

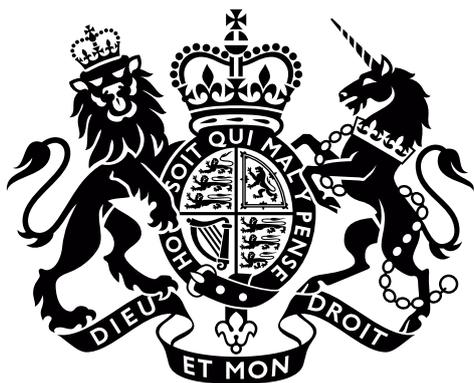
**THE GOVERNMENT RESPONSE TO THE REPORT FROM THE HOUSE OF LORDS  
SELECT COMMITTEE ON THE LICENSING ACT 2003  
SESSION 2016-17 HL PAPER 146:**

# **The Licensing Act 2003: post-legislative scrutiny**

Presented to Parliament  
by the Secretary of State for the Home Department  
by Command of Her Majesty

November 2017

Cm 9471



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## Preamble

1. The Licensing Act 2003 (the Act) aimed to liberalise the licensing system, reduce the problems of excessive drinking and disorder and bring about a major shift in the way we consume alcohol with less emphasis on heavy drinking and drunkenness as ends in themselves. In the 11 years since the Act came into force, there have been some positive trends in drinking habits and culture but many of the challenges associated with excessive alcohol consumption remain.
2. Alcohol consumption (measured by the average number of litres of alcohol consumed per head of population) has generally shown a downward trend from a peak in the mid 2000s, following a longer term increase (UK consumption per head doubled between 1950 and 2004).<sup>1</sup> The most pronounced fall in heavy drinking has been in 16-24 and 25-44 age groups, whereas trends in the older age groups (45-64 and 65 and over) have remained more stable, even rising slightly since 2012.<sup>2</sup> Around one in five adults (21%) in 2016 said that they were teetotal (they do not drink alcohol at all). This has slowly increased from 19% in 2005 due to a rise among those aged 16 to 44. In 2016 over 1 in 4 (27%) young adults (aged 16 to 24) were teetotal, a 41% increase since 2005 (19%).<sup>3</sup>
3. There is a strong link between alcohol and violent crime. Crime Survey for England and Wales (CSEW) data from 2015/16 shows that in slightly under half (40%, 491,000 offences) of all violent incidents the victim believed the perpetrator to be under the influence of alcohol. Both the volume of incidents and the proportion of violent incidents that were 'alcohol-related' have fallen relative to 2005/06. Alcohol can also be a contributory factor in incidents of minor crime and anti-social behaviour. The 2015/16 CSEW shows that around one in eleven (9.2%) adults reported that they personally experienced or witnessed drink related anti-social behaviour.<sup>4</sup>
4. The trend for some alcohol-related health indicators has moved in the opposite direction: alcohol-related hospital admissions and the incidences of certain alcohol-related health conditions have all increased and, whilst alcohol-related death rates have not changed in recent years, the rate in 2015 is still higher than that observed in 1994.<sup>5</sup> A growing body of evidence also shows that excessive alcohol consumption affects different socio-economic groups differently. For example, half of all annual hospital admissions occur in the lowest three socioeconomic deciles.<sup>6</sup> While the Committee's report is emphatic in judging that the promotion of health and well-being is not appropriate as a

<sup>1</sup> Public Health England (2015) Substance misuse among young people: data for 2014-15

<sup>2</sup> Office for National Statistics (2017) Adult Drinking Habits in Great Britain, 2005 to 2016

<sup>3</sup> Ibid

<sup>4</sup> Office for National Statistics (2016) Crime in England and Wales, Year Ending March 2016

<sup>5</sup> Office for National Statistics, *Alcohol-related deaths in the UK: registered in 2015*.

<sup>6</sup> <https://www.gov.uk/government/publications/the-public-health-burden-of-alcohol-evidence-review>

licensing objective (a recommendation with which we agree), it remains an area where further progress can – and should - be made.

5. Alongside these ongoing challenges we are also seeing a continuing shift in the way we consume alcohol. People are visiting pubs less frequently, and the alcohol industry reports changes not just in who visits pubs, but also in what they buy when they do so, with more pubs offering food as part of their main approach to attracting customers. More than two thirds of all alcohol sold is through the off-trade<sup>7</sup> and, since 2009, there has been a 17% expansion in the number of premises licensed for off-sales only compared with a 9% increase in the number of licenses for on-trade sales only.
6. In addition, more alcohol is being bought online. Information as to the quantity of alcohol purchased online is difficult to come by but one survey suggests that around one-fifth of all alcohol purchased is bought online<sup>8</sup>.
7. The implications of these changes suggest that we are drinking more of our alcohol at home, a change that brings with it a fresh set of challenges for Government and partners to address. For example,
  - A third of domestic violence incidents in 2015/16 were perceived by the victims as alcohol related;<sup>9</sup>
  - Over the last three years, 25,000 contacts to the NSPCC helpline raised concerns of substance abuse near children (both alcohol and drugs), a 16% increase since 2013/14, with 8500 people contacting the helpline last year alone;<sup>10</sup>
  - A UK-based study identified that an increase of 11 off-sales outlets per km<sup>2</sup> was associated with an 8% higher incidence of alcohol-related hospitalisation and a 19% higher incidence of alcohol-related mortality.<sup>11</sup>
8. The shift towards home consumption presents a different set of challenges, not just in terms of how public services respond to the crime and health harms that occur in and around the home, but also in relation to the role and ability of the Act to promote behaviour change among those individuals who cause the most significant harms.
9. In this context, the report by the House of Lords Select Committee on the Licensing Act 2003 is an important contribution towards where and how the Act can be improved. Tackling alcohol-related harm and encouraging responsible drinking cannot be done by regulation alone. Alcohol is a legal substance available to people to enjoy at home or out and about as they choose. The alcohol industry also makes a significant contribution to the UK

<sup>7</sup> <http://www.healthscotland.scot/publications/mesas-monitoring-report-2017>

<sup>8</sup> <https://www.thedrinksbusiness.com/2017/04/uk-leads-europe-for-online-booze-sales>

<sup>9</sup> Office for National Statistics (2017) Crime in England and Wales, year ending March 2016

<sup>10</sup> NSPCC (2017) <https://www.nspcc.org.uk/what-we-do/news-opinion/children-of-alcoholics-week/>

<sup>11</sup> Richardson *et al* (2015) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4415114/>

economy and employment market and it is vital to this important industry that the Government strikes the right balance between promoting trade and investment on the one hand and ensuring an effective regulatory framework that minimises the risk of harm on the other.

## **Government action to reduce alcohol-related harms**

### Modern Crime Prevention Strategy

10. As part of Government's continuing commitment to fight crime, stand up for victims, and introduce more effective crime prevention measures, the Government published the Modern Crime Prevention Strategy in March 2016. The strategy targets the key drivers of crime, and sets out an updated approach to crime prevention. Alcohol is one of the six drivers of crime. The focus lies on preventing alcohol-related crime to make the night-time economy safe and enable people to enjoy a night out without the fear of becoming a victim of crime.
11. The strategy sets out a three-pronged approach to preventing alcohol-related crime and disorder:
  - Improving local intelligence so that decisions taken about the sale of alcohol and the management of the evening and night time economy are based on reliable data and the latest evidence;
  - Establishing effective local partnerships where all those involved in the operation and management of the evening and night time economy work together, so that people can enjoy a safe night out without fear of becoming a victim of alcohol-related crime or disorder, whilst also enabling local economies to grow; and,
  - Equipping the police and local authorities with the right powers so they can prevent problems occurring as well as take swift and decisive action after they have occurred.
12. Many of the commitments concerning alcohol have now been delivered with ongoing work focused on making improvements to data sharing between police, local authorities and accident and emergency departments.

### Local Alcohol Action Areas

13. In January, the Minister for Crime, Safeguarding and Vulnerability launched the second phase of the Government's Local Alcohol Action Areas programme (LAAA2). The LAAA2 programme is designed to offer frontline support and expertise to local areas from dedicated Government support managers and other experts.
14. In the first phase of the programme, we worked with 20 areas across England and Wales over a 13 month period. The programme gave local agencies a strong role in diagnosing the problems they faced and making plans to tackle them. Participating areas told us that their involvement in the programme

helped to raise the profile of alcohol-related initiatives. They also benefited from access to expert practitioners and from networking with other areas tackling the same problems.

15. In the second phase we are working with 32 areas over a two-year period. Those areas will be supported in implementing their plans to reduce alcohol-related crime and health harms and to generate economic growth by creating a vibrant and diverse night time economy. Areas are focusing on a number of core challenges including safe spaces, sales to drunks, improving sharing and interpretation of health data, and diversification of the night time economy. The two year programme provides opportunity for innovation and to share best practice across all areas in England and Wales.

#### HM Treasury Consultation

16. Higher strength white ciders have been highlighted, by some, as a product that causes disproportionate levels of harm. These drinks have an alcohol strength around 7.5% abv, and are reportedly typically purchased as a cheap form of relatively high strength alcohol. A three litre bottle of a 7.5% abv 'white' cider contains 22.5 units of alcohol which is over 1.5 times the number of units the UK Chief Medical Officers have recommended for weekly consumption for those wishing to keep the health risks from drinking alcohol to a low level.
17. Her Majesty's Treasury (HMT) launched a consultation in March to obtain views on:
  - introducing a new duty band for still cider just below 7.5% abv to target white ciders; and,
  - the impacts of introducing a new duty band for still wine and made-wine between 5.5% and 8.5% abv.
18. The Government will announce its next steps once all responses to the consultation have been considered.

