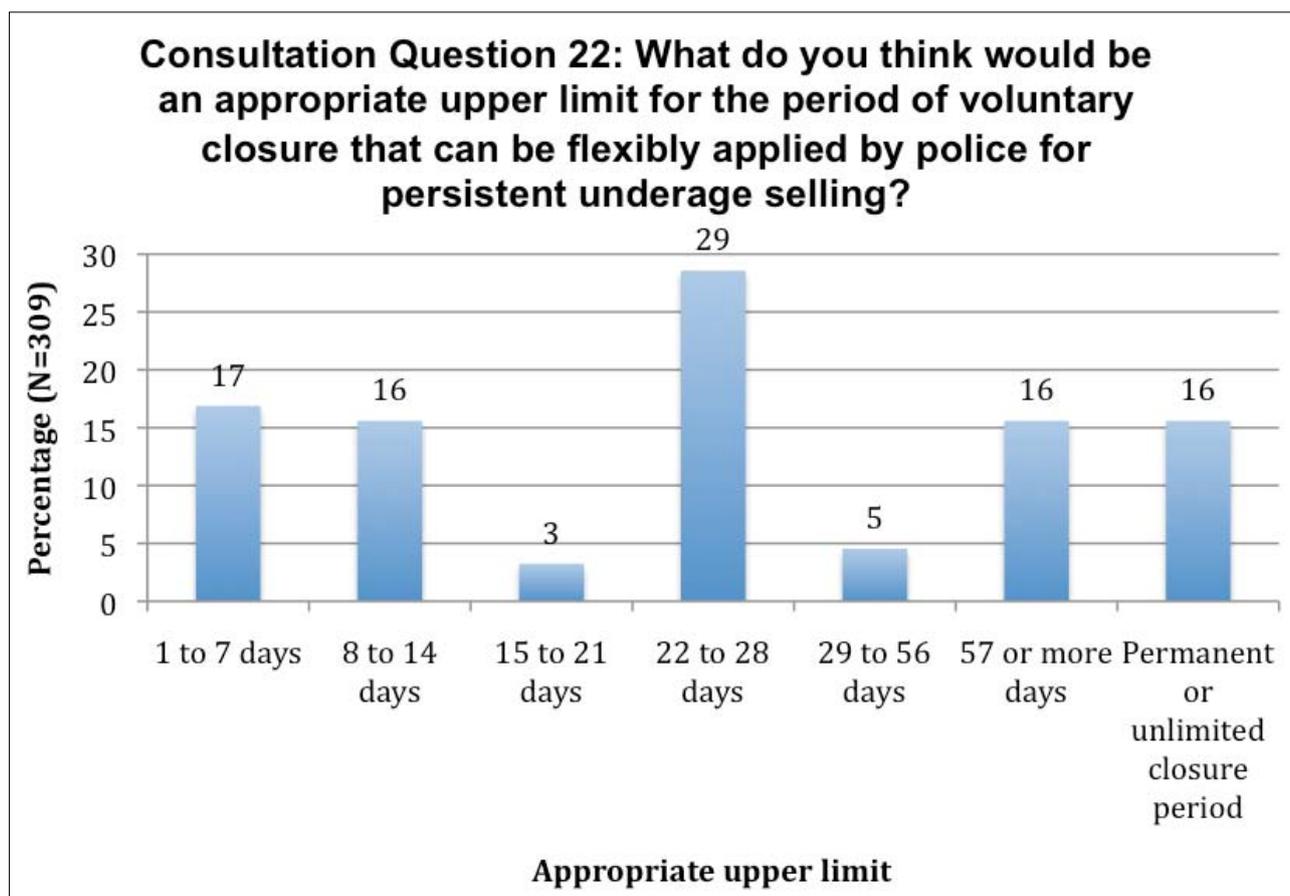


Figure 30

The most frequent response (29%) preferred an upper limit of 22 to 28 days.

“The extreme (proposed) minimum length of time for a closure notice will prevent Police from using their discretion... We would strongly argue that 168 hours should be the maximum closure notice period to be used against persistent and irresponsible retailers. Below this the Police should be able to use their discretion on the most appropriate length of closure period, depending on the details of the case.” (Trade Respondent)

REGIONAL EVENTS

Participants at the Regional Events were asked to vote on the question: “What do you think would be a suitable upper-limit for the period of voluntary closure that can be given by the police for persistent under-age selling?” The results by event and the overall results are set out below (Figure 32):

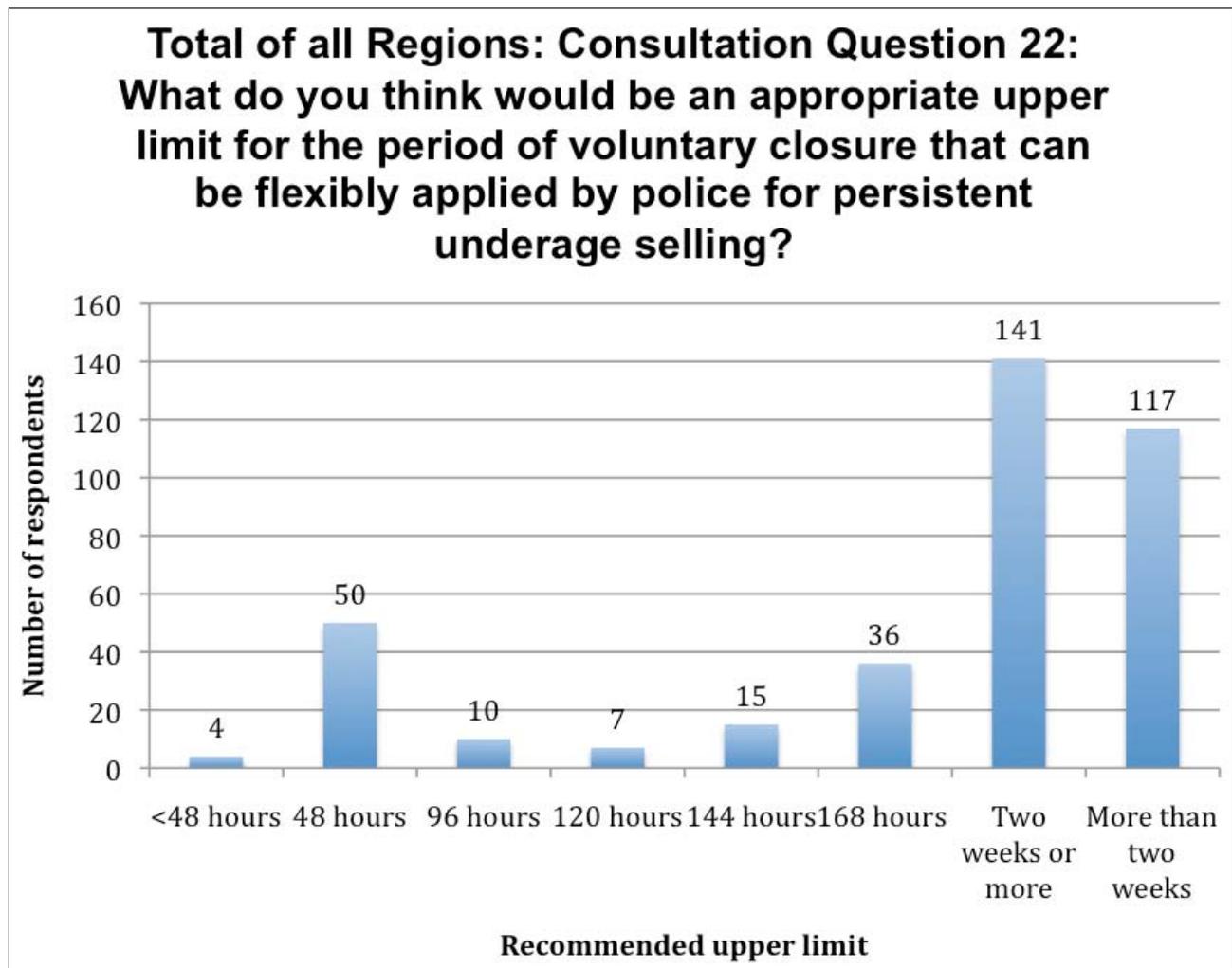


Figure 31

Consultation Question 23: What do you think the impact will be of making licence reviews automatic for those found to be persistently selling alcohol to children?

