

Dear Sirs,

Please find below our response to "A consultation on delivering the Government's policies to cut alcohol fuelled crime and anti-social behaviour".

Background to Poppleston Allen

Poppleston Allen is the largest licensing law firm in the United Kingdom. 90% of the firm's business relates to licensing law and it has made applications in every single licensing authority in England and Wales. Poppleston Allen acts as a licensing law advisor to the British Beer and Pub Association and the British Institute of Innkeepers.

We would request that this response remains confidential.

We are a firm of solicitors and as such do not trade within the leisure / licensing sector. However, we do see day to day the effect on our clients of the licensing regime.

We are therefore more helpfully able to comment on such matters as health as a licensing objective, the Mandatory Conditions and "freeing up responsible business" rather than minimum unit pricing and a ban on multi-buys, which are more the arena of those operating in the trade.

Generally we are supportive of the Government's proposals to cut red tape, but feel that there are some other measures that could be adopted, which would also considerably cut the burden on the trade. The main one of these being the standardisation of an annual fee date, so that all annual fees fall due on the same day (as is the case in Scotland).

In terms of the general tightening of the licensing regime, we remain concerned at the Government's efforts to regulate an industry which is seeing alcohol consumption continually fall, and the number of outlets selling alcohol likewise falling year on year.

The number of violent incidents, where victims believe the offenders to be under the influence of alcohol, has fallen significantly since the start of the millennium when it was over 1.2 million to now below 1 million for 2010 / 2011.

Likewise, the percentage of violent incidents where the victim believes the offender to be under the influence of alcohol has fallen. The figures have also fallen significantly since the advent of the Licensing Act in 2003. We would urge the Government to treat with care the level of hospital admissions which will no doubt be the reasoning behind the proposal to introduce health as a licensing objective, in terms of Cumulative Impact Policies. To use the level of admissions on a year by year comparative basis is dangerous, since with the advances made in medical science it is a lot easier now to attribute an admission to a number of causes, as opposed to just one or two which consequently skews the figures, since each admission will be attributed to all of those conditions and with the ability to detect more conditions, naturally alcohol related hospital admissions will, by definition, have increased.

At a Technical Advisory Group we attended on the Mandatory Conditions, there was considerable input from the Department of Health in terms of additional Mandatory Conditions which it was suggesting. We would ask why such input is being provided when it is proposed that the health objective will only be relevant in terms of the introduction of a Cumulative Impact Policy? We sincerely hope that this is not an attempt to introduce a licensing objective of "public health" as we have in Scotland, which has had limited success since it is virtually impossible to attribute any cause of harm to public health to any individual premises.

A Minimum Unit Price for Alcohol

Consultation Question 1

Do you agree that MUP would achieve these aims?

Response: Don't know.

It is unclear from the statement at paragraph 5.8 what the aims are. It refers to "achieving a significant reduction of harm". Does harm relate to crime and disorder or the health of the public? We are assuming for the purposes of this consultation that it is both, but the question is unclear.

Public health of course is not a licensing objective. Nor should it be.

We have seen the critique of the "Sheffield" model which suggested that those individuals who were more dependent upon alcohol were going to be less price sensitive. On this point therefore we feel that the effect on the health of those individuals who are more dependent upon alcohol is likely to be less significant by increasing the price of alcohol.

Alcohol consumption has, in itself, through no artificial inflation of prices fallen by 12% since 2004.

In terms of crime and disorder, has any account been taken of the effect a minimum unit price will have in terms of the "bootlegging" of alcohol, or the sectors of society who will instead turn to other forms of substance abuse instead of alcohol if it proves too expensive, and the possibility that it will increase the amount of theft from shops when alcohol is more expensive.

Consultation Question 2

Should other factors or evidence be considered when setting a minimum unit price for alcohol?

Response: Has any consideration been given to setting a different price per unit for alcohol purchased vis a vis on and off the premises, since there is of course a much higher level of overheads for premises selling alcohol for consumption on the premises than those off.

Consultation Question 3

How do you think that the level of minimum unit price set by the Government should be adjusted over time?

Response: The minimum unit price should be reviewed after a set period.

It is important to review the effect that a minimum unit price has, but collation of reliable and consistent data to this effect will be crucial.

Consultation Question 4

The aim of minimum unit pricing is to reduce the consumption of harmful and hazardous drinkers, whilst minimising the impact on responsible drinkers. Do you think that there are any other people, organisations or groups that could be particularly affected by a minimum unit price for alcohol?