#### UK Chief Medical Officer (CMO) guidelines

19. The Government believes people have a right to accurate information and clear advice about alcohol and its health risks and that it has a responsibility to ensure this information is provided in an open and clear way, so the public can make informed choices.
20. The UK Chief Medical Officers have issued low risk drinking guidelines<sup>12</sup> to provide the public with clear advice about alcohol and its health risks. These recommend that adults do not regularly drink more than 14 units per week. This is based on the most up to date scientific information to help people make informed decisions about their own drinking. Guidance has been issued to the industry to ensure the core elements of the guidelines are communicated to the public.

<sup>12</sup> <https://www.gov.uk/government/publications/alcohol-consumption-advice-on-low-risk-drinking>

### Improving Lives

21. The evidence is clear that work and health are linked. Appropriate work is good for an individual's physical and mental health. Being out of work is associated with a range of poor health outcomes. Academics and organisations such as the World Health Organisation, the OECD, the Royal College of Psychiatrists and NICE all recognise that work influences health and health influences work. The workplace can either support health and wellbeing and the health system can actively support people into work in a virtuous circle or the workplace can be unsupportive and health and work systems can work against each other.
22. The impact of poor health on work is not inevitable for people at any age. For example, advances in technology can assist people to remain in work where they might previously have been unable to do so. Lifelong learning can also offer the opportunity for people to gain new skills to change roles if they develop a health condition or disability, or an existing one worsens. And while many conditions are not preventable, the evidence is clear that the way we live our lives can influence health outcomes. Currently, 6 out of 10 adults are overweight or obese, nearly 1 in 5 adults still smoke, and more than 10 million adults drink alcohol at levels that pose a risk to their health.
23. Public health interventions form a vital part of the health and work agenda to help reduce the prevalence of conditions that can lead to people leaving the labour market due to ill health.

### **Further action**

24. The Committee's Report states that the Act requires a 'radical comprehensive overhaul', although it was also noted from some evidence sessions that 'where it works, it works really well'.
25. The Government does not intend to be hasty in instigating such an overhaul of the Act. However, there are a significant number of recommendations that the Government agrees will help improve the operation of the Act, for example clarifying points of practice for licensing committees by amending the statutory guidance and looking at the provision of good quality training to licensing committee members.
26. While the Government rejects some recommendations and conclusions, there are several recommendations which are a spur to further work, particularly in respect to how the system of licensing can be made to function more effectively and the lessons that can be learned from the planning system. The Government is committed to working with partners, including the Local Government Association, the Institute of Licensing, the licensed trade, and licensing solicitors and barristers, to ensure that the system operates as effectively as possible.

27. The Act cannot, however, be the means by which all alcohol-related harms are tackled, something which the House of Lords Select Committee itself recognises through its recommendation that a health and well-being licensing objective is not added to the current list of licensing objectives. For these types of harms, a more sophisticated, joined up approach from a range of public services is required. The Government will work with partners to identify the most effective means of responding to those alcohol-related harms that cannot be addressed through further change and amendment to the Act.
28. We thank the Committee for their work on this important piece of legislation. The Government has considered the recommendations and the Government's response is below.

## **Response to the Select Committee on the Post Legislative Scrutiny of the Licensing Act 2003:**

### **Conclusion / Recommendation 1:**

**We think it unfortunate that in the 11 years since the full implementation of the Licensing Act there have been piecemeal amendments made by nine different Acts of Parliament, a large number of significant amendments made by other Acts and by secondary legislation, and further changes to licensing law and practice made by amendment of the section 182 Guidance.**

(Paragraph 54)

### **Government response**

The Government notes the Committee's concerns. It is important to ensure that the Act remains flexible and responsive to emerging trends and issues. The changes made both to the Act and to the guidance reflect concerns highlighted by partners and those responsible for implementing the legislation and have, in our view, served to make the legislative framework stronger and more effective.

### **Conclusion / Recommendation 2:**

**We regret that there will no longer be any opportunity for Parliament to scrutinise the guidance in draft, nor even to ensure that there has been adequate consultation during its preparation.** (Paragraph 55)

### **Government response**

The requirement to lay guidance issued under section 182 of the Act was removed via the Policing and Crime Act 2017 with effect from 6 April 2017.

The licensing framework is now well established and the Government therefore considered the requirement to lay revised guidance before Parliament to be unnecessary. Since the guidance was first published it has been revised twelve times and on no occasion has Parliament commented on the guidance. There are many other examples of statutory guidance where there is no parliamentary procedure attached and the Government is satisfied that it is no longer justified for this guidance. This change will mean that the guidance can be updated more quickly and easily than previously. The guidance retains its statutory status and will continue to be published on gov.uk.

The statutory guidance is provided to licensing authorities to assist them in carrying out their functions under the Act. The guidance is updated to reflect legislative changes; as these are factual changes it is not necessary to carry out a formal consultation. However, Government officials share draft guidance with partners to ensure the guidance will be understood by licensing authorities and others who use it. When the guidance is updated to reflect the recommendations

of the report that have been accepted by Government drafts of the guidance will continue to be shared with key partners for their comment.

### **Conclusion / Recommendation 3:**

**Assuming that minimum unit pricing is brought into force in Scotland, we recommend that once Scottish Ministers have published their statutory assessment of the working of MUP, if that assessment demonstrates that the policy is successful, MUP should be introduced in England and Wales.**

(Paragraph 86)

### **Government response**

Minimum unit pricing remains under review. Subject to the outcome of the legal case between the Scottish Government and the Scotch Whisky Association and any subsequent decision of the Scottish Government to introduce a minimum unit price for alcohol, the Government will consider the evidence of its impact once it is available.

### **Conclusion / Recommendation 4:**

**We urge the Government to continue to look at other ways in which taxation and pricing can be used to control excessive consumption.** (Paragraph 87)

### **Government response**

In 2015, the Government commissioned Public Health England (PHE) to “review the evidence and provide advice on the public health impacts of alcohol and possible evidence-based solutions”. The review<sup>13</sup> represents England’s most comprehensive examination of the evidence on the public health burden of alcohol and policy responses to reduce the health, social and economic harm. The review identifies that measures to address affordability and availability of alcohol are likely to have an impact on reducing harmful consumption.

The Government continues to consider a range of measures available to control excessive alcohol consumption through taxation and pricing. For example, Her Majesty’s Treasury has recently consulted on the introduction of a new duty band for still cider just below 7.5% abv (to target white ciders) and the impacts of introducing a new duty band for still wine and made-wine between 5.5% and 8.5% abv (to encourage the production and consumption of lower strength wines). The consultation closed in June.

The Government keeps all taxes under review at fiscal events, and we will consider this issue carefully as part of the Autumn Budget process.

<sup>13</sup> <https://www.gov.uk/government/publications/the-public-health-burden-of-alcohol-evidence-review>

#### **Conclusion / Recommendation 5:**

**We appreciate that we are perhaps more likely to receive evidence critical of the way the licensing process operates than evidence saying it operates well or better. We believe – we certainly hope – that most members of licensing committees take their responsibilities seriously, adopt a procedure which is fair and seen to be fair, are well advised, and reach sensible conclusions. But clearly reform of the system is essential. (Paragraph 116)**

**AND**

#### **Conclusion / Recommendation 6:**

**Sections 6-10 of the Licensing Act 2003 should be amended to transfer the functions of local authority licensing committees and sub-committees to the planning committees. We recommend that this proposal should be trialled in a few pilot areas. (Paragraph 154)**

**AND**

#### **Conclusion / Recommendation 7:**

**We believe that the debate and the consultation on transferring the functions of licensing committees and sub-committees to the planning committees must start now, and the pilots must follow as soon as possible. (Paragraph 155)**

#### **Government response**

The Government recognises that the recommendations this Committee has made about the relationship between licensing and planning is the start of a debate. We acknowledge that others are interested in there being further consideration of whether, and how, licensing and planning could work better together and where there is good practice within planning that could be applied to licensing.

Local planning authorities have a duty to determine planning applications in line with their local plan, policies and other material considerations. However, local authorities in England are not explicitly required by statute to have a planning committee (although there are statutory requirements on the make-up of local authority planning committees in Wales); whereas licensing authorities are required to establish committees by the Act. It should be noted that in some areas a planning authority may not be coterminous with the licensing authority. In some English local authority areas there are planning committees and licensing committees made up of the same committee members, or subsets of the same members. It is a matter for local authorities to determine the best arrangements for their area, taking into account the needs of their communities and to provide value for money to the taxpayer.

It is up to local authorities to determine how they organise committees to deliver their statutory functions and we do not intend to take the approach recommended by the Committee at this time. Section 7 (5) of the 2003 Act already allows that where a matter relates to a licensing function and to another function of the local authority (for example, planning), the matter may be referred to either committee. This allows for the licensing committee to discharge functions other than licensing matters, and vice-versa, for a planning committee to discharge a licensing function.

However, the Committee raises important points in its report on the effectiveness and consistency of implementation of licensing processes and decision making. We accept that improvements could be made in some local areas and that the synergies between planning and licensing should be part of an ongoing discussion about how we can support local improvements. Instead of transferring the functions of licensing committees to planning committees, we are focusing on improving training and providing stronger guidance on how licensing hearings should be conducted.

The basic structures of the planning and licensing system are similar and our focus will be on improving how the two regimes communicate and interact at local level. There is good practice in many local areas that we will disseminate and build on, for example whether there is additional support that local residents could be given to frame and present their concerns about a licensing application to the committee effectively. The local planning authority is already listed in the Act as a responsible authority and therefore has a statutory role in considering applications for the grant, variation or review of a premises licence.

### **Conclusion / Recommendation 8:**

**Licensing authorities should publicise the reasons which have led them to settle an appeal, and should hesitate to compromise if they are effectively reversing an earlier decision which residents and others intervening may have thought they could rely on.** (Paragraph 173)

### **Government response**

We agree that there should be transparency around the decisions made on licensing appeals, in particular for local residents who may have attended a hearing and expect the decision to be implemented.