CONSULTATION RESPONSES

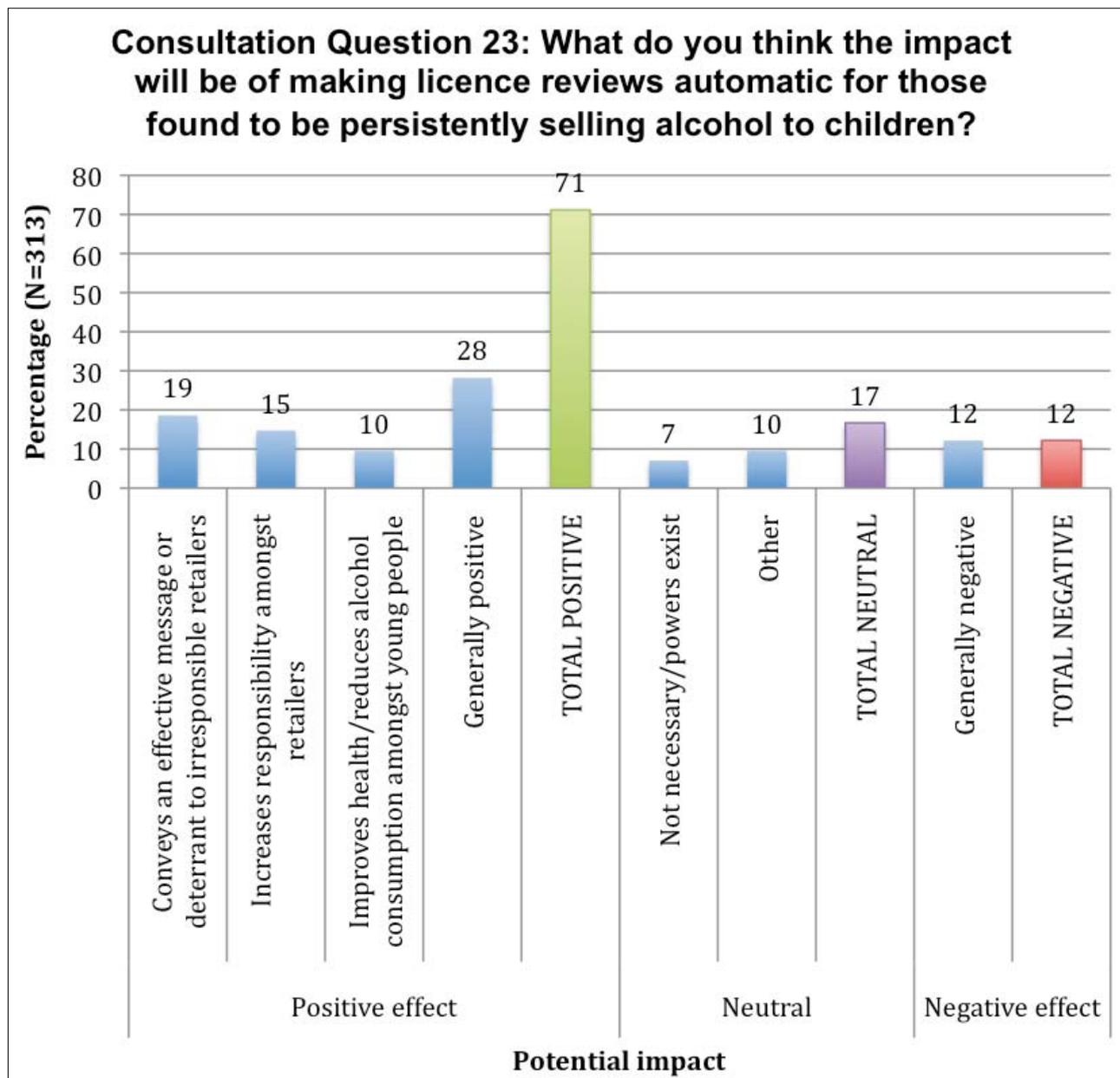


Figure 32

This proposal attracted strong support, particularly from public respondents. It was felt that the measure would send a strong message to licence-holders and provide a suitable incentive to sell alcohol responsibly.

“This is unnecessary. The Police and Trading Standards have the discretion to apply for review if required. Often, the premises put appropriate measures in place to avoid such sales taking place again, and a review in these circumstances would not be needed. It would also remove any circumstances where a licensee might accept a voluntary closure, with the costs entailed.”

(Trade Respondent)

“[We] believe that it would send out a clear message to persistent offenders that they risk the possibility of losing their licence, but in the short term this also could initially make additional work for the licensing authority and responsible authorities such as the Police who will have no option other than to participate in the review process. However the Council welcomes this proposal both as a proportionate deterrent and as a punitive sanction.”

(Licensing Authority Respondent)

“Currently there is the option for an offending operator to agree licence conditions with regulators by way of a minor variation application. This avoids the necessity of a licence review hearing. In appropriate circumstances licence reviews are applied for under the current licensing arrangements and we are concerned that making a review hearing mandatory will result in unnecessary hearings taking place. Licensing committee hearings cost in total up to £2000 and unnecessary hearings add a significant additional financial burden on Authorities.”

(Licensing Authority Respondent)

NATIONAL EVENTS

Several trade representatives were of the opinion that they were doing enough already to tackle under-age selling and suggested that multiple test purchases can take place in a single night. However, some trade representatives were not opposed to introducing an automatic licence review.

Local government representatives suggested that further consideration might need to be given to the issue of test purchasing if local authority powers under the Regulation of Investigatory Powers Act 2000 change.

Trade representatives also expressed that there should be greater personal responsibility and that the sanctions should be tougher for young people trying to buy alcohol and those proxy purchasing. There was broad acceptance that under-age drinking is part of a wider societal issue. Several trade representatives and voluntary sector organisations suggested that more should be done to tackle this issue of proxy purchasing and parents buying alcohol for their children in the off-trade.

There was a suggestion from several representatives from the trade that when a voluntary closure notice is given for persistent under-age selling, a training order should be imposed. Some licensing authority and police representatives also expressed their support for increased training, although some health representatives questioned the effectiveness of such training.

One licensing authority representative stated that automatic reviews already happen in some areas for persistent under-age selling. Police representatives noted that currently whether a licence was reviewed and actions taken subsequently varied by licensing authority, but that the review process was much quicker than the prosecution process.

Various challenges in age verification were noted across the meetings from representatives from different sectors including issues with age verification with direct mail; clarifying acceptable forms of ID; and dealing with increased public criticism of Challenge 25 schemes.

REGIONAL EVENTS

The main themes emerging from comments inputted across the Regional Events in relation to this question were:

- Some felt that this would “*result in a number of unnecessary reviews*” and therefore put an additional burden onto licensing authorities
- Some suggested other methods that they felt would be more effective at reducing underage sales, such as Challenge 21/25 schemes, proof of age policies, staff training and test

purchasing

- Some felt that the automatic review for persistent underage sales would become a “*badge of shame*” for premises affected with others saying that it would damage business on both a short and long term basis
- Some felt that this would send out a strong message of “zero tolerance” to underage sales, help to ensure that the people in charge of the business were punished rather than just the frontline serving staff.
- Some felt this would help to reduce the problem and wanted to see Expedited Reviews used for this, but warned that the problem could just become displaced to other premises
- Others suggested that they would want to retain discretion about whether to take a premises to review and felt that a two tier process could be used to deal with small or independent businesses differently to large chains of pubs or supermarkets

BANNING BELOW-COST SALES (QUESTION 24)

GENERAL OVERARCHING COMMENTS

CONSULTATION RESPONSES

“[Below cost selling] is not a practice that is commonplace within convenience stores, as retailers outside the major grocers find it impossible to fund promotions like these...It is clear that duty plus VAT would not create sufficient price rises to either satisfy Government or to negate competition concerns within the sector.” **(Off-Trade Respondent)**

“Whilst we support the Government’s proposals to ban below-cost selling, as producers and suppliers to the retail sector, we do not feel it is appropriate to comment or seek to intervene directly on retail pricing per se. We will work positively with Government and retailers to assist in the implementation of a workable system.” **(On-Trade Respondent)**

“The sale of low cost alcohol is a major factor in the excessive drinking culture leading to health issues and costs and the antisocial behaviour experienced by the public in general. Cheap alcohol in supermarkets available all day and night is problem that must be addressed.” **(Public Respondent)**

NATIONAL EVENTS

Representatives from all sectors acknowledged the complexity of the issue and expressed an interest in seeing the findings from pricing research commissioned by the Home Office in early 2010, and the findings of the forthcoming review of alcohol taxation and pricing.