Response: Yes.

We would anticipate that poorer families who drink moderately and the elderly would be affected by a minimum unit price for alcohol. For example, an elderly person who may like a couple of glasses of sherry each night would not be regarded as a heavy drinker but would be affected by a minimum unit price.

A Ban on Multi-Buy Promotions in the Off-Trade

Consultation Question 5

Do you think there should be a ban on multi-buy promotions involving alcohol in the off-trade?

Response: Don't Know.

The problem we would anticipate is that stores will simply stop selling single products so that they can sell multi-buy products at the optimum price. This could have the unintended consequence of making those heavier drinkers who are dependent upon alcohol purchase more, rather than less, alcohol since they cannot buy it in a single product.

Some supermarkets have Premises Licences which permit the sale of alcohol within cafes / bars, in the store itself, and whilst they operate as a supermarket, alcohol can be consumed on the premises and consequently they would not be covered by any ban on multi-buy promotions, since the definition relates to those premises which are licensed to sell alcohol for consumption off the premises only. Alternatively, it would open the way for any such supermarkets to apply for licences to cover such areas, thereby avoiding the ban on multi-buys.

The other unintended consequence would be that stores would simply reduce the price of a single product so that they can sell the multi-buys at the price that they want to do so.

Consultation Question 6

Are there any further offers which should be included in a ban on multi-buy promotions?

Response: Don't know.

Would the proposal stop a multi-buy of a multi-buy, for example would it stop three packs of four bottles of alcohol being sold at £10 for the three packs, where one pack of the four bottles would cost £5, and should that multi-buy of the three packs therefore be £15?

Consultation Question 7

Should other factors or evidence be considered when considering a ban on multi-buy promotions?

Response: Yes

The possibility that no single products will be available or the price of the single product will simply be reduced.

Consultation Question 8

The aim of a ban on multi-buy promotions is to stop promotions that encourage people to drink more than they otherwise would, helping people to be aware of how much they drink, and to tackle irresponsible alcohol sales. Do you think that there are any other groups that could be particularly affected by a ban on multi-buy promotions?

Response: Don't know.

Reviewing the Mandatory Licensing Conditions

Consultation Question 9

Do you think each of the mandatory licensing conditions is effective in promotion the licensing objectives (crime prevention / public safety / public nuisance / prevention of harm to children)?

Response:

		Prevention of crime and disorder	Public Safety	Prevention of public nuisance	Protection of children from harm
A	Irresponsible Promotions	Yes	No	No	No
B	Dispensing Alcohol directly into the mouth	Yes	No	No	No
C	Mandatory provision of free tap water	Yes	No	No	No
D	Age verification policy	Yes	No	No	Yes
E	Mandatory provision of small measures	Yes	No	No	No

Additional comments: The Mandatory Conditions are a useful “checklist” for operators and staff alike. Whilst we are not aware of any prosecutions for breach of the Mandatory Conditions, not only does the list provide a useful reminder, they are used by the Responsible Authorities to put pressure on operators where they believe operators are breaching any of the Mandatory Conditions, and the threat of a review will often make an operator “tow the line” particularly regarding irresponsible drinks promotions.

We are sure that you have been reminded of this on several occasions, but there is a typographical error in the top right hand corner “Protection of harm from children” should of course read “protecting children from harm”.

We would suggest that the Mandatory Conditions in terms of age verification policy is amended so that the requirement for ID cards to have a hologram is removed. Not all foreign passports have holographic marks.

Consultation Question 10

Do you think that the mandatory licensing conditions do enough to target irresponsible promotions in pubs and clubs?

Response: Yes

It is important that the word “Irresponsible” is maintained within the Mandatory Condition. To simply ban “drinks promotions” without the qualifying word “Irresponsible” would stop commercial offers which do not offend the licensing objectives. To give you a couple of examples, it would stop all inclusive prices for a box at major sporting events, and would stop an offer which we recently advised on in Scotland, where a client wanted to be able to sell two bottles of beer and give away a free bar of chocolate at a theatre. In Scotland the Mandatory Conditions are not qualified with the word “Irresponsible” and therefore such an offer was contrary to the law, albeit doing nothing to promote any of the licensing objectives.