Our view is that any decision by a local authority should be justified with clear reasons and, where a case is settled out of court, this is just as important as publicising the original outcome of the review hearing. There is no reason why a local authority should not publish the revised decision and reasons. Licensing authorities should give full consideration to the level of interest in a case when considering whether to reverse any decision which other parties to the original hearing may be relying on. Settling a matter out of court effectively removes any

further opportunity for those parties to be heard or to hear new evidence or concessions made by the appellant.

We do not consider it necessary to legislate to this effect. The section 182 guidance states that *“It is important that a licensing authority should give comprehensive reasons for its decision in anticipation of any appeals. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.”* We will amend the guidance to extend this principle to decisions made after a hearing.

#### **Conclusion / Recommendation 9:**

**We recommend that appeals from licensing authorities should no longer go to magistrates’ courts, but should lie to the planning inspectorate, following the same course as appeals from planning committees. This change is not dependent on the outcome of our recommendations on the licensing function, and should be made as soon as possible.**

#### **Government response**

The Government notes the Committee’s comments on the appeals process. We do not intend to change the system so that licensing appeals no longer go to magistrates’ courts but lie to the planning inspectorate.

However, we accept the Committee’s findings that the licensing appeals system could be improved and we are aware that some local areas find the system unwieldy and prone to delay. We will explore with partners whether there is good practice within the existing regime and from similar regimes that may offer some ideas for consideration.

#### **Conclusion / Recommendation 10:**

**The section 182 Guidance should be amended to make clear the responsibility of the chair of a licensing committee for enforcing standard of conduct of members of sub-committees, including deciding where necessary whether individual councillors should be disqualified from sitting, either in particular cases, or at all. (Paragraph 213)**

#### **Government response**

The responsibilities of the chair of a local licensing committee are vital to ensuring effective local practice and we support this recommendation in principle.

In our view, the Local Government Association (LGA) handbook for licensing committees is the most appropriate vehicle for highlighting these responsibilities, and we will work with the LGA to address the points the Committee has raised in their forthcoming handbook.

#### **Conclusion / Recommendation 11:**

**We recommend that the Home Office discuss with the Local Government Association, licensing solicitors and other stakeholders, the length and form of the minimum training a councillor should receive before first being allowed to sit as a member of a sub-committee, and the length, form and frequency of refresher training.**

**AND**

#### **Conclusion / Recommendation 12:**

**The section 182 Guidance should be amended to introduce a requirement that a councillor who is a member of the licensing committee must not take part in any proceedings of the committee or a sub-committee until they have received training to the standard set out in the Guidance. (Paragraph 220)**

#### **Government response**

The Government recognises the importance of councillors undergoing training before being allowed to sit as a member of a sub-committee. Good quality training is critical to ensuring that councillors are able to effectively carry out their licensing role. Licensing authorities determine what training is required for their committee members and this can be delivered in a variety of ways, including through courses delivered by the Institute of Licensing (IoL).

We will consider the training needs for councillors with the partners suggested by the Committee.

#### **Conclusion / Recommendation 13:**

**We recommend that where there are no longer any matters of dispute between the parties, a sub-committee which believes that a hearing should nevertheless be held should provide the parties with reasons in writing. (Paragraph 222)**

#### **Government response**

The Government accepts that it is reasonable for a licensing sub-committee to provide reasons why a hearing should nonetheless be held even where there are no longer any matters of dispute between the parties. This will be included in the section 182 guidance and in the LGA licensing handbook when it is produced. The guidance will also be amended to clarify the powers of delegation to dispense with a hearing.

#### **Conclusion / Recommendation 14:**

**The Hearings Regulations must be amended to state that the quorum of a sub-committee is three. (Paragraph 229)**

## **Government response**

Section 9(1) of the Licensing Act already requires sub-committees to consist of three members of the committee, no more, no fewer. The Act provides the power to change that number by way of secondary legislation; however neither the Committee nor the Government has identified any need to do so. The Government's view, therefore, is that no amendment to the Hearings Regulations is needed as that is already the statutory requirement and it should not be duplicated in secondary legislation.

The Government will instead make this clear in the statutory guidance to ensure that the legal requirement is complied with in future.

## **Conclusion / Recommendation 15:**

**Regulations 21 and 23 of the Hearings Regulations leave everything to the discretion of the committee. They regulate nothing. They should be revoked.**  
(Paragraph 230)

## **Government response**

The process for hearings must meet the requirements of regulations under the Act. Procedural matters which are not covered in the legislation are for the licensing authority to determine, and the purpose of regulation 21 is to make this explicit. This allows licensing authorities to design their process to suit local structures, and it is important that this flexibility is provided for as a means of minimising unnecessary burdens on local authorities. The regulations stipulate the process to be followed where there is a need for consistency and transparency across all licensing authorities.

Regulation 23 states that a hearing shall take the form of a discussion, and cross-examination shall not be permitted unless the authority considers it is required for it to consider the case. This is an important principle for licensing hearings, since the role of the committee is to look at the impact on the licensing objectives, and judge what is appropriate.

It is not the committee's role to judge guilt or innocence, for example when a licence is reviewed following concerns about incidents of crime and disorder. The committee takes an inquisitorial approach and therefore cross-examination is not usually needed. Often witnesses at a licensing hearing do not have legal representation (including licensees, responsible authorities and members of the public), and allowing cross-examination would result in licensing hearings taking significantly longer than they do currently and make the process overly adversarial.

We do not intend to revoke these regulations.

### **Conclusion / Recommendation 16:**

**The section 182 Guidance should indicate the degree of formality required, the structure of hearings, and the order in which the parties should normally speak. It should make clear that parties must be allowed sufficient time to make their representations. (Paragraph 231)**

#### **Government response**

As outlined above, it is important to preserve the flexibility for licensing authorities to determine their own procedures for holding hearings. However, we will consult partners about what changes should be made, if any, to the section 182 guidance to improve the consistency of process where this is needed, for example that parties should be allowed sufficient time to make their representations.

### **Conclusion / Recommendation 17:**

**We recommend that where on a summary review a licence is revoked and the livelihood of the licensee is at stake, magistrates' courts should list appeals for hearing as soon as they are ready. (Paragraph 236)**

#### **Government response**

The Government cannot implement this recommendation because listing is a judicial responsibility and function. The purpose of a listing decision is to ensure that all cases are brought to a hearing in accordance with the interests of justice, and the determination of what is in the interests of justice, and the issue of which cases should be given priority for listing is for the judiciary. For example, it would be for the judiciary to decide if a trial involving a child witness, a cash seizure case where somebody desperately needs to get their money back, or a licensing appeal should be given greater priority in a magistrates' court.

The fact that someone's livelihood is at stake would clearly be an important factor, but it will be one of a number to be weighed by the judiciary in giving priority to the listing of cases.

We have discussed this recommendation with HM Courts and Tribunals Service who will bring the select committee's recommendation to the attention of the judiciary.

### **Conclusion / Recommendation 18:**

**We recommend that notice of an application should not need to be given by an advertisement in a local paper. Notices should be given predominantly by online notification systems run by the local authority. (Paragraph 242)**

#### **Government response**

The legislation requires an applicant for a premises licence to publish a notice:

- i) in a local newspaper or, if there is none, in a local newsletter, circular or similar document, circulating in the vicinity of the premises;
- ii) on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the relevant licensing authority.

The previous Government consulted on this deregulatory measure in 2012 as part of the Alcohol Strategy consultation. A small majority of responses were in favour of the proposal. The Government response to the consultation stated that a number of responses stressed that newspapers were an important means through which local communities found out about licensing applications, and the Government considered that the removal of the requirement to advertise details in newspapers would be a step backwards from the efforts the Government has made to empower local people and local areas in tackling local alcohol-related problems. The Government has no plans to revisit the requirement for an applicant to publish a notice in a local newspaper.

#### **Conclusion / Recommendation 19:**

**Local authorities should ensure that blue licensing notices, as for planning applications, should continue to be placed in shop windows and on street lights in prominent positions near the venue which is the subject of the application. (Paragraph 243)**

#### **Government response**

It is important that licensing notices are displayed prominently in order to ensure that as many people within the community are kept informed of licensing applications.

The section 182 guidance already states the requirements on applicants to publish a notice in a local newspaper and display a summary outside the premises.

However, we will strengthen advice on this issue in the guidance. The LGA has also agreed to highlight this requirement to Licensing officers to ensure best practice is followed.

#### **Conclusion / Recommendation 20:**

**Coordination between the licensing and planning systems can and should begin immediately in all local authorities. The section 182 Guidance should be amended to make clear that a licensing committee, far from ignoring a relevant decision already taken by a planning committee, should take it into account and where appropriate follow it; and vice versa. (Paragraph 246)**

## **Government response**

Planning and licensing are separate regimes that serve separate purposes. There may be overlapping considerations that are relevant both from a licensing and a planning perspective. Effective coordination is important to ensure that planning and licensing work together to produce better decision-making that supports the needs and aspirations of local communities. The Government encourages local authorities to take steps to achieve coordination where appropriate and to avoid contradictory decisions as far as possible.

The section 182 guidance recommends that the licensing authority secures proper integration of its licensing policy with planning. Local authority members on committees carrying out these functions must take all relevant considerations into account when reaching a decision – and some considerations may be relevant from both a planning and a licensing perspective. The National Planning Policy Framework (paragraph 191) encourages the parallel processing of consents.

We are aware of examples of local good practice where licensing and planning systems work well together. The local planning authority is a responsible authority under the Act and therefore has a statutory role in considering applications for the grant, variation or review of a premises licence. However, we recognise that coordination between systems is inconsistent and could be improved in many areas.

We will revisit how this issue is presented in the section 182 guidance with a view to strengthening the call for consistency, wherever possible, in the assessment and approach of those matters that are considered by both regimes to support local authorities to make effective decisions.