Representatives from across a range of sectors questioned how a ban on below cost selling could be enforced and whether it would be legal. The enforcement issue was a concern raised in particular by police representatives.

Banning irresponsible promotions in the off-trade as well as the on-trade, was suggested by some representatives of the on-trade as an alternative method for addressing problem drinking. There was support from several representatives of the trade and third-sector organisations in introducing an approach based on the percentage of alcohol by volume (ABV). Police representatives cautioned that the potential of increased alcohol smuggling needed to be considered when looking at pricing policies.

Consultation Question 24: For the purpose of this consultation we are interested in expert views on the following (see sub questions 24a – 24c)

Consultation Question 24a: Simple and effective ways to define the 'cost' of alcohol

CONSULTATION RESPONSES

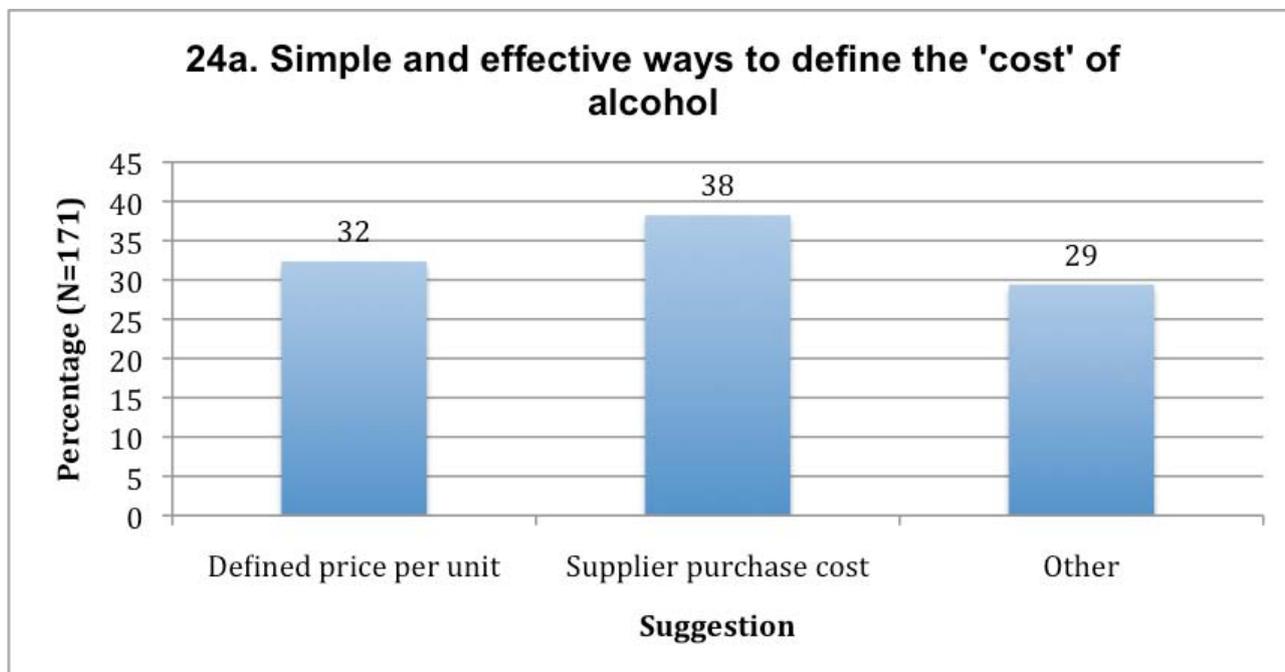


Figure 33

There was a limited range of responses to this question. The most frequent two responses, expressed above, indicated that either a specified minimum unit cost or the supplier purchase cost would be the simplest means of defining the cost of alcohol.

“In terms of a definition of cost which is both easy to calculate and apply, we would suggest the use of average purchase cost. This not only accurately reflects the true cost to the retailer of the product but is simple to understand, easy to apply and effective at preventing sales at very low prices – a problem which emerges with the use of a duty + VAT or an invoice price approach which is open to manipulation – but does not set the barrier so high that there is a backlash from non-problem drinkers.” (On-Trade Respondent)

REGIONAL EVENTS

Some suggested that establishing the level of duty payable on each product was a useful starting point, with others suggesting the introduction of a “Price Marking Order” which would specify a minimum price for specific types and size of product. A number of other responses advocated introducing a minimum unit price to establish the “cost” of different alcohol products. Others warned that “cost” was confidential, sensitive commercial information that should not be publicly disclosed, and was subject to changing market forces as well as supply costs of elements in the manufacture and sales process.

Consultation Question 24b: Effective ways to enforce a ban on below cost selling and their costs

CONSULTATION RESPONSES

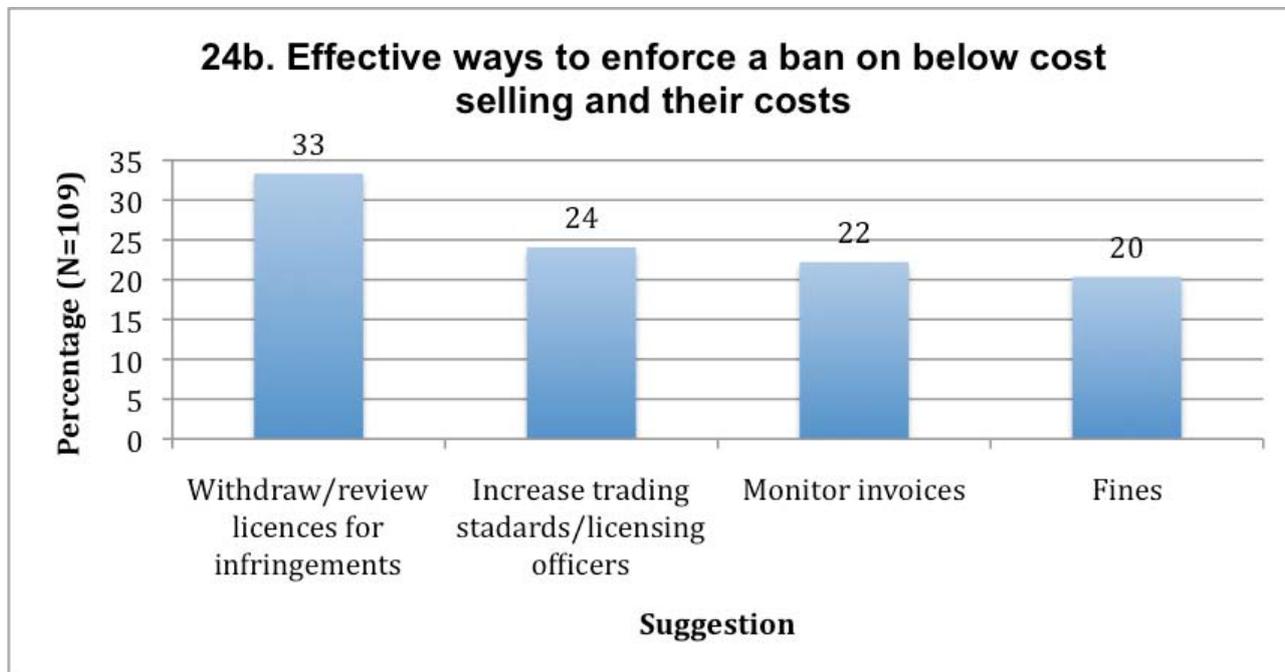


Figure 34

Respondents indicated that, generally, enforcing a ban on below cost selling is difficult. In particular, licensing respondents expressed a degree of scepticism as to the feasibility of enforcing a ban.