Consultation Question 11

Are there any other issues relating to the licensing objectives (crime prevention / public safety / public nuisance / prevention of children from harm) which could be tackled through a mandatory licensing condition?

Response: No

It is much more appropriate to target problem premises through the Review procedures, which have proved to be so successful under the Licensing Act 2003. A one size fits all for mandatory conditions is simply inappropriate and in many cases unworkable. It is much better to target those problem premises through the Review procedure, which has been used effectively by the authorities in bringing irresponsible operators to account.

At the Technical Advisory Group on the Mandatory Conditions, various suggestions were put forward largely through the Department of Health about additional Mandatory Conditions. First of all we found it concerning that the Health Department were putting forward such conditions to “promote the licensing objectives” when public health is not even a licensing objective. Dealing with some of those suggestions:

Additional signage

Additional signage that free tap water is available was suggested and that people should be reminded that they should not be served if they are intoxicated. There is already a plethora of signage that have to be displayed behind the bar, and reminding somebody of their individual responsibility just seems to be disproportionate. We are not aware that the availability of tap water has ever posed a problem in any premises, and the public are generally aware that they can now ask for it free of charge. We find it difficult to reconcile cutting burdens on business by allowing them to now remove no smoking signage, when businesses are then being asked to put more signs up.

Default half pints for stronger alcohol

We can't see the benefit of such a suggestion. Customers will still ask for an additional half a pint if presented with half a pint when they ask for a beer” or “lager”. It will simply mean additional burden and expense on the industry in purchasing additional glassware. Would a business be in breach of such a suggested Mandatory Condition if they had run out of half pint glasses, or would they have to put a half pint into a pint glass?

25ml default spirit measures

This could have a serious unintended consequence that customers would order doubles. If they wanted a 35ml but it was not available, then in all likelihood they would simply order a double 25ml thereby consuming more alcohol.

Consultation Question 12

Do you think the current approach, with five mandatory licensing conditions applying to the on-trade and only one of those to the off-trade, is appropriate?

Response: Don't know.

It seems the only Mandatory Condition that can apply to the off-trade at the moment is the age verification policy, albeit some of the irresponsible drinks promotions could be targeted at the off-trade as well, although as worded they are more appropriate to the on-trade.

Generally, we would be against the introduction of any additional Mandatory Conditions instead preferring a targeted approach against individual premises.

Health as a licensing objective for cumulative impact policies

Consultation Question 13

What sources of evidence on alcohol-related health harm could be used to support the introduction of a cumulative impact policy?

Response:

We do not support the introduction of a licensing objective of public health, for the purposes of introducing a cumulative impact policy.

However, if one were to be introduced, the only evidence based system which would work would be evidence that there are increased levels of hospital admissions in a particular area which can be directly linked to the number of outlets selling alcohol. Even then it is very difficult to directly attribute the two because of the travelling habits of customers. We would suggest that customers are much more likely to travel to visit premises in the on-trade because of the particular ambience of a premises, as opposed to the off-trade, and therefore if such an approach is to be adopted any alcohol-related hospital admissions would need to be compared to the number of premises selling alcohol for consumption off the premises only.

We would also suggest that in looking at this evidence, only the primary cause of someone's admission to hospital is considered, rather than any secondary causes since, as we have said, advances in medical science means that it is much easier to detect many more illnesses which will not be the primary cause of someone's admission to hospital.

Consultation Question 14

Do you think any aspects of the current cumulative impact policy process would need to be amended to allow consideration of data on alcohol-related health harms?

Response: Yes

There would need to be a change to the primary legislation in order to make public health a licensing objective.

It is worth pointing out at this point again, that cumulative impact policies themselves have absolutely no legal status and are simply a "creature of Guidance".

The Guidance itself would need to be amended to reflect how hospital admissions should be used in collating any cumulative impact policy, but also addressing the reliability of such data. How could the reliability and relevancy of data provided for hospital admissions be challenged?

Consultation Question 15

What impact do you think allowing consideration of data on alcohol-related health harms when introducing a cumulative impact policy would have if it were used in your local area?

Response: Don't know.

Freeing up Responsible Businesses

Consultation Question 16

Should special provision on reducing the burdens on ancillary sellers be limited to specific types of business, and / or be available to all types of business providing they meet certain qualification criteria for limited or incidental sales?