We will also encourage the LGA and the Institute of Licensing (IoL) to emphasise the need for coordination to their members.

## **Conclusion / Recommendation 21:**

**We have received submissions in both written and oral evidence that three further objectives should be added to the four already listed. Our consideration of them is based on our view that the objectives are not a list of matters which it would be desirable to achieve, but simply an exhaustive list of the grounds for refusing an application or imposing conditions. There is therefore no point in including as an objective something which cannot be related back to particular premises. (Paragraph 250)**

## **Government response**

The Government welcomes the Committee's comments on the nature and purpose of the licensing objectives.

The existing licensing objectives, as provided for in section 4 of the Act, seek to reduce harm that can be evidenced. Requiring licensing authorities to consider the provision of social or cultural activities for example, or anything similar, would run in contradiction to the other licensing objectives.

#### **Conclusion / Recommendation 22:**

**Promotion of health and well-being is a necessary and desirable objective for an alcohol strategy, but we accept that it is not appropriate as a licensing objective.** (Paragraph 261)

#### **Government response**

The Government is committed to working with public health organisations and professionals, in particular Public Health England, to support local areas to tackle the public health harms associated with excessive alcohol consumption. Public health teams have an important role to play in the licensing system, and that is why they have a statutory role as a responsible authority under the 2003 Act.

We believe there is much that can be done within the existing licensing framework. The Government's interest in this area has helped spark a range of work to provide better access to health data and improve public health's engagement, as a responsible authority, with licensing. This has brought many benefits, including better decision making, improved partnership working, better informed commissioning of services, service delivery and design.

We are determined to continue to support an increased focus on public health engagement with licensing. We are working with public health stakeholders to ensure that the promising work underway in this area continues and that new evidence is considered to support future policy decisions. This includes promoting the use of Public Health England's analytical support package<sup>14</sup> to improve access to and use of health data and supporting the Information Sharing to Tackle Violence programme to encourage A&E departments to share their data with Community Safety Partnerships. The new Local Alcohol Action Area programme is a key driver of much of our work in this area through the promotion and sharing of best practice and support with overcoming barriers to data use.

#### **Conclusion / Recommendation 23:**

**We do not recommend that 'enjoyment of licensable activities', 'the provision of social or cultural activities', or anything similar should be added as a licensing objective.** (Paragraph 265)

<sup>14</sup> <https://www.gov.uk/guidance/alcohol-licensing-a-guide-for-public-health-teams>

## **Government response**

The Government does not intend to introduce a licensing objective relating to the provision of social or cultural activities or anything similar. As stated above (in response to conclusion / recommendation 21), the existing licensing objectives seek to reduce harm. Requiring licensing authorities to consider the provision of social or cultural activities, or anything similar, would run in contradiction to the other licensing objectives, all of which are aimed at harm reduction.

The Act already takes into account the provision of social or cultural activities by ascribing inherent value to all of the licensable activities, requiring licensing authorities to grant an authorisation, subject to substantive concerns stemming from the existing licensing objectives.

### **Conclusion / Recommendation 24:**

**We do not recommend adding as a licensing objective ‘compliance with the Equality Act 2010’ or ‘securing accessibility for disabled persons’.**

(Paragraph 272)

**AND**

### **Conclusion / Recommendation 25:**

**We recommend that the law should be amended to require, as in Scotland, that an application for a premises licence should be accompanied by a disabled access and facilities statement.** (Paragraph 277)

## **Government response**

The Government is sympathetic to the issues that have been raised in relation to accessibility for disabled people and the problems with ensuring businesses and service providers comply with the requirements in the Equality Act 2010. Licensed premises are places where many of us choose to socialise and are therefore an important part of our daily lives, and too many of these venues are difficult for disabled people to access.

However, we agree with the Committee that adding to the licensing objectives is not the answer. The Act, and the licensing objectives, must be used to address issues that apply to the licensable activities and are therefore unique to licensed premises. The Act should not be used to control other aspects of licensed premises; this would be outside the scope of the licensing regime and contrary to the principles of better regulation. The 2017 Conservative Party manifesto made a commitment to review disabled people’s access and amend regulations if necessary to improve disabled access to licensed premises, parking and housing.<sup>15</sup>

<sup>15</sup> <https://s3.eu-west-2.amazonaws.com/manifesto2017/Manifesto2017.pdf> page 58

We will consult disabled peoples' organisations to understand better the extent of the problem from the perspective of those with a broad range of disabilities, their carers and families. We will work with the National Association of Licensing Enforcement Officers (NALEO) who gave evidence to the Equality Act 2010 and Disability Committee on this matter, and the representatives of the licensed trade to explore what practical measures can be taken. We hope this will result in significant improvements for disabled people without the need for additional regulations.

#### **Conclusion / Recommendation 26:**

**We do not recommend that powers to ban super-strength alcohol across many premises simultaneously be granted to local authorities.** (Paragraph 309)

#### **Government response**

The Government does not intend to grant local authorities these powers. We have outlined Government plans to tackle alcohol pricing through taxation, particularly the issue of high strength products, in the response to recommendation four.

We welcome the recent guidance on street drinking<sup>16</sup> published by the Association of Police and Crime Commissioners, which calls for a multi-component approach to tackling this issue that includes an offer of treatment and engagement with services such as housing and mental health to support street drinkers, as well as effective enforcement activity.

#### **Conclusion / Recommendation 27:**

**The Coalition Government's Responsibility Deal on alcohol did not achieve its objectives, and appears to have been suspended. We believe much more still needs to be done to tackle the production of super-strength, low-cost alcoholic products. If and when any similar schemes are developed in the future, there must be greater provision for monitoring and maintaining them, and greater collaboration between all parties involved, including both public health experts and manufacturers. They should also account for the realities of super-strength alcohol, with particular focus on, for example, ABV rather than the specifics of packaging.** (Paragraph 310)

#### **Government response**

The Government notes the Committee's comments on the Responsibility Deal and the suggestions for future schemes.

<sup>16</sup> <http://www.apccs.police.uk/wp-content/uploads/2013/11/Tackling-Street-Drinking-PCC-Guidance-on-Best-Practice.pdf>

Working in partnership with industry has delivered significant benefits, for example improving consumer choice of lower alcohol products by removing 1.3 billion units of alcohol from the market.

The Government is considering how best to work with partners to build on the foundations to tap into the potential for businesses and other organisations to improve public health and tackle health inequalities through their influence over food, alcohol, physical activity and health in the workplace.

#### **Conclusion / Recommendation 28:**

**We believe that proposed Group Review Intervention Powers, which would give local authorities the power to introduce mandatory blanket conditions on all premises in a particular area, should not be introduced. As a blanket approach to problems which can normally be traced back to particular premises, they are likely to suffer from the same problems as Early Morning Restriction Orders, and the same results can be achieved through existing means. (Paragraph 316)**

#### **Government response**

In the Modern Crime Prevention Strategy, the Government committed to consult on a group review intervention power (GRIP) to enable licensing authorities to consider the licensing conditions of a group of premises to address problems in a specific location. Where there are serious concerns about individual premises, licensing authorities will continue to use the existing review process; the group review intervention power would not itself result in the closure of premises.

Before proceeding with a consultation on the introduction of a GRIP, the Government will explore whether similar measures could be achieved within the existing system.

#### **Conclusion / Recommendation 29:**

**While there appears to be some merit to a few voluntary schemes, the majority, and in particular the Government's Responsibility Deal, are not working as intended. We believe there are limits to what can be achieved in this way, and many of the worst operators will probably never comply with voluntary agreements. We strongly believe that the Alcohol etc. (Scotland) Act 2010 offers a proportionate and practical basis for measures specifically regulating the off-trade. (Paragraph 321)**

**AND**

#### **Conclusion / Recommendation 30:**

**We recommend that legislation based on part 1 of the Alcohol etc (Scotland) Act 2010 should be introduced in England and Wales at the first available**

**opportunity. In the meantime, the section 182 Guidance should be amended to encourage adoption of these measures by the off-trade.** (Paragraph 322)

### **Government response**

The Government does not intend to introduce legislation based on part 1 of the Alcohol etc (Scotland) Act 2010.

Research published to date on the impact of the provisions in part 1 of the Alcohol etc (Scotland) Act 2010 suggests that these restrictions have had a limited impact on the amount of alcohol sold by the off-trade and the manner in which it is sold.

Although the research cited by the Committee, conducted by NHS Health Scotland and the University of Glasgow, suggests that the legislation was associated with a decrease in off-trade sales of wine in Scotland in 2013, other studies have shown little or no impact.<sup>17</sup> Research showed that following the ban on multi-buy promotions, households bought alcohol on more occasions but bought fewer products per shopping trip.<sup>18</sup> The PHE Evidence Review also concluded that bans on price promotions are not as effective and are easily circumvented.<sup>19</sup>

The Act already includes a mandatory condition for all premises selling alcohol to have an age verification policy that must, as a minimum, require people who appear to be under 18 to produce identification on request. Many licensed premises have adopted the challenge 21 or 25 scheme; we therefore do not consider it necessary to make this a legislative requirement. The industry signed up to support staff locally to take action, for example by introducing Challenge 25 as standard, in the Modern Crime Prevention Strategy.

The section 182 guidance is not an appropriate means to encourage the industry to adopt these measures on a voluntary basis, as the guidance is provided for licensing authorities in relation to the carrying out of their functions under the Act.

### **Conclusion / Recommendation 31:**

**Temporary Event Notices are used for a wide range of purposes, and the impact of a particular event on local residents cannot be reliably determined by whether they fall into broad ‘community’ and ‘commercial’ categories. We do not recommend the division of the current TENs system into ‘community’ and ‘commercial’.** (Paragraph 344)

### **Government response**

We agree with the Committee’s view that changing the current system or introducing different systems for community and commercial events would be undesirable and the Government does not intend to introduce this division.