“We would like to express real concerns about any invoice-based systems. Our concerns centre on the fact that any such system would inevitably involve a level of pricing transparency and visibility between competitors that would expose producers and retailers to breaches in pricing confidentiality. Such an outcome would be unsustainable in a competitive and open market. We are also concerned that the inevitable complexity of a system based on individual invoices for numerous transactions would make such a system unwieldy and difficult to police. While such systems are operated in other member states, it is important to recognise that these systems apply to all products, not just alcohol, are designed explicitly to address predatory pricing by major retail and are not designed as a public health measure. We would also not welcome any system based on excise duties. Excise duty is paid by the producer not the retailer and therefore by definition does not equal retailer cost.” (On-Trade Respondent)

REGIONAL EVENTS

Those attending the Regional Events suggested that businesses could be required to declare whether products were on sale at below cost or not, putting the onus of proof onto the businesses, some suggested an enforcement approach along the lines of underage sales test purchases, and many simply reiterated their support for the introduction of a minimum unit price. Many warned that this would not work and simply envisaged problems with any approach.

Consultation Question 24c: The feasibility of using the Mandatory Code of Practice to set a licence condition that no sale can be below cost, without defining cost

CONSULTATION RESPONSES

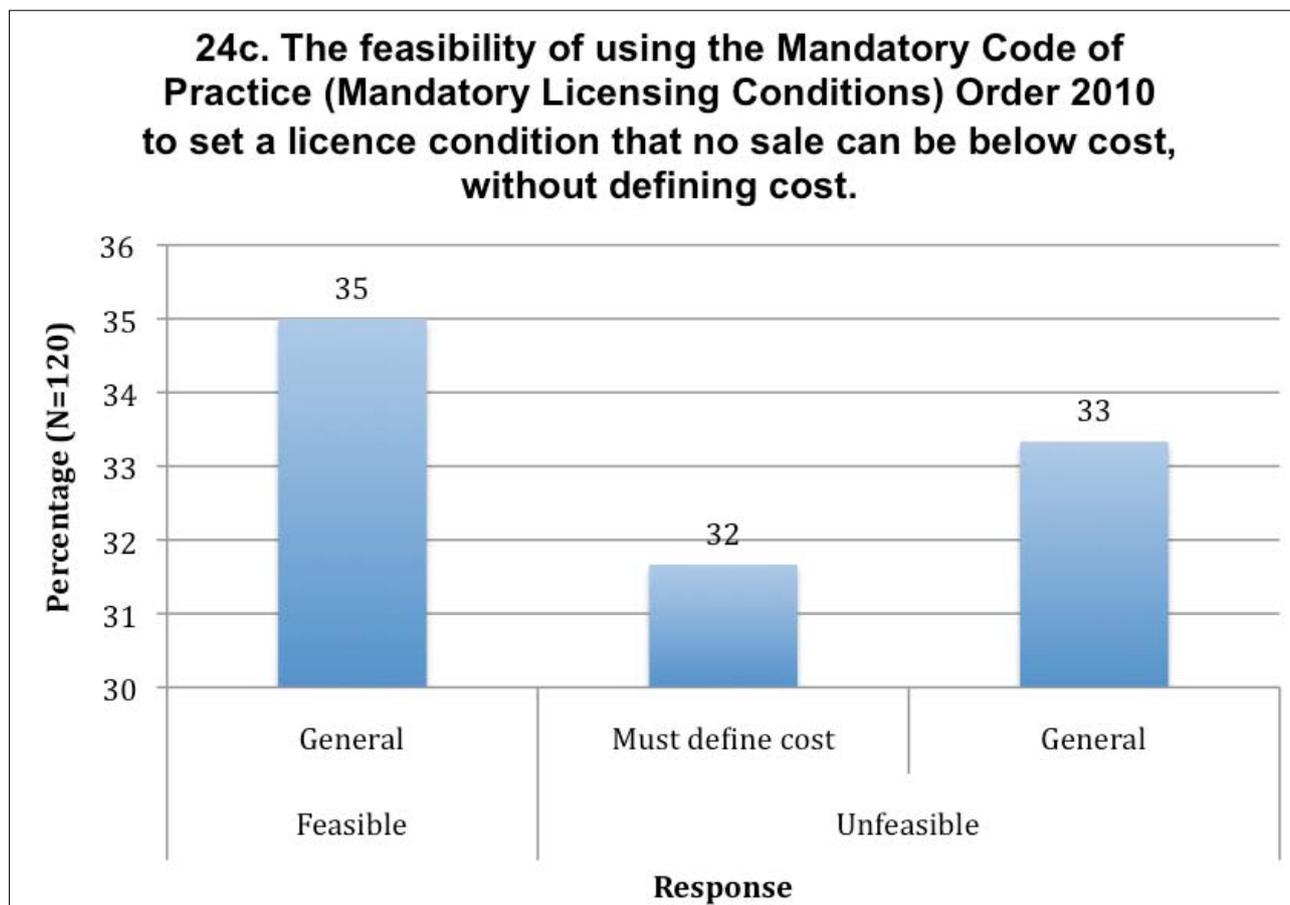


Figure 35

The feasibility of using the Mandatory Code of Practice to set a licence condition that no sale can be below cost without defining cost was seen, broadly, as unfeasible. A third of respondents stated that cost must be an integral component of any enforcement or regulation measure.

“A mandatory condition on this would be feasible. However, it would be important for local authorities implementing this regulation to be guided on the definition of “cost” and how that is assessed for the purposes of this section.” (Licensing Authority Respondent)

“The use of the Mandatory Code provides a quick and easy mechanism for introducing such a ban into the regulatory arsenal, but it can be little more than a quick fix solution until a centrally determined definition of cost is agreed which meets the Government’s requirements as set out in the consultation document. We would be prepared to support it on that basis but not if the intention is to introduce this as a solution in and of itself. Failure to determine a definition of cost at a central level will see the ban rendered ineffective and mire its application at a local level in legal wrangling and challenge.” (On-Trade Respondent)

REGIONAL EVENTS

Those attending the Regional Events expressed views that included:

- Although a number of respondents supported the idea, some felt that this approach was “*not feasible without a definition of cost*” and felt concerned about the costs of enforcing it for police or licensing authorities
- Many thought that EU regulations on trade and allegations of price fixing meant that this would not be legal to introduce
- Some felt that it would lead to more smuggling, black market alcohol sales and home produced alcohol

REDUCING BURDEN AND BUREAUCRACY OF LICENSING AND COVERING ITS COST (QUESTIONS 25 – 29)

Consultation Question 25: Would you be in favour of increasing licence fees based on full cost recovery, and what impact would this have?