Response:

		Yes	No	Don't Know
A	The provision should be limited to a specific list of certain types of business and the kinds of sales they make.			✓
B	The provision should be available to all businesses providing they meet certain qualification criteria to be an ancillary seller.			✓
C	The provision should be available to both a specific list of premises and more widely to organisations meeting the prescribed definition of an ancillary seller, that is, both			✓

	options A and B.			
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We feel that there are inherent risks in any definition of “ancillary seller”.

If it is based upon the quantity of alcohol that is being sold, then won't “ancillary sellers” simply sell stronger alcohol? This could mean measuring ancillary sellers by the amount of “units” they sell, as opposed to the quantity of alcohol. How will units then be measured?

If looking at any sale of alcohol being a “small part or proportion of a transaction” then will that not simply present the opportunity for abuse by, for example, a “personal shopping experience” to charge £30 for the personal shopping experience itself with alcohol then being sold at, say, £1 a drink. The actual amount of alcohol being sold is a “small part or proportion of the transaction” if, say, 5 to 10 drinks were then sold.

If it was related to food, would it not present the opportunity for the food prices to be increased and the prices of alcohol to be reduced?

Generally, looking at any question of “ancillary or subsidiary” is open to interpretation and legal debate and reference should be made to the long and protracted Court cases which were a feature of the Licensing Act 1964, when applications were made for a Special Hours Certificate by those businesses which argued that the sale of alcohol was “ancillary” to music, singing and dancing. There was much debate and conjecture over what “ancillary” meant. If something was ancillary during only part of the day, would that then entitle the “ancillary seller” to claim an ancillary notice for the time during the day that it was not “ancillary”.

A better option may be to look at defining by type, but again that will simply be open to abuse as to what would constitute a “hairdressers”. When does a hairdressers stop being a hairdressers and become a champagne bar? How would additional types of operations be added?

Surely it is simpler to say if someone is selling alcohol it requires a Premises Licence.

If such a procedure is to be adopted, then any fee for an ancillary notice would inevitably be lower, and we would anticipate that operators with the benefit of a full Premises Licence will bear the additional financial burden, part of which will include enforcement and checks on those “ancillary sellers” by Licensing Authorities to ensure that they are operating accordingly.

If such a system were to be adopted, how would an “ancillary notice” be withdrawn. Could it simply be withdrawn without any hearing, unilaterally by the Licensing Authority?

Consultation Question 17

If special provision to reduce licensing burdens on ancillary sellers were to include a list of certain types of business, do you think it should apply to the following?

Response:

		Yes	No	Don't Know
A	Accommodation providers providing alcohol alongside accommodation as part of the contract.			
B	Hair and beauty salons, providing alcohol alongside a hair or beauty treatment.			
C	Florists, providing alcohol alongside the purchase of flowers.			
D	Cultural organisations, such as theatres, cinemas and museums, providing alcohol alongside cultural events as part of the entry ticket.			
E	Regular charitable events, providing alcohol as part of the wider occasion.			

See comments to question 16.

Consultation Question 18

Do you have any suggestions for other types of businesses to which such special provision could apply without impacting adversely on one or more of the licensing objectives?

Response: See response to question 16 above.

Consultation Question 19

The aim of a new “ancillary seller” status is to reduce burdens on businesses where the sale of alcohol is only a small part of their business and occurs alongside the provision of a wider product or service, while minimising loopholes for irresponsible businesses and maintaining the effectiveness of enforcement?

Response: see response to question 16 above.

Consultation Question 20

Do you think that these proposals would significantly reduce the burdens on ancillary sellers?

Response:

		Yes	No	Don't Know
A	Allow premises making ancillary sales to request in their premises licence application that the requirement for a personal licence holder be removed.			
B	Introduce a new, light touch form of authorisation for premises making ancillary sales – an ‘ASN’ but retain the need for a personal licence holder.			
C	Introduce a new, light touch form of authorisation for premises making ancillary sales – an ‘ASN’ – with no requirement for a personal licence holder.			

See response to question 16 above.

Consultation Question 21

Do you think that the following proposals would impact adversely on one or more of the licensing objectives?

Response:

		Yes	No	Don't Know
A	Allow premises making ancillary sales to request in their premises licence application that the requirement for a personal licence holder be removed.			
B	Introduce a new, light touch form of authorisation for premises making ancillary sales – an ‘ASN’ but retain the need for a personal licence holder.			
C	Introduce a new, light touch form of authorisation for premises making ancillary sales – an ‘ASN’ – with no requirement for a			

	personal licence holder.			
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See response to question 16 above.