<sup>17</sup> Curnock et al, 2012; Nakamura 2014; Lewsey et al 2016.

<sup>18</sup> Nakamura 2014.

<sup>19</sup> <https://www.gov.uk/government/publications/the-public-health-burden-of-alcohol-evidence-review>

### **Conclusion / Recommendation 32:**

**We recommend that licensing authorities be given the power to object to Temporary Event Notices, alongside police and environmental health officers. A system for notifying local councillors and local residents of TENs in a timely fashion should also be implemented. (Paragraph 349)**

#### **Government response**

The power to object to TENs is limited to police and environmental health teams to ensure the system remains light touch. There should, in any case, be dialogue between licensing authorities and the police and environmental health teams in cases where previous problems have occurred. Feedback from licensing authorities suggests that having the power to object to TENs would not be practical within the statutory time period allowed, due to the high volumes received and the additional scrutiny that would be required.

Licensing authorities have suggested that introducing a requirement to implement systems for notifying local councillors and residents is likely to be impractical. There is already a requirement to publicise TENs in the licensing register and many councils already publicise TENs on their online registers. In some areas residents can sign up for notifications through the Environmental Health Team. The law does not specify whether TENs have to be publicised before or after the planned event, but licensing authority feedback suggests that there would be practical difficulties with publicising TENs beforehand, particularly late TENs (although they can be emailed to local councillors at the same time as environmental health and the police). Similar issues are likely to occur if notices had to be posted in the vicinity.

The Government proposes that the section 182 guidance should recommend that licensing authorities consider how to bring TENs to the attention of residents who may be particularly affected, for example if there have been previous complaints about a premises (licensed or not).

### **Conclusion / Recommendation 33:**

**We recommend that section 106 (2) of the Licensing Act be amended, replacing the words 'before a hearing' with 'before or during a hearing' to enable TENs to be amended during a hearing if an agreement is reached. (Paragraph 352)**

#### **Government response**

Having considered this recommendation carefully following feedback from licensing authorities, the Government is of the opinion that section 106(2) should not be amended. Modifications to TENs can be agreed through discussions between the premises user and relevant persons (police or environmental health) in the period before the hearing. The sub-committee can then either accept or

reject the notice in its entirety and this process works well. The police and environmental health authority have three days to consider a TEN and changing the Act to allow modifications to be agreed at the hearing would reduce the time available to consider the matter fully. This change is likely to require licensing authorities to arrange additional hearings at very short notice, leading to additional resource implications and administrative burdens.

In cases where there is a licence or club premises certificate in relation to at least a part of the premises in respect of which the TEN is given, the licensing authority can impose existing licence conditions on the TEN at the hearing. Where all the parties agree that a hearing is not necessary and the licensing authority has decided not to give a counter notice on the basis of an objection, it may also impose existing licence conditions on the TEN.

#### **Conclusion / Recommendation 34:**

**Where it appears that notices are being given for TENs simultaneously on adjacent plots of land, resulting in effect in the maximum number attending exceeding the 500 person limit, we would expect the police or environmental health officers to object, and the licensing authority to issue a counter-notice. We recommend that the section 182 Guidance be amended to make this clear. (Paragraph 354)**

#### **Government response**

The Government believes that in every case it is important that licensing authorities focus on whether the premises user intends to exceed the 499 person limit. In such cases it is likely that the police should be engaged and, where this is done in a way which is contrary to the spirit of the law, that objections will be raised. We will amend the section 182 guidance to make this point clear.

If the number of people present on any premises (including staff, organisers, stewards and performers etc) at any one time exceeds 499 while licensable activities are being carried on under a TEN, the licensable activities would be unlawful and the premises user would be liable to prosecution. Under the Act a “premises” can mean any place. Premises will therefore not always be a building with a formal address and can include, for example, public parks (including plots within larger areas of land) and private land. The Act also permits multiple TENs to be given simultaneously where the limits are not exceeded in the case of each notice. The law therefore provides lots of flexibility and opportunities for premises users to hold a wide range of events in different circumstances.

In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises is, for example, an open field or a beer tent. The premises user should also provide a description of the nature of the event in order to assist the police and local environmental health authority in deciding if any issues relating to the

licensing objectives are likely to arise. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time and it should be made clear how this will be achieved, for example if door staff are employed with counters.

It is ultimately for the licensing authority to determine whether events should be allowed to go ahead in each case, based on the promotion of the licensing objectives and permitted limits. Where a notice is given correctly, the permitted limits are not exceeded and there are no objections from the relevant persons, the event should be allowed to take place, as is usually the case.

#### **Conclusion / Recommendation 35:**

**Although it is difficult to know whether the inadequate recording of TENs is widespread among local councils, we recommend that the section 182 Guidance be strengthened and clarified with respect to the collection and retention of TENs. It should clarify what personal information should be retained and in which particular format. (Paragraph 357)**

**AND**

#### **Consultation / Recommendation 36:**

**This information must be retained in a system allowing for its quick and easy retrieval, both by local authorities and by the public, and in such a way that local and national statistical data can be produced from them. The national GOV.UK platform should be used for receiving and processing TENs. (Paragraph 358)**

#### **Government response**

The Government collects statistics on the number of TENs and late TENs received, withdrawn, modified, and rejected.

Section 8 of the Act requires all licensing authorities to keep a register containing a record of, among other things, each temporary event notice received. Under Schedule 3 the licensing authority must also keep a record of any notice of withdrawal of a TEN, any counter notice to a TEN given following an objection by a relevant person, any TEN received following modification and any copy of a TEN received following loss or theft of an original. If requested to do so a licensing authority must supply a person with a copy of the information contained in any entry in its register.

Each licensing authority must also provide facilities for making the information contained in the entries in its register available for inspection by any person during office hours and without payment.

The Government believes that the systems in place are sufficient, but agrees that guidance on the requirements for storing and retaining information should be strengthened and clarified and will amend the section 182 guidance accordingly.

[See response to recommendation 65 regarding the use of Gov.uk.]

#### **Conclusion / Recommendation 37:**

**We recommend that section 67 of the Deregulation Act 2015, relating to Community and Ancillary Sellers' Notices, should not be brought into force, and should be repealed in due course. (Paragraph 368)**

#### **Government response**

The Government notes the points raised by the Committee in relation to the Community and Ancillary Sales Notice (CAN).

The Government is giving further consideration to the impact of introducing the CAN in the future, and will report to the House in due course.

#### **Conclusion / Recommendation 38:**

**We are convinced that licensing is a sufficiently specialist and technical area of policing, requiring a distinct and professional body of police licensing specialists. Although we are aware of the many demands currently placed on police resources, the proper and attentive licensing of premises has a considerable if sometimes indirect impact on public reassurance and wider aspects of crime and disorder. It is therefore important that the role of police licensing officers should not be diluted or amalgamated, as evidence suggests is occurring in some constabularies. They do not need to be sworn police officers and in many cases it may indeed be preferable that this role be performed by civilian staff. (Paragraph 379)**

**AND**

#### **Conclusion / Recommendation 39:**

**We recommend the development and implementation of a comprehensive police licensing officer training programme, designed by the College of Policing. While we accept that such an undertaking will require additional funds, these costs will likely be more than offset if the quality of police licensing decisions is improved, thereby reducing the number of appeals and other corrective procedures. (Paragraph 388)**

#### **Government response**

The Government agrees that comprehensive training should be available to all officers required to undertake licensing duties. All probationary police officers

currently undergo training in licensing issues as part of the basic training provided to all those joining the police force.

The College of Policing is an independent membership organisation with an established process in place for training to be commissioned. This process ensures that commissions are not duplicated, serve the best interests of its members and partner organisations and that the work is carried out in the most efficient way making best use of College resources.

The College has already completed its business plan for 2017/18 and allocated resources accordingly. Nevertheless, the Government will work with the College and relevant partners to consider whether to commission this training in the future as part of our work to professionalise the licensing system.

#### **Conclusion / Recommendation 40:**

**We believe it is highly likely that licensing committees will take police evidence seriously, especially if it is presented in a consistent and compelling fashion, regardless of whether they are required to by the section 182 Guidance. The risk that presently exists is that this additional emphasis could lead some licensing committees to partially or fully abdicate their responsibility to scrutinise police evidence to the same high standards as they would any other evidence. Our evidence suggests this is indeed occurring in some areas. It is entirely wrong that police evidence should be given more weight than it deserves solely because of its provenance.**

(Paragraph 400)

**AND**

#### **Conclusion / Recommendation 41:**

**Given evidence that paragraph 9.12 of the section 182 Guidance is being misinterpreted by licensing committees, and the fact that similar sentiments, more clearly stated, are already expressed in paragraph 2.1 of the Guidance, we recommend that paragraph 9.12 be removed. (Paragraph 401)**

#### **Government response**

Evidence provided by a responsible authority, including the police, must be subject to sufficient scrutiny at a hearing. We agree with the Committee's statement that licensing committees will take police evidence seriously and that the additional emphasis in paragraph 9.12 of the guidance is not needed.

We will amend paragraph 9.12 to remove this emphasis.

#### **Conclusion / Recommendation 42:**

**We support the Government's current move to transfer Cumulative Impact Policies from the section 182 Guidance and to place them on a statutory footing as this will introduce much needed transparency and consistency in this area.** (Paragraph 409)

#### **Government response**

Cumulative Impact Policies (CIPs) assist licensing authorities in carrying out their functions in relation to controlling the number or type of licence applications granted in an area where there is evidence of problems caused by high numbers of licensed premises concentrated in the area. Prior to these changes they have had no statutory basis and not all licensing authorities have been making effective or consistent use of CIPs. As seen in evidence presented to the Committee, the licensed trade has had longstanding concerns about the transparency of the process and quality of evidence used to implement CIPs.