CONSULTATION RESPONSES

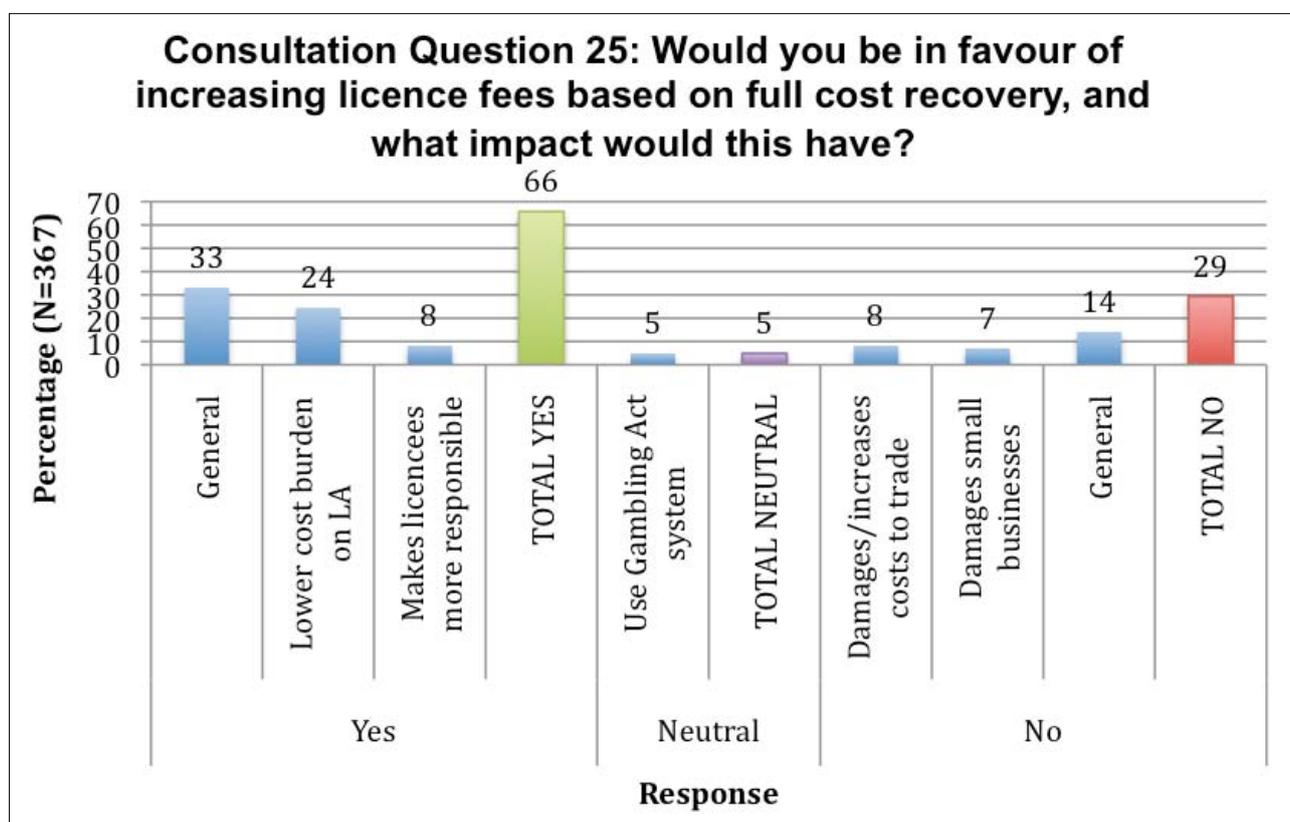


Figure 36

The proposed measure acquired broad support from respondents for local discretion but with a national upper limit structure. Many cited the resultant lower cost burden on licensing authorities, and potential increase in licensee responsibility. A noteworthy suggestion, made by several respondents, was that the ‘full cost’ definition should be set by the Government and not left to the discretion of local authorities.

“Local authorities have long argued that the enforcement costs for licensing exceeds the actual income from the licensing fee. In this difficult economic climate it is even more important that the licensing fee is based on full cost recovery. [We] therefore fully supports proposals to increase licensing fees based on full cost recovery.” (Licensing Authority Respondent)

“Licensing Authorities throughout the country have been lobbying Government for the past 5 years to amend the licence fee regime to reflect the full cost to Local Government. Indeed,

the Government commissioned Elton Fees Review Report recommended in January 2007 that fee levels be increased by 7%. However, fee levels have remained static since the Licensing Act 2003 became effective in November 2005 resulting in nearly all Licensing Authorities having to fund delivering a licensing service by other means on an annual basis. Gambling legislation already allows Licensing Authorities to set fees on a cost recovery basis and this has been carried out without complaint from the Gambling industry. We welcome the proposal for Licensing Authorities to do the same under licensing legislation.”

(Licensing Authority Respondent)

“Whilst we appreciate that fees have not been increased for a number of years, any increases should be subject to a centrally capped level. Any new regime should also be operated in such a way to reduce burdens on business.” **(Trade Respondent)**

NATIONAL EVENTS

There were mixed views around increasing licence fees based on full cost recovery, with some members of the trade expressing strong opposition, whilst licensing authority and local government representatives expressing support for the proposals. The main trade concern appeared to be around leaving fees open-ended. It was suggested that a national banding system would be a better approach.

Several trade representatives suggested that they would support a review of licence fees as long as this was within clear parameters, and led to balanced readjustment. Some licensing authorities were also in support of a review of fees and representatives across sectors suggested based on the findings of the Elton Review⁴.

There were several suggestions that the payment process should be made easier with this suggestion receiving widespread support from the trade.

Problems were raised by representatives from across the different respondent types with setting differential rates based on rateable value. The result of this is that some community clubs, student unions, sports clubs etc. are paying more than they should.

⁴ The Licensing Act 2003 Report of the Independent Fees Review Panel (2006) <http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/NR/rdonlyres/741DB3A4-439F-4058-AD31-F8BAAC98DF05/0/feepanelfinalreport.pdf>

Consultation Question 26: Are you in favour of automatically revoking the premises licence if the annual fees have not been paid?

CONSULTATION RESPONSES

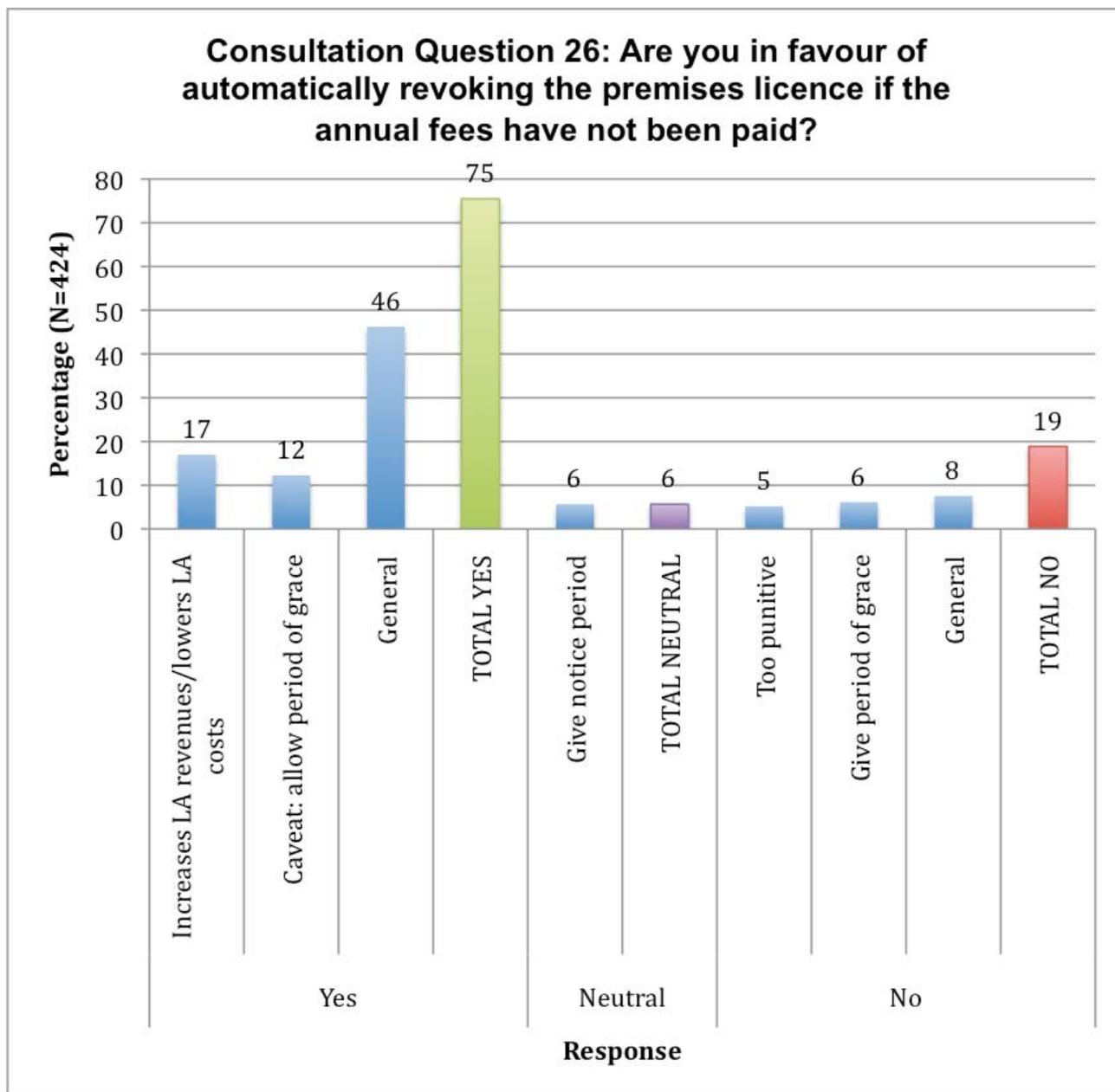


Figure 37

The overwhelming majority of respondents approved of this proposed measure. Many licensing respondents noted that, usually, debts incurred by non-payment are so low that they are written off at a loss to the licensing authority. Many stated that the licence fee should be paid in advance, and not in arrears as is now the case. The most frequent caveat, however, was to mitigate the severity of the measure with a warning for non-payment prior to revocation of the licence.