Consultation Question 22

What other issues or options do you think should be considered when taking forward proposals for a lighter touch authorisation?

Response: We would ask you to consider the additional financial burden which is likely to be imposed upon those premises which have Premises Licence. Please take into account the comments made under question 16, and the fact that such a procedure is going to be open to abuse.

Occasional Provision of Licensable Activities at Community Events

Consultation Question 23

Do you agree that licensing authorities should have the power to allow organisers of community events involving licensable activities to notify them through a locally determined notification process?

Response: We are not aware that the Temporary Event Notice procedure itself has caused any particular difficulties to “organisers of community events”. The Responsible Authorities will no doubt wish to know when an event involving licensable activities is taking place, at least so that if a Police presence is needed it can be there.

By providing the Licensing Authorities with the ability to have “locally determined notification processes” this is going to lead to national inconsistencies with the way in which Licensing Authorities’ handle such matters. This would be a move back to the days of the Magistrates’ Court who all had their own licensing policies and their own individual idiosyncrasies with the way in which they would deal with licensing applications. This leads to operators who trade in many different areas having a considerable degree of uncertainty as to how a Licensing Authority would handle any particular application.

We would suggest that temporary permissions, which are sought by “organisers of community events”, are exactly the sort of events which are likely to cause more problems than those events that are organised by experienced operators with the benefit of a Premises Licence. The buildings themselves may well not be conducive to holding a Premises Licence which is why an application for a Temporary Event Notice has been applied for, for example, there are no acoustic qualities to the building and the organisers of such community events are unlikely to have very much (if any) experience of providing licensable activities.

Consultation Question 24

What impact do you think a locally determined notification would have on organisers of community events?

Response:

		Yes	No	Don't Know
A	Reduce the burden			
B	Increase the burden			

We have no idea whether or not the proposals would involve a procedure which would be more cumbersome or less cumbersome than the existing Temporary Event Notice procedure. We would

again reiterate that we do not feel that the system of applying for Temporary Event Notices has caused any unnecessary burden, nor it is unnecessarily complicated or expensive.

An Extension of the TEN limit at individual premises

Consultation Question 25

Should the number of TENs which can be given in respect of individual premises be increased?

Response: We would suggest that the number of Temporary Event Notices is increased to 18. It is often quoted by the Police that Temporary Event Notices are open to abuse by premises who use Temporary Event Notices to circumvent conditions on their Premises Licences. We are aware of a handful of representations which have been made to Temporary Event Notices which we have issued (we would estimate that we issue somewhere in the region of 1,500 a year) on the basis that we are seeking to circumvent a condition on the existing Premises Licence. Temporary Event Notices are used for many purposes, whether it be to change a condition for a particular event, extend hours earlier in the day or later on in the evening, or provide the opportunity for a licensable activity to be provided on the premises when it is not permitted by the Premises Licence.

We would therefore suggest the higher number of 18 is adopted, particularly as there are now safeguards built into the licensing regime which allow the Police and Environmental Health Officer to object on any of the licensing objectives, and request conditions be imposed on the Temporary Event Notice which are currently on the Premises Licence.

One area we would suggest should also be amended is the requirement to have a 24 hour gap between any Temporary Event Notices. This can cause particular issues for festivals or events which are continuing over a period of time, but whereby after 7 days there has to be a break of 24 hours before the next Temporary Event Notice can start.

Consultation Question 26

If yes, please select one option to indicate which you would prefer.

Response:

15	
18	✓
Don't Know	

Late Night Refreshment

Consultation Question 27

Do you think that licensing authorities should have local discretion around late night refreshment in each of the following ways?

Response:

		Yes	No	Don't Know
A	Determining that premises in certain areas are exempt.		✓	
B	Determining that certain premises types are exempt in their local area.		✓	

Would Licensing Authorities having such local discretion not simply mean that there is a proliferation of late night refreshment premises in a specific area, and lead to a migration of people into such areas later on in the evening after the later trading premises have closed.

This would simply lead to further burden and complication when making any application for a Premises Licence, whilst it is established whether the area in which the premises is situated is an area which has an exemption for late night refreshment premises. There is likely to be few if any Police in such areas, since these area are likely to be outside the town and city centres.