The Government is pleased that the Committee supports the move to put CIPs on a statutory footing in order to provide greater clarity, transparency and legal certainty about their use. The changes were introduced by the Police and Crime Act 2017 but commencement of the new provisions was put on hold while the Government awaited any recommendations made by the Committee. The measures will now be commenced at the next available opportunity.

#### **Conclusion / Recommendation 43:**

**We agree with criticism of the drafting of the new section 5(5A) of the Act, as it threatens to remove discretion from local authorities on how they may interpret their own cumulative impact policies.** (Paragraph 412)

#### **Government response**

The Government consulted with partners to ensure that important principles around decision making under the Act and powers of discretion afforded to licensing authorities were retained. Upon commencement of the provisions on cumulative impact, detailed statutory guidance on the process and what the changes mean for all parties will be published as part of the main s182 guidance document. In particular, the guidance will set out clearly that licensing authorities will continue to have the power of discretion to depart from their licensing policy statements, where it is appropriate to do so, and accept applications in cumulative impact areas on a case-by-case basis.

#### **Conclusion / Recommendation 44:**

**We were surprised to learn that the Home Office have not collected centralised figures on the use of relatively serious police powers until now,**

**and that figures relating to section 169A closure notices are presented in such a confusing and misleading way. (Paragraph 416)**

### **Government response**

As stated in the Committee's report, statistics on closure notices issued under section 76 of the Anti-social Behaviour, Crime and Policing Act 2014 will appear in future *Alcohol and late night refreshment licensing* publications. The current publication identifies section 169A closure notices in the title of Table 13b.<sup>20</sup>

### **Conclusion / Recommendation 45:**

**We recommend that the section 182 Guidance be amended to make clear that the service of a Closure Notice pursuant to section 19 of the Criminal Justice and Police Act 2001 does not:**

- **Require the premises to close or cease selling alcohol immediately; or**
- **Entitle the police to require it to do so; or**
- **Entitle the police to arrest a person on the sole ground of non-compliance with the notice. (Paragraph 421)**

### **Government response**

This power allows the police or local authority to close premises that are selling alcohol without a licence to do so. In most instances it will be police and local authority licensing officers who use the power and we will amend the section 182 guidance to bring clarity to this issue as the Committee suggests.

### **Conclusion / Recommendation 46:**

**We sympathise with the police, practitioners and businesses who cannot always fully comprehend the complex process surrounding interim steps. We conclude that instead of conferring discretion upon the sub-committee to impose further interim steps upon a licensee pending appeal, a discretion to impose with immediate effect the determination of the sub-committee reached upon the full review would be preferable. This final decision must represent the sub-committee's more mature reflection upon the situation, based upon the most up to date evidence, and this ought to be the decision that binds the licensee, if immediacy is a requirement, rather than the suspended interim steps. (Paragraph 431)**

### **Government response**

In developing the legislation on summary reviews, the Government sought to provide clarity and legal certainty while offering maximum flexibility for licensing authorities and fairness to all parties. The Government is encouraged to see that the Committee considers that the amendments introduced by s136-137 of the

<sup>20</sup> <https://www.gov.uk/government/statistics/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2016-data-tables>

Crime and Policing Act 2017 are likely to resolve the difficulties that have been highlighted with the summary review process.

We do not agree that the alternative solution proposed by the Committee would be preferable. We considered such a proposal as part of the Government's published impact assessment.<sup>21</sup> The alternative proposal was based on existing principles in the Gambling Act 2005 and while it would have removed the ambiguity in the law, it was decided it did not fully meet the Government's objectives. Research into existing practices suggested that, under the alternative solution, licensing authorities would be more likely to implement decisions immediately to ensure the promotion of the licensing objectives. In cases where licensing authorities decided to implement the review decision immediately, necessary safeguards to prevent continuing problems would be put in place straight away. However, this would give businesses little time to adjust, in particular to any costly or permanent structural changes or revocations.

Over time we believe this would have created an upward pressure on appeal rates and expose licensing authorities to an increased risk of legal challenge and costs later down the line. We believe it would also have led to calls to introduce a right to an expedited full appeal against the decision, as a counter-balance (as modelled in the impact assessment), which would have placed further pressure on the courts. If licensing authorities chose not to implement the review decision immediately, and an appeal was lodged, this could have resulted in a period of several months where no measures were in place to protect the public and neighbouring premises.

Unscrupulous businesses may have sought to exploit this loophole which could have led to a risk of increased crime and violence. Even where no appeal was lodged there would, under this alternative proposal, be a statutory 21 day period where no protective measures would be in place.

The Government's solution ensures that the public and neighbouring premises remain protected throughout in every case, as licensing authorities can continue to place interim restrictions on any premises which it considers to pose a threat, including suspension of the licence. It also provides licensing authorities with flexibility to exercise their discretion when deciding what interim steps are appropriate to remain in place after the hearing. All parties now have the opportunity to make representations and have their say at the review hearing in respect of both the interim steps and the final decision. Any interim steps that remain in place after the hearing should therefore be proportionate. The additional right of appeal to a magistrates' court in relation to the interim steps makes this option compatible with the ECHR. Any risk of increased costs and burdens on the courts as a result of the additional expedited appeal right is expected to be minimal as each party would have had the opportunity to put forward their case

<sup>21</sup> <https://www.gov.uk/government/publications/policing-and-crime-bill-firearms-and-alcohol-licensing>

less than a month before and we would usually expect the expedited appeal hearing to be lighter touch and shorter than the appeal against the main (s53C) decision later down the line.

#### **Conclusion / Recommendation 47:**

**Within the Anti-Social Behaviour, Crime and Policing Act 2014, the power of the magistrates to ‘modify’ the closure order is curious wording, which has already perplexed the magistrates courts, given that the magistrates are just as likely to be invited to exercise their power to lift the revocation and re-open premises at a time when the original closure order has expired as they are during the currency of that closure order. We recommend a clarification of this wording. (Paragraph 436)**

#### **Government response**

Schedule 5, 18(4) to the 2003 Act allows a magistrates’ court to ‘modify’ a closure order pending appeal. This allows the magistrates’ court to decide that the premises may re-open pending the appeal.

Section 167 of the 2003 Act deals with the review of a premises licence following a closure order. Where a magistrates’ court has made a closure order, the licensing authority must review the premises licence and may take one of the steps listed in s.167(6)(a)-(e).<sup>22</sup> If the licensing authority decides to revoke the premises licence then the premises will remain closed until the appeal is disposed of or the time for appeal has expired. Schedule 5(18)(4) allows a magistrate to override this and determine that the premises may re-open pending appeal. S.168(7) refers to paragraph 18(4) to Schedule 5 as the ‘power of magistrates’ court to modify closure order pending appeal’. Although the reference to ‘modify’ is not used in schedule 5(18)(4) itself, the effect of that paragraph is clear and further clarification is not needed.

The Committee erroneously refers to Schedule 5 to the Anti-Social Behaviour, Crime and Policing Act 2014. The term ‘modify’ is not used in the 2014 Act in relation to the closure power.

#### **Conclusion / Recommendation 48:**

**We believe the appointment of the Night Czar and other champions of the night time economy (NTE) has the potential to help develop London’s NTE and ease the inevitable tensions that arise between licensees, local authorities and local residents. We believe that greater transparency should be expected of these roles if they are to secure the co-operation and trust of**

<sup>22</sup> The steps at s.167(6)(a)-(e) are: a) to modify the conditions of the premises licence; b) to exclude a licensable activity from the scope of the licence; c) to remove the designated premises supervisor from the licence; d) to suspend the licence for a period not exceeding three months; e) to revoke the licence.

**the parties in London's NTE. In time Night Mayors may also offer a model to other cities in the UK. (Paragraph 450)**

### **Government response**

The Government recognises the significant contribution that night time businesses make to the economy. As a result, we have reformed entertainment licensing and last year we made changes to permitted development rights, making it easier for well-established music and cultural venues to operate. We support the establishment of the Mayor of London's Night Time Commission and the appointment of the Night Czar and would encourage other local authorities to look at ways to enable growth in the night time economy.

We want to encourage people to live in our towns and cities, while at the same time, enabling the night time industries to thrive - providing local communities with valuable social hubs and cultural attractions. The regulatory regime must strike a balance between enabling people to enjoy themselves at well-run events and establishments while managing any adverse effects for residents.

We are also supporting local areas to undertake work to diversify their local night time economies through the Local Alcohol Action Areas programme. The aim of diversification is to develop night time economies that appeal to a broad range of society, not just those who wish to drink alcohol late at night.

### **Conclusion / Recommendation 49:**

**We believe it is appropriate that no Early Morning Restriction Orders have been introduced and we recommend that, in due course, the provisions on EMROs should be repealed. (Paragraph 466)**

### **Government response**

The EMRO is a powerful tool and accordingly it is appropriate that there are rigorous requirements to gather evidence and consult thoroughly before deciding to implement an EMRO. We note that the committee found that a small minority of evidence they heard considered that some form of EMRO-style power is still desirable (paragraphs 453 and 454) and that the basic assumption that local authorities should be able to issue a blanket ban on early morning opening hours is valid.

Although no licensing authorities have implemented an EMRO, we believe it is important to keep this tool available should any licensing authority wish to consider whether it is suitable for use in their area.

### **Conclusion / Recommendation 50:**

**While we acknowledge the concerns of local residents, we believe that overall the Night Tube is likely to have a positive impact for London's late**

**night licensed premises, their staff, and local residents. Not only will it provide a welcome boost to London's night time economy, which must be allowed to grow if London is to continue to prosper as a global city in the 21<sup>st</sup> century, but it may well also bring advantages for residents by dispersing crowds more effectively and efficiently. (Paragraph 472)**

#### **Government response**

We agree with the Committee's conclusion on the likely benefits of the Night Tube and we also welcome this development.