“The move would align the Licensing Act with the arrangements in the Gambling Act so that a premises licence is automatically revoked if it has failed to pay the annual fees.”

(Police Respondent)

“It is essential that... a licence can be recovered if the fee is paid... If non-payment of the fee is to have such a drastic consequence, then it is fundamental that Licensing Authorities put in place a consistent system for collecting it.” **(Trade Respondent)**

“[We] fail to understand why a licence remains in place even when the relevant fees have not been paid. If the premises licence were to lapse on the day after the last possible date for payment, then it would be paid promptly, and there would no need to chase the defaulter.”

(Public Respondent)

“We believe that operators who refuse to pay annual fees should have their licence revoked. However, a discretionary ability should be built in to allow late payers, as opposed to those who refuse to pay, to submit their annual fees within a period determined by the Licensing Authority. Additionally, a revocation of a licence for failure to pay annual fees will allow Authorities to remove those operators whose businesses have failed from the licensing register and their accounts systems.” **(Licensing Authority Respondent)**

NATIONAL EVENTS

There did not appear to be any strong opposition to this proposal, with local government representatives strongly supporting the proposal. Trade representatives did stress however that the payment process should be made easier, and that some discretion for late payment should be allowed. One trade representative suggested that the penalty should be suspension and not revocation. Police representatives were in favour although noted that there should be some room for discretion.

Consultation Question 27: Have the first set of mandatory conditions that came into force in April 2010 had a positive impact on preventing alcohol-related crime?

CONSULTATION RESPONSES

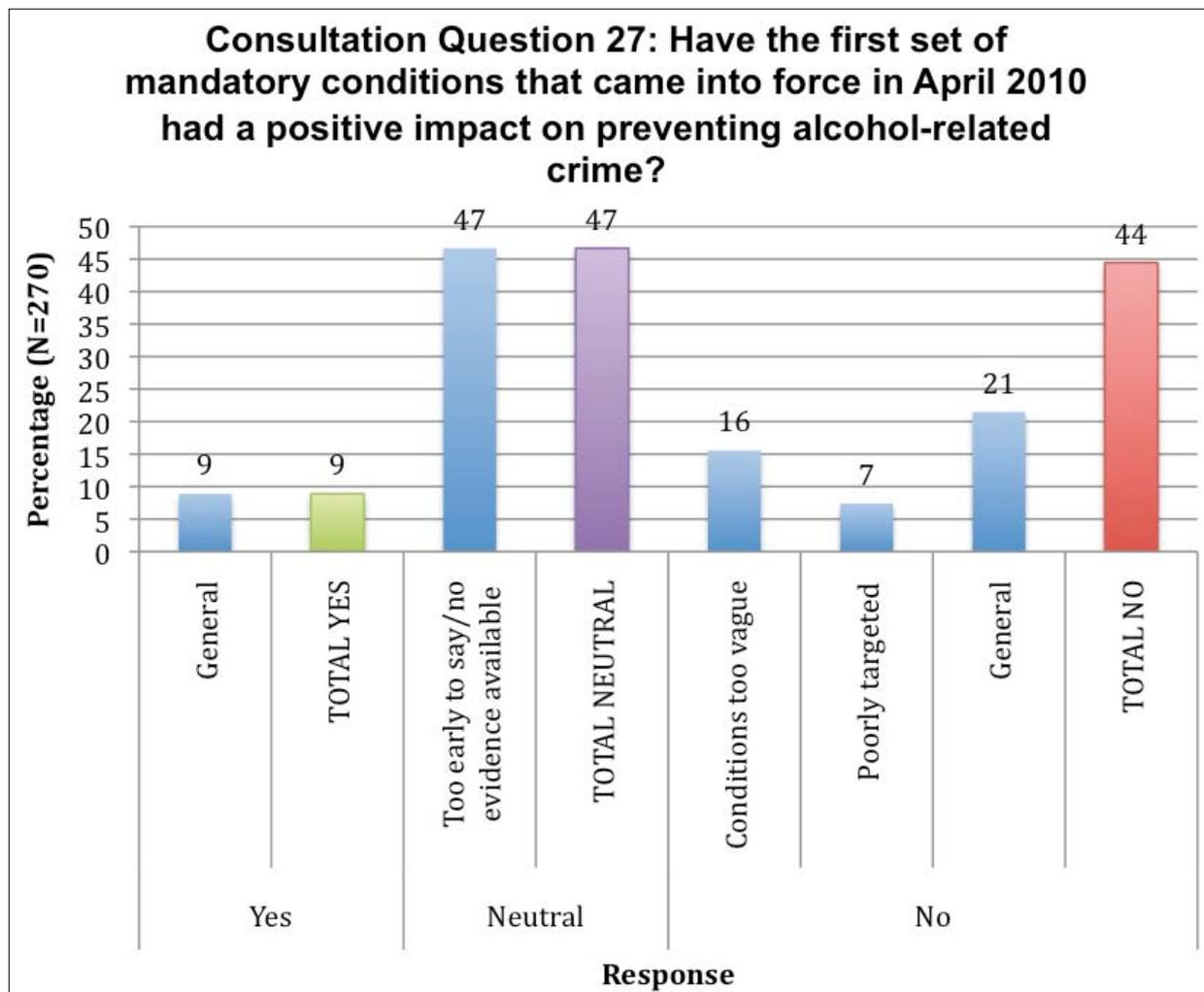


Figure 38

This question found an equivocal view on the impact of the new mandatory opinions on alcohol-related crime. Only a minority stated that there had been a positive impact with 44% stating that there had not. 47% felt that it was too early to assess its impact.

“We recognise that the first set of mandatory conditions only became effective at the start of April this year and we cannot evidence a significant impact on crime and disorder.”
(Police Respondent)

“We have no data at this time to determine whether or not these mandatory conditions have had any effect on alcohol related crime.” **(Licensing Authority Respondent)**

“It is too early to assess whether the Mandatory Conditions have had any impact on alcohol related crime. However, we reiterate that whilst we support a ban on irresponsible drinks promotions, the Mandatory Conditions themselves have proved confusing to both the industry and enforcement authorities.” **(Trade Respondent)**

Consultation Question 28: Would you support the repeal of any or all of the mandatory conditions?

CONSULTATION RESPONSES

“[We] are generally of the opinion that the codes were well intentioned however all have encountered difficulty in relation to the enforcement of condition (a) due to the lack of definition of the word ‘irresponsible’. Although we do not suggest that the condition is repealed, we would ask for a clear definition to ensure consistency and to allow confidence in its use. Condition (d) ‘age verification’ is fully supported by ACPO and we will continue to work together with PASS to reduce the sale of alcohol to those under the age of 18.” **(Police Respondent)**

“On the issue on whether to appeal the condition, we would highlight that even if Government does decide to revoke the measures it will not be until both Houses have had an opportunity to debate and agreed the revocation. This means no way to stop mandatory conditions coming into law on 1 October 2010. If Government are minded to repeal the conditions we would urge them to send a clear message out to enforcement bodies and businesses that these laws should not be enforced.” **(Trade Respondent)**

“Yes. The majority of these conditions are badly thought out and confusing to both operators and regulators. We would support the repeal of all of these conditions with the exception of the one requiring operators to have an age verification policy in place.”
(Licensing Authority Respondent)

NATIONAL EVENTS

Trade and community representatives noted the cost involved in purchasing glassware for smaller measures.