If such a measure was to be adopted, we would suggest that something similar to the Live Music Act provisions are adopted, so that such premises would benefit from the exemption, unless taken to Review when they could lose the benefit of such exemption and any suspended conditions which relate to Late Night Refreshment are "resurrected" and apply to the provision of Late Night Refreshment.

Consultation Question 28

Do you agree that motorway service areas should receive a nationally prescribed exemption from regulations for the provision of late night refreshment?

Response: Yes

We believe that it should be up to the local Licensing Authorities to determine whether or not such premises should have the benefit of a Premises Licence.

Consultation Question 29

Please describe in the box below any other types of premises to which you think a nationally prescribed exemption should apply?

Response: we have no such suggestions.

Further proposals to reduce burdens on business

Consultation Question 30

Do you agree with each of the following proposals?

Response:

		Yes	No	Don't Know
A	Remove requirements to advertise licensing applications in local newspapers.	✓		
B	Remove the centrally imposed prohibition on the sale of alcohol at MSAs for the on and off-trade.	✓		
C	Remove the centrally imposed prohibition on the sale of alcohol at MSAs but only in respect of overnight accommodation - "lodges".		✓	
D	Remove or simplify requirements to renew personal licences under the 2003 Act.	✓		

Typically our clients will spend approximately £300 on placing a notice in a local newspaper. As far as we can recall, no representation has been made as a result of a notice that has been seen in a

local newspaper. Removing such a requirement would save the industry a considerable amount of money.

The renewal process for personal licences in 2015 is going to be a considerable administrative burden. We understand that in the region of 250,000 personal licences will need to be renewed in 2015.

The only benefit of the renewal process is that it would ensure that details were updated, such as name and addresses, and a further CRB check would have to be carried out for the individual. However, for those unscrupulous individuals who have not declared a conviction to the Court, knowing that they will lose their personal licence, they will simply not bother renewing.

We can therefore see little point in the renewal process, since it is already a legal requirement for individuals to notify Licensing Authorities of any changes in their name or address, and to notify any Court if they are charged with a "relevant offence".

If the renewal process is to be adopted, then we would suggest the following amendments should be made to the legislation:

1. Individuals should be allowed to submit a renewal application between 6 months before the licence is due to expire, and the expiry date itself, rather than between 3 and 1 month;
2. The CRB check should be valid for three months.

We can see little point in requiring the renewal to be submitted in the narrow two month period of between 3 and 1 month before its expiry. What is the thinking behind having it at least 1 month prior to the personal licence expiring? Why can an application not "hold over" the existing personal licence if it is simply made prior to the existing licence expiring.

In terms of the CRB check there is going to be considerable pressure upon Disclosure Scotland when faced with 250,000 people requesting a CRB check at the same time as holidays will fall for the staff at Disclosure Scotland, and teachers will also be applying for their annual CRB checks. This will result in CRB checks not coming back quick enough in order for applicants to submit their application within the timescale, which at the moment is a narrow window of 2 months. Failure to submit the application within the prescribed time period will mean that an application will have to be made for a brand new personal licence, and individuals will have to go through the training again. This will have the consequence that they will not be able to continue as a Designated Premises Supervisor, and the related administrative costs and burden of applying to vary Premises Licences to change the named Designated Premises Supervisors.

Consultation Question 31

Do you think that each of the following would reduce the overall burdens on business?

Response:

		Yes	No	Don't Know
A	Remove requirements to advertise licensing applications in local newspapers.	✓		
B	Remove the centrally imposed prohibition on the sale of alcohol at MSAs for the on and off-trade.	✓		
C	Remove the centrally imposed prohibition on the sale of alcohol at MSAs but only in respect of overnight accommodation - "lodges".	✓		
D	Remove or simplify requirements to renew personal licences under the 2003 Act.	✓		

See answer to question 30.

Consultation Question 32

Do you think that the following measures would impact adversely on one or more of the licensing objectives?

Response:

		Yes	No	Don't Know
A	Remove requirements to advertise licensing applications in local newspapers.		✓	
B	Remove the centrally imposed prohibition on the sale of alcohol at MSAs for the on and off-trade.		✓	
C	Remove the centrally imposed prohibition on the sale of alcohol at MSAs but only in respect of overnight accommodation - "lodges".		✓	
D	Remove or simplify requirements to renew personal licences under the 2003 Act.		✓	

See answer to question 30.