#### **Conclusion / Recommendation 51:**

**The Late Night Levy was introduced in large part to require businesses which prosper from the night time economy to contribute towards the cost of policing it. Yet the evidence we have heard suggests that in practice it can be very difficult to correlate the two with any degree of precision, which contributes to the impression, held by many businesses, that the levy is serving as a form of additional general taxation, and is not being put towards its intended purpose. (Paragraph 487)**

**AND**

#### **Conclusion / Recommendation 52:**

**We have received from ministers, verbally and in writing, categorical assurances that the provisions of the Policing and Crime Act 2017 regarding Late Night Levies will not be implemented until the Government has considered and responded to the recommendations in this report. (Paragraph 501)**

**AND**

#### **Conclusion / Recommendation 53:**

**Given the weight of evidence criticising the Late Night Levy in its current form, we believe on balance that it has failed to achieve its objectives, and should be abolished. However, we recognise that the Government's amendments may stand some chance of successfully reforming the Levy. We recommend that legislation should be enacted to provide that sections 125 to 139 of the Police and Social Responsibility Act 2011 and related legislation should cease to have effect after two years unless the Government, after consulting local authorities, the police and others as appropriate, makes an order subject to affirmative resolution providing that the legislation should continue to have effect. (Paragraph 502)**

## **Government response**

The late night levy enables local authorities to collect a financial contribution from businesses that profit from selling alcohol late at night to contribute towards the cost of late night policing and other costs associated the night time economy. The Government recognises that they do so through taxes and business rates, but if the night time economy is creating an additional burden on policing in that area, the Government believes these businesses should make an extra contribution.

The levy is a discretionary power and, before implementing a levy, the licensing authority must consider the costs of policing and other arrangements for the reduction of crime and disorder in connection with the sale of alcohol between midnight and 6am, and the desirability of raising revenue via a levy.

The levy was brought into force in 2012. To date only seven licensing authorities have a levy, but those areas have used it to fund important initiatives. Revenue from the late night levy has been used to fund additional police officers and community protection officers, and projects designed to benefit those working and socialising in the night time economy, including a Club Host project aiming to reduce sexual harassment within clubs, first aid training for staff of licensed premises, defibrillators for town centres, taxi marshals and street cleaning. Home Office officials undertook a review in 2015 to understand why it has not been as popular with local authorities as originally envisaged. As a result of this review and consultation, the Government committed in the Modern Crime Prevention Strategy to improve the levy by making it more flexible for local areas, fairer to business and more transparent.

Amendments in the Policing and Crime Act 2017 will:

- Allow licensing authorities to target the levy in geographical areas where the night time economy places demands on policing;
- Give licensing authorities the power to charge premises licensed to sell late night refreshment the levy;
- Give PCCs the right to formally request that a licensing authority propose a levy triggering a consultation on whether to introduce a levy; and,
- Require licensing authorities to publish information about how the revenue raised from the levy is spent.

In accordance with the request of the Committee, these amendments have not yet been commenced. We will commence the provisions as originally intended. Many late night refreshment premises are small businesses and the Government is mindful of not imposing unnecessary or disproportionate charges on businesses. For this reason we will consult on the level of charge appropriate for late night refreshment premises and will not commence the measure to allow licensing authorities to charge the levy to late night refreshment premises until this is completed.

We have no intention to introduce a sunset clause through primary legislation to automatically repeal the legislation after two years. The legislation will be subject to a post-legislative review five years after Royal Assent as is standard practice.

#### **Conclusion / Recommendation 54:**

**If the Government, contrary to our recommendation to abolish the Late Night Levy, decides to retain it, we further recommend that Regulations be made under section 131(5) of the Police Reform and Social Responsibility Act 2011 amending section 131(4) of the Act, abolishing the current 70/30 split, and requiring that Late Night Levy funds be divided equally between the police and local authorities. (Paragraph 503)**

#### **Government response**

The levy is intended to assist with the additional costs associated with managing and policing areas within a locality due to the late night availability of alcohol. The local police bear the largest proportion of these extra costs and it is right that they should receive the bulk of the levy funds to enable them to do so effectively without detracting from funding required for the general policing across the local area.

As the committee notes, the Home Office guidance on the levy states that there is no bar to a local agreement between the licensing authority and the PCC to vary the percentage split by allocating some or all of the PCC's share of the revenue back to local authority initiatives. We therefore consider that the 70/30 split is appropriate and have no plans to change it.

#### **Conclusion / Recommendation 55:**

**The EU Services Directive is an additional consideration which could have implications for the legality of the Late Night Levy. If the Government, contrary to our recommendation, decides to retain the Late Night Levy, the Home Office should satisfy itself that any further action relating to the late Night Levy complies with the EU Services Directive.**

#### **Government response**

The Government will ensure before taking any further action in relation to the late night levy that it complies with the EU Services Directive.

#### **Conclusion / Recommendation 56:**

**We welcome all the initiatives of which we have heard evidence, including BIDs, Best Bar None, Purple Flag and others, and recognise the effort which goes into them and the potential they have to control impacts and improve conditions in the night time economy. We commend the flexibility such**

**schemes appear to offer, and the bespoke way in which they are developed to match the needs of their locality. (Paragraph 518)**

#### **Government response**

We welcome the Committee's comments on the range of initiatives available to support local areas in managing their night time economies.

We continue to work closely with the Local Alcohol Partnerships Group through our Local Alcohol Action Areas programme to encourage and support local take up of these initiatives.

#### **Conclusion / Recommendation 57:**

**We welcome the initiative of local authorities such as Cheltenham which have abandoned Late Night Levies in favour of Business Improvement Districts. While recognising that local authorities cannot impose Business Improvement districts in the same way that they can the Late Night Levies, we recommend that other local authorities give serious consideration to initiating and supporting Business Improvement Districts and other alternatives.**

#### **Government response**

We welcome the Committee's comments, but note that these are decisions for local areas.

#### **Conclusion / Recommendation 58:**

**We believe that the Live Music Act 2012 is working broadly as intended, but that there is not presently a case for further deregulation, let alone the complete removal of all live music related legislation from the Licensing Act. (Paragraph 541)**

**AND**

#### **Conclusion / Recommendation 59:**

**We recommend that more be done to spread awareness of the provisions of the Live Music Act 2012 and its implications for licensed premises among local councils, licensed premises and local residents. (Paragraph 542)**

#### **Government response**

Music venues are a vibrant and vital part of society, culture and the economy and Government is keen to support and promote an environment in which the UK's live music industry can continue to thrive. We want to encourage people to live in our towns and cities, while enabling small grassroots music venues to flourish - giving

musicians and artists the opportunity to perform in front of a live audience and providing communities with valuable social and cultural attractions.

Positive collaboration between the venues, local authorities and residents, including awareness raising, is key to supporting this important and dynamic sector.

#### **Conclusion / Recommendation 60:**

**We recommend that a full ‘Agent of Change’ principle be adopted in both planning and licensing guidance to help protect both licensed premises and local residents from consequences arising from any new built development in their nearby vicinity.** (Paragraph 553)

#### **Government response**

As noted in the Report, the consultation on the Housing White Paper includes a proposal to amend the National Planning Policy Framework to emphasise the “Agent of Change” principles in planning policies and decisions. Consultation on the White Paper closed on 2 May 2017 and the Department for Communities and Local Government is currently analysing the responses. A decision on whether to go forward with the proposal will be subject to the outcome of the consultation.

The Government will ensure the section 182 guidance remains consistent with the National Planning Policy Framework, if changes are made.

#### **Conclusion / Recommendation 61:**

**We recommend that section 121 of the Police Reform and Social Responsibility Act 2011 be brought into force, and new Fee regulations made requiring licensing authorities to set licensing fees.** (Paragraph 565)

#### **Government response**

The Government is grateful to the LGA for the research they commissioned from the Chartered Institute of Public Finance and Accounting (CIPFA) into the costs of administering the 2003 Act.<sup>23</sup> The data provided by the survey has greatly assisted the Government to come to its decision on whether to implement locally set licensing fees. It is clear from the survey that the costs of licensing vary significantly between licensing authorities and allowing fees to be set locally is not a simple answer to this issue. Although we acknowledge that for many licensing authorities the existing fees do not recover their costs, we also acknowledge the concerns raised by some smaller licensing authorities that the process of setting fees is complicated and resource-intensive.

The Government intends to make no change to the existing fees in the immediate future. A revaluation of business rates came into effect in April 2017, resulting in

<sup>23</sup> <https://www.local.gov.uk/licensing-act-2003-fees-survey-results>

increased rates for many licensed premises. This has had an additional impact in that some premises will have moved up a fee band, meaning that they have seen their business rates and their licensing fees increase as a result. Pubs were offered some business rates relief in the recent budget<sup>24</sup> and locally set licensing fees or an increase in the centrally-set fees would undermine the assistance that this rate relief has given licensees.

The Government therefore considers that now is not the time to make changes to licensing fees. The policy will be re-considered in due course.

#### **Conclusion / Recommendation 62:**

**The Opinion of the Advocate-General in the case of Hemming has cast doubt on the legality of any element of a licensing fee which goes beyond the cost to a licensing authority of processing an application. Accordingly we consider that it would not be sensible to recommend the extension of the fee multiplier to supermarkets at this time. (Paragraph 581)**

#### **Government response**

There are currently no plans to extend the fee multiplier to supermarkets but this will be reconsidered when any changes to licensing fees are considered in future.

#### **Conclusion / Recommendation 63:**

**We recommend that the Home Office should consider whether the Fees Regulations should be amended to make them compatible with the EU Services Directive and the Provision of Service Regulations 2009. (Paragraph 582)**

#### **AND**

#### **Conclusion / Recommendation 64:**

**If, as we recommend, the power to set license fees is devolved to licensing authorities, then this power will inevitably have to be constrained by any conclusion which the Home Office draws on the compatibility of fees generally with the Directive and Regulations. (Paragraph 583)**

#### **Government response**

The EU Fees Regulations and Provision of Services Regulations 2009 will be fully considered in future when further consideration is given to licensing fees.