Views from trade representatives differed on smaller measure to health representatives, with health representatives commenting that smaller measures should be available even though the trade representative suggested there was little demand for these.

Although there appeared to be general support from the trade for repealing the mandatory code, several representatives suggested keeping the condition on irresponsible promotions and also applying this to the off-trade.

Some support for keeping the age verification condition was expressed by local authority representatives whereas some trade representatives thought this condition should be removed.

REGIONAL EVENTS

Attendees at the Regional Events were asked to vote on the following question: “Do you think that the Mandatory Code should be repealed?” The results are set out below:

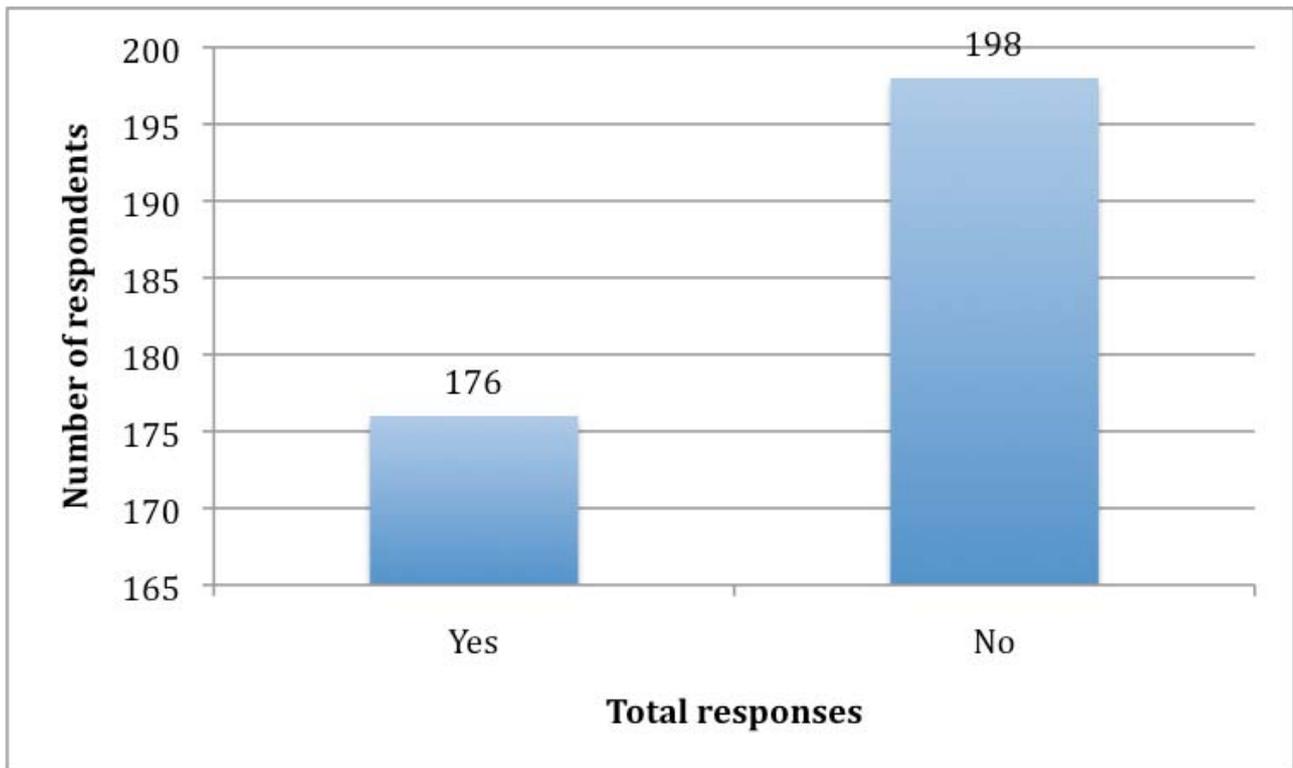


Figure 39 Voting data from Regional Events to the question, “Do you think that the Mandatory Code should be repealed?”

The voting data from the Regional Events (shown in Figure 43) is purely indicative of those who attended the events, as the attendees were not a representative group of our key interest partners. The voting data showed that more people were in favour of keeping the Mandatory Code than repealing it, however, there was no clear majority.

Consultation Question 29: Would you support measures to de-regulate the Licensing Act, and what sections of the Act in your view could be removed or simplified?

CONSULTATION RESPONSES

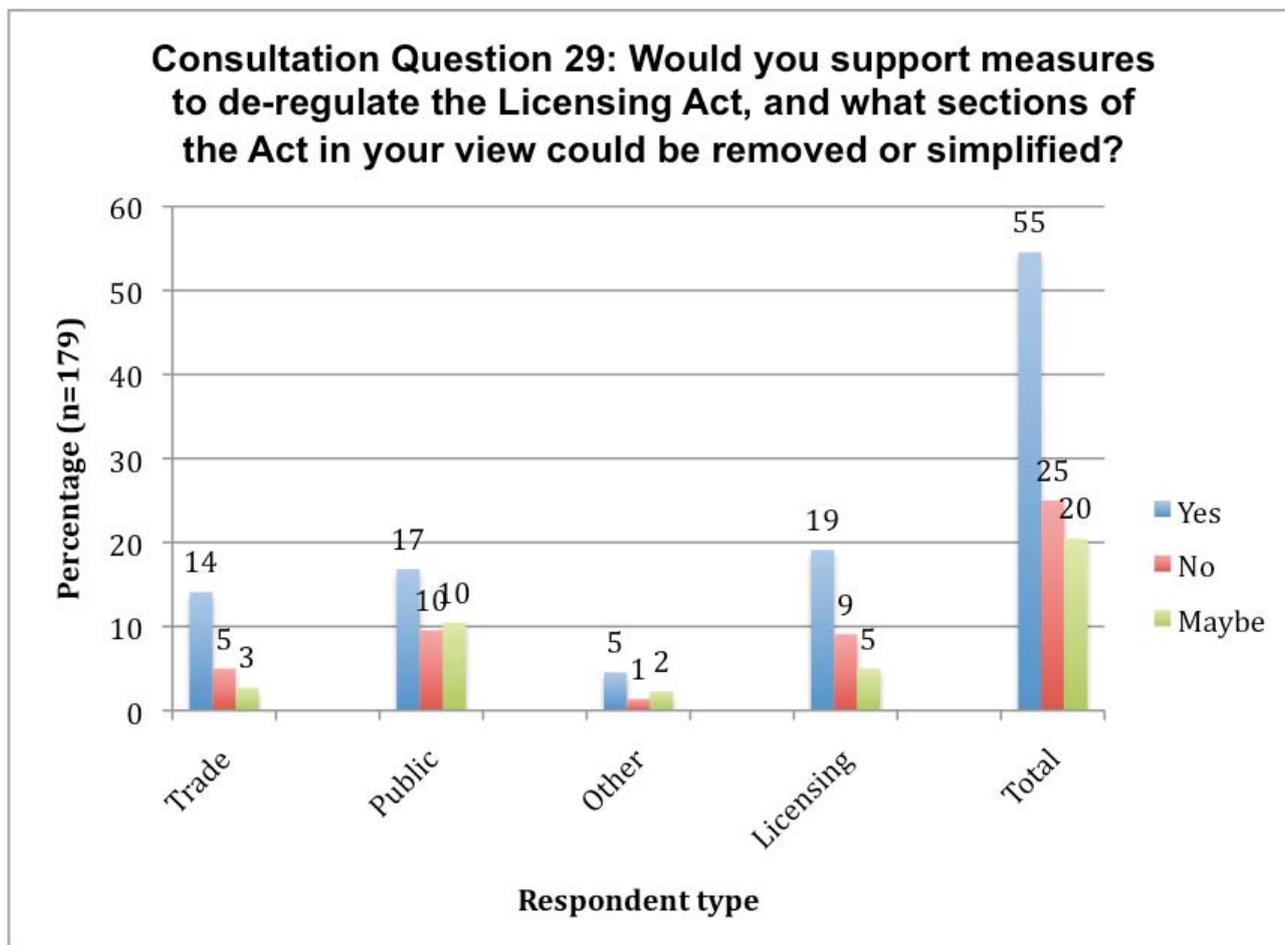


Figure 40

Clear support for de-regulating to the Licensing Act was expressed (55% as shown in Figure 44). The range of views (shown in Figure 45) was very broad and merits further examination. Most of the suggestions were generally requests for simplification rather than for specific changes. The most frequent specific responses, expressed in figure 45 above, supported a removal of the requirement to publish a licensing policy statement and the removal of live music/entertainment restrictions. The most frequent response, however, was for a simplification of the licensing application.