Consultation Question 33

In addition to the suggestions outlined above, what other sections of, or processes under the 2003 Act could in your view be removed or simplified in order to impact favourably on businesses without undermining the statutory licensing objectives or significantly increasing burdens on Licensing Authorities?

Response:

Application Forms

Could the application forms not be simplified where the same hours are being sought for a number of licensable activities?

Temporary Event Notices

Could it be made clear to Licensing Authorities that an application form for a Temporary Event Notice can either be signed by the applicant itself or their solicitor / agent? There are Licensing Authorities who do not accept Temporary Event Notices being signed by a solicitor or agent on behalf of the applicant which, with the stringent time limits for submitting such an application, can prove to be difficult.

Annual Fee Payments

In Scotland there is the process that annual fees are all paid on the same date in any calendar year, for all Premises Licences. Surely such a process in England and Wales would reduce the burden on operators who would have a single date for the payment of annual fees? We have heard arguments from Licensing Authorities that this would increase the burden on them, in that they would have a "glut" of annual fees, but this would assist them in planning for their resources knowing the date that everyone was going to be paying their annual fees on.

Plans

There is currently a requirement in the plans regulations to show fire safety equipment, such as fire extinguishers, emergency lighting, fire alarm call points etc. Since the Fire Safety Order 2006, the "responsible person" has to undertake a fire risk assessment for any premises and this will include considering the number and positions of such items. Surely these can be removed from the plans,

particularly where one considers that very rarely do we receive any form of representation from the Fire Service.

Electronic Applications

Despite the EU Services Directive, there are still many Licensing Authorities which do not accept electronic applications despite Licensing Authorities being under a legal obligation to do so. There is no comeback against the Licensing Authorities, and if they do not have the IT capability of accepting such applications we seem to have no recourse against them.

Transfer of Premises Licences

The 28 day time period upon insolvency of a company generally works. However, we still feel that such a time limit on the transfer of a Premises Licence following the death of a Premises Licence Holder is very restrictive. If a Premises Licence is not transferred within 28 days of the Premises Licence Holder's death, then it lapses permanently and cannot be "resurrected" through a transfer. We would suggest that a more appropriate period following the death of a Premises Licence Holder would be three months for the Premises Licence to be transferred.

Registration of Interest

Registration of Interests issued under section 178 have to be renewed annually.

This in itself is a burden for operators, and whilst we appreciate Licensing Authorities would want some "cleansing" of their records, we would suggest a more appropriate period for a Register of Interest to be "renewed" would be every three years.

Personal Licences

A more radical suggestion would be rather than dispensing with the renewal of personal licences, that the requirement for a personal licence itself be dispensed with. What benefit does having a piece of card provide the Responsible Authorities? The only benefit (subject to the following comments) is that if a CRB check has to be obtained, then it is updated every 10 years; however once updated the CRB check is arguably out of date the moment after it has been issued. Keeping the system up to date in terms of a Personal Licence Holder's criminality relies upon the individual knowing the law and advising the Court that they hold a personal licence, and then the Court actually taking sanctions against the holder of the personal licence. There is nothing similar to the process in Scotland whereby a personal licence can be suspended or forfeited by a Licensing Board.

We would therefore suggest that consideration be given to the law being amended, so that premises still have the equivalent of a named Designated Premises Supervisor who has to advise the Licensing Authority of their name and address and any changes thereto, and would have to hold an appropriate level of qualification. Were they to leave employment at the premises then an application would still need to be made to change the name of that person on the Premises Licence.

A quid pro quo for dispensing with the need for a personal licence and the administrative burdens which go with it would, we suggest, be that the level of training completed by the person named as the Designated Premises Supervisor be reviewed. At the end of the day, upholding the licensing objectives would fall to this individual, and it may be appropriate for them to be qualified to a higher level than the Award for Personal Licence Holders by them obtaining the qualification of something equivalent to the Award for Designated Premises Supervisors.

Consultation Question 34

Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposals?

Response:

		Yes	No	Don't Know
A	Minimum unit pricing			
B	Multi-buy promotions			
C	Health as a licensing objective for cumulative impact			
D	Ancillary sales of alcohol			
E	Temporary Event Notices			
F	Late night refreshment			
G	Removing the duty to advertise licence applications in a local newspaper			
H	Sales of alcohol at motorway service stations			
I	Personal licences			

We have no comment.