#### **Conclusion / Recommendation 65:**

**We recommend further development of the GOV.UK platform for licensing applications, to ensure that it is working with local authority computer systems, and fully compatible with the provisions of the Licensing Act 2003.**

<sup>24</sup> <https://www.gov.uk/government/topical-events/spring-budget-2017>

**In due course, its uniform adoption by all local authorities in England and Wales should be encouraged by the Government and the section 182 Guidance updated accordingly. (Paragraph 590)**

### **Government response**

The Government fully supports digitalisation and departments are working towards achieving improvements in digital licensing.

The Autumn Statement 2014 announced a simplification programme for licensing with a specific commitment to an online application process where businesses would only have to register their details once. An online, account based, application and payment process would provide enormous efficiency savings for both businesses and licensing authorities.

The Government Digital Service (GDS) has provided a suite of online licence application forms, in response to the EU Services Directive 2009, but this was not a comprehensive list of licensing forms and take-up by licensing authorities has been patchy, as evidenced in the LGA's '*Online licensing survey*', published in July 2015.

Private sector solutions are being developed, such as the account-based system (I Apply) developed by software developer IDOX, currently being piloted by Leeds licensing authority. The I Apply system is based on the principles of the Planning Portal and will be funded in part through advertising revenue and subscription from those authorities using it. IDOX has also developed a taxi licensing platform for Wolverhampton licensing authority. Early indicators are that both are popular with businesses, and authorities have identified the prospect of huge efficiency savings in the licensing process. The company responsible for the Planning Portal are also considering the development of a similar product.

GDS have launched a project to look at developing a new online licensing platform for local Government, similar to the I Apply/ Planning Portal solution. Regulatory Delivery is monitoring the development of these products closely.

### **Conclusion / Recommendation 66:**

**We believe the enforcement of section 128 and 132A of the Licensing Act 2003 would be facilitated by a national database of personal license holders, against which to check those who are convicted of violent offences. We recommend the creation of a national database of personal license holders for use by courts and licensing authorities, linked to the Police National Database. (Paragraph 594)**

### **Government response**

The Government's Modern Crime Prevention Strategy commits to encourage licensing authorities to share information about individuals and premises that have

had their licences revoked. The Act also includes a power for the Secretary of State to provide for the establishment of a central database to maintain matters a licensing authority is obliged to register.

The LGA, the IoL and the National Anti-Fraud Network (NAFN) have recently announced a project aimed at developing a national register of taxi and privately hired vehicles licence refusals and revocations. This particular register will be maintained and hosted by the NAFN on behalf of all local authorities and it will be accessible to 86% of English and Welsh Councils at no extra cost.

The Policing and Crime Act 2017 gives licensing authorities the power to revoke or suspend personal licences as of 6 April 2017 and the Government sees merit in the creation of a central register limited to records of refused, suspended and revoked personal licences, to facilitate more effective enforcement of the Act. The Government will work with the LGA, the IoL and the NAFN to examine the prospects of adding records of refused, suspended and revoked personal licences to the national register of taxi and privately hired vehicles refusals and revocations in order to address the problem of individuals making applications in different licensing authority areas following a refusal or revocation elsewhere.

We consider it would be disproportionately complex, resource intensive and expensive for the Government, local authorities and magistrates' courts to create and administer a database of all personal licences (there were over 650,000 in existence at 31 March 2016).

Similarly, the Government does not accept the necessity to link any such database to the Police National Computer or the Police National Database (which is an intelligence handling system holding operational policing information provided by individual forces and not an evidential system). Regulations made under the Act already require that, in order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, an applicant for the grant of a personal licence must include a criminal conviction certificate, a criminal record certificate or the results of a subject access search of the Police National Computer by the National Identification Service to the licensing authority. Licensing authorities are required by law to notify the police when an applicant is found to have an unspent conviction for a relevant offence defined in the Act and the police could accordingly consider whether to object to the application on crime prevention grounds. The Government considers these arrangements, alongside the new powers granted to licensing authorities, to be proportionate and adequate at present.

#### **Conclusion / Recommendation 67:**

**We do not recommend that licensing committees be given the power to suspend or revoke a premises licence for non-payment of business rates.**  
(Paragraph 599)

## **Government response**

We welcome the recommendation of the Committee. Business rates must be paid by all businesses and there are already enforcement remedies available to local councils for the non-payment of those rates. In our view, linking the payment of business rates to the right to hold a licence to sell alcohol is not an appropriate route to enforcing payment of business rates.

### **Conclusion / Recommendation 68:**

**The evidence we received on the application of the Act specifically to clubs suggests that they have adapted to it well. (Paragraph 609)**

**AND**

### **Conclusion / Recommendation 69:**

**Given the decline in most forms of members' clubs, and the social value they hold in many communities, we believe that even minor adjustments which may help them should be made. We therefore recommend the removal of Conditions 1 and 2 by the repeal of section 62(2) and (3) of the Licensing Act 2003, abolishing the two-day waiting period required of new members. We acknowledge that at least some clubs will want to keep this waiting period in their club rules, and they will still be entitled to do so. (Paragraph 610)**

## **Government response**

As acknowledged by the Committee, members' clubs are not run commercially for profit and therefore they are entitled to certain benefits under the legislation. For example, there is no need for any employee or member to hold a personal licence; police have more limited rights of entry because the premises are considered private and not generally open to the public; and they are exempt from closure powers because they operate under their own codes of discipline and rules. For this reason, clubs must meet the qualifying criteria set out in the legislation, and instant membership is not permitted because this would allow the club to effectively sell alcohol to members of the public and therefore operate as a commercial business.

We note that the Committee received mixed views about whether or not the conditions set out in the Act should be abolished. We do not consider these to be a significant burden on members' clubs and therefore have no intention to alter or remove the provisions of the 2003 Act in respect of members' clubs.

### **Conclusion / Recommendation 70:**

**The designations of airports as international as international airports for the purposes of section 173 of the Licensing Act 2003 should be revoked, so**

**that the Act applies fully airside at airports, as it does in other parts of airports.** (Paragraph 620)

**AND**

**Conclusion / Recommendation 71:**

**The 1964 and 2003 Acts both refer to ports and hoverports as well as to airports, so that the same arrangements can be made portside. Our discussion has centred on airports. Any similar designation made for ports and hoverports should also be revoked.** (Paragraph 621)

### **Government response**

The Government shares the Committee's view that everyone should be able to enjoy a safe and disruption-free environment when using airports, as well as maritime ports, for travel, and disruptive behaviour should not be tolerated on any mode of transport. With over 260 million passengers travelling through the UK airports annually, 10 million passengers departing from UK ports on international ferry routes, and 2.8 million on main domestic ferry services in 2016, any disruptive passenger behaviour is entirely unacceptable and an issue that warrants further examination.

While the number of disruptive events remains small compared to the total passenger numbers, the occurrences seem to be on the rise. The most serious instances can even evolve into a situation that causes a safety issue. Ensuring the safety of all passengers is a priority for the Government, and we are committed to maintaining a travelling environment that is both safe and enjoyable for all passengers.

The Government takes the view that further engagement with affected parties is required to consider the full effects of the Committee's recommendation. On 21 July, the Government published its call for evidence as part of its work to develop a new UK Aviation Strategy. The call for evidence will be followed by a series of consultations during 2017 and 2018, one of which will focus on the consumer journey and experience. The consultation will seek, among other topics, views on how to limit the impact of disruptive passengers on the travelling public.

In addition, the Government will separately issue a call for evidence on the Committee's specific recommendation and is committed to working with airports, airlines, ports, operators, businesses, licensing authorities, passengers, the police and other interested parties. A call for evidence will allow the Government to carefully assess the practicalities and resources required to implement the Act in these environments, including looking at how barriers that hinder access for licensing officers can be overcome, as well as the impact extending the Act will have on businesses.

### **Conclusion / Recommendation 72:**

**The sale of alcohol on a railway journey does not need to be licensed. We accept that the Act cannot sensibly apply to a moving train and the railway companies have their own applicable bylaws. They also have the power where necessary to ban the sale and consumption of alcohol altogether, for example on train journeys to football matches. These powers seem to us adequate. (Paragraph 622)**

### **Government response**

We welcome the Committee's view on the sale of alcohol on train journeys. We agree that the current powers are adequate.

### **Conclusion / Recommendation 73:**

**We are concerned that section 141 of the Licensing Act is not being properly enforced, and that the few concerted attempts by local authorities to date have been lacklustre at best. Notwithstanding the difficulties of defining drunkenness, we believe that enforcement of section 141 needs to be taken far more seriously, and that by doing so many of the problems currently associated with the night time economy, in particular pre-loading and the excessive drunkenness and anti-social behaviour often linked with it, would be reduced. (Paragraph 629)**

### **Government response**

As the Committee notes, it is an offence under section 141 of the Act to knowingly serve alcohol to a drunk and to obtain alcohol for someone who is drunk.

The alcohol industry signed-up to a commitment in the Modern Crime Prevention Strategy to support staff locally to take action, including through providing information to improve knowledge of the law on the sale of alcohol to drunks.

While the number of people prosecuted for selling alcohol to a drunk, or for obtaining alcohol for a drunken person on licensed premises is low, we are continuing to improve awareness and enforcement of section 141, particularly through the Local Alcohol Areas programme. Several of the 34 areas involved in the programme have identified sales to drunks as one of the core issues they wish to address. We will ensure that good practice from the programme is disseminated widely to other local areas.

We also welcome approaches such as the Drink Less Enjoy More initiative in Liverpool and Swansea. An evaluation by John Moores University indicated this initiative had a positive impact, and Nottinghamshire is planning to adapt this approach for off-trade premises as part of its activity in the Local Alcohol Action Areas programme.

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