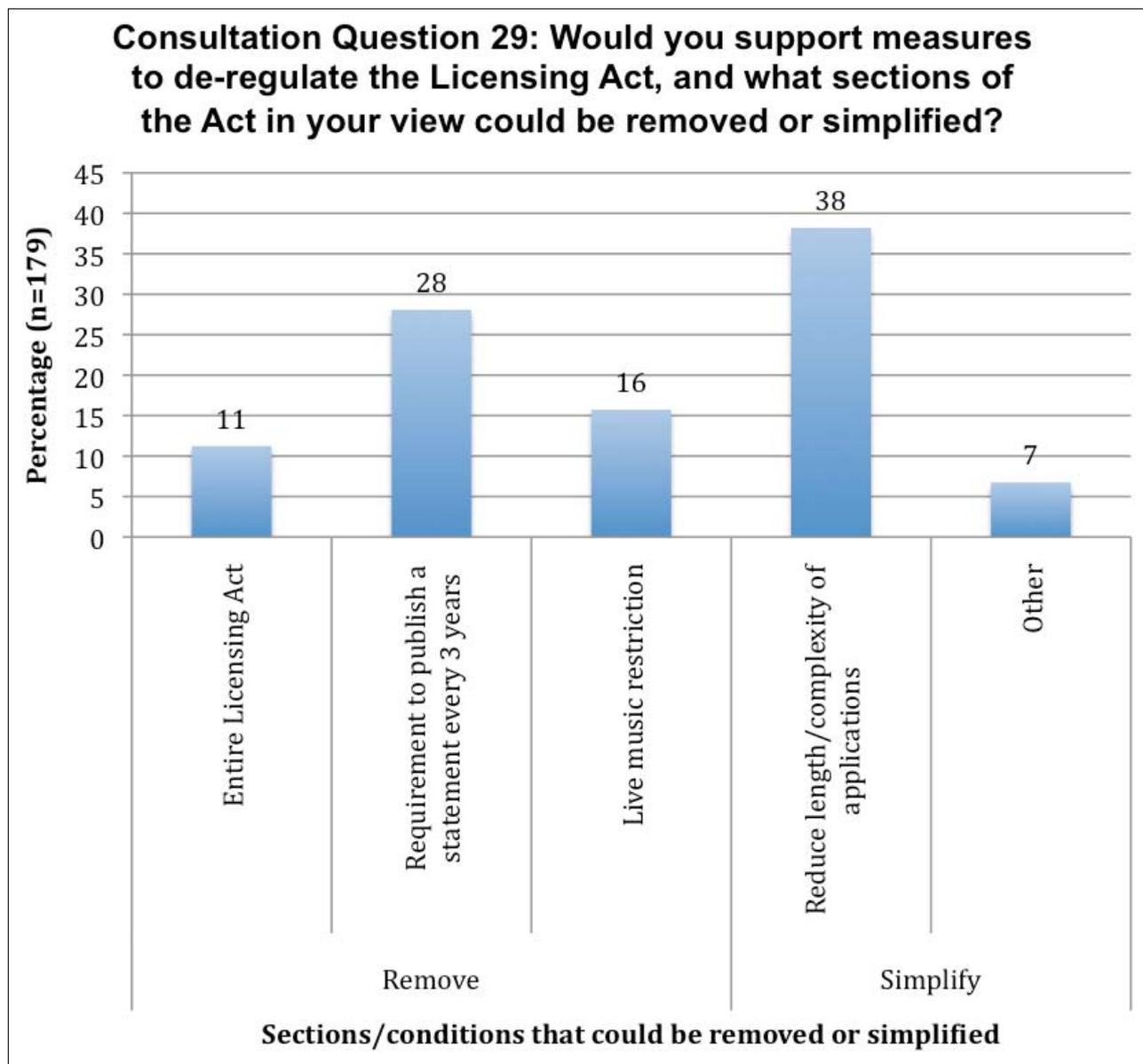


Figure 41

“One measure which would be supported by all members would be the removal of the requirement to review licensing policies every three years with reviews / updates being a matter for local licensing authorities to undertake as and when required.” (Police Respondent)

“There is strong support for the removal of the requirement to review licensing policies every three years. The proposals put forward by the DCMS in relation to this were supported by this authority. Provisional statements are rarely utilised, given the availability of the premises licence application process. This authority has received one application for a provisional statement which was subsequently withdrawn and has only determined one such application since 2005. A review of their need would be advisable.” (Licensing Authority Respondent)

“We would analyse any proposals central Government may publish relating to deregulation of the Licensing Act and respond accordingly.” (Licensing Authority Respondent)

“We not only support measures to deregulate the Licensing Act we believe that they are essential to meet the Government’s pledge to reduce the overall burden on business. As previously noted, the Elton Report should be the starting point for any simplification – to reduce the burden of advertising applications in newspapers, physically copying and distributing

applications to responsible authorities and simplifying the statutory forms. In addition, the proposals in relation to small music events should be progressed.” (Trade Respondent)

“The removal of the very costly need to advertise in newspapers, given that most people are made aware of applications via notices on the premises or by being directly informed. This is not a requirement for minor variations and this should be extended. Alternatively a requirement for a newspaper advertisement could be replaced with an ‘on-line’ advertisement; The provision of some form of slip procedure, whereby an oversight in the provisions for advertisement or service did not necessitate the re-lodging of the entire application and in some licensing authority areas, the payment of a completely new fee. Such a rule existed in the Licensing Act 1964 and was extremely useful; and a review of the length and content of the application forms which are over long and complex.” (Trade Respondent)

ANNEX A: NETMUMS SURVEY

1. Are you concerned about crime and antisocial behaviour that comes from people (and often young people) drinking too much in this country?

	Response Percent	Response Count
Yes	90.9%	261
No	9.1%	26
Answered question		287

2. Do you know if there are any problems in your area from young people drinking too much?

	Response Percent	Response Count
Yes	57.5%	165
NO	12.9%	37
Don't know	29.6%	85
Answered question		287

3. Do you think the views of local community groups (including parents) should be listened to when late night licenses are decided?

	Response Percent	Response Count
Yes	50.3%	144
Yes, good idea, but not sure it would happen	43.7%	125
No, the experts and police can work it out	5.9%	17
Answered question		286

4. How can licensing authorities encourage greater involvement by local community groups?

100 Netmums members wrote down their ideas. Most describe methods of making contact with local people and some also stressed the importance of not just gathering, but also listening to local views.

5. It is illegal to sell alcohol to people underage. Those that do can be fined. The plan is to double the fine to £20,000 and close down shops that keep doing it. Do you think this will make a difference?

	Response Percent	Response Count
Yes, it should make a big difference	18.2%	52
Yes, it should make some difference	50.0%	143
No, I don't suppose it will have much effect	29.0%	83
I don't know	2.8%	8
Answered question		286

6. THE GOVERNMENT SAY BANNING THE SALE OF ALCOHOL BELOW COST PRICE (MAKING IT MORE EXPENSIVE) WILL REDUCE ALCOHOL-RELATED CRIME AND DISORDER. TO WHAT EXTENT DO YOU THINK THIS IS TRUE?

	Response Percent	Response Count
Completely true	5.2%	15
Mostly true	14.7%	42
Slightly true	32.9%	94
Not true at all	43%	123
Don't know	4.2%	12
	Answered question	286

7. Some people are worried that raising the price of very cheap alcohol will penalise responsible drinkers. Is this a problem?

	Response Percent	Response Count
It is a problem - I don't think the price should be raised	43.5%	124
It's a shame, but I think the price should be raised anyhow	37.9%	108
I don't think it's a problem	18.6%	53
	Answered question	285

ISBN 978-1-84987-379-6

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