Our ref p&t/HP
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Date 19 March 2014

Chartered Institute of Environmental Health

Alcohol Team
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Dear Sirs

Relaxation of licensing hours to serve alcohol during World Cup 2014

I refer to your e-mail to the Chartered Institute`s President last Thursday, alerting the Chartered Institute (CIEH) to the Department`s consultation on the proposal to relax licensing hours for the England matches in this year`s World Cup. The Chartered Institute's members in local authorities take the role of 'Responsible Authorities' under the 2003 Act and, so, are closely involved with applications for licences and Temporary Event Notices (TENs). They also, of course, fulfil local authorities' roles as pollution control authorities so are additionally concerned with the consequences of inadequately controlled licensed premises and events.

To begin, no doubt the Home Office will consider whether the Licensing Act in fact gives authority for a general relaxation of hours in this context; s.172 requires that the occasion should be one of `exceptional international, national or local significance` and though it may be controversial to say so, the World Cup is a tournament of just 32 teams in a single sport, moreover one repeated every four years and, unfortunately, not one this time in which England is thought to have a realistic chance of excelling. Though soccer is, no doubt, a popular spectator sport, set against the participation of 204 teams and the multi-sport spectacle of the 2012 Olympics, for example, or of the unique occasions of the Royal Wedding in April 2011 and the Queen`s Diamond Jubilee celebrations in June 2012, there seems to us to be an argument that England`s games in the World Cup do not constitute an `exceptional` occasion.

We note in addition the Department`s comment on the `need to balance the needs of business` (i.e. with the risks associated with a general relaxation) but notwithstanding the boost to the licensed trade the proposal might bring it is not clear, either, that those needs are a proper consideration under s.172.

That said, and as the Department might know, the CIEH has already commented publicly on the proposal. In a letter to The Times on 6 February, we wrote that it undermines the operation of the Licensing Act. The scheme of that, in contrast to its predecessor provisions, is of course to place decisions about licensing in the hands of local, and locally-elected, Licensing Authorities. Not least in the case of alcohol licensing, the current

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Government has reinforced the role of those, giving them the power to initiate reviews, for example, widening the ambit of possible conditions (from `necessary` to `appropriate`), seeking to increase the participation of `interested parties` and empowering Responsible Authorities to comment on TENs.

Behind those changes was, of course, the recognition that local people are best placed to judge the implications of licensing applications; to decide how, if necessary, proposals need to be mitigated and, not least, to take responsibility and be accountable for the consequences. Over-reaching Licensing Authorities, even in truly `exceptional` circumstances, undermines that scheme in general, inevitably with unforeseen consequences. To do so is to ignore all objections and it is particularly ironic in the present context that the Government has, in the past, focused concern on late night drinking.

The Licensing Act contains, on the other hand, a perfectly good mechanism (in TENs) for the sort of occasion now in mind and there has been no suggestion from our members that they could not cope with a small surge in submissions. Applications for extended hours can be made with minimal formality and the fee is a modest one, not least set against the £20M additional income the British Beer and Pub Association has estimated will accrue to its members. It is, moreover, important to stress that many TENs will not be opposed and that is quite right, nevertheless, each provides the opportunity to consider the impacts they may have in their local context and in the light of the record of the premises concerned. The alternative - that the opportunity for communities to examine the consequences for them should be scrapped wholesale, regardless of the site-specific and cumulative impacts, we think is misguided, elevating special interests above those of those wider communities.

Win or lose on the night, common sense suggests the potential (depending on the site) for considerable disturbance to residents and other sensitive receptors, both during and after matches and both from within licensed premises and in their vicinity. Whereas TENs provide a measure of prospective control, though the Department`s consultation paper does not say so the application of a s.172 Order must rely on the various reactive noise control powers of local authorities where unacceptable disturbance results.

Those therefore deserve comment but in the first place, and notwithstanding the current effect of licensing, it is worth noting that complaints of noise from licensed venues already run at significant levels. Figures from the last of the CIEH's annual surveys of local authority noise enforcement activity show licensed premises as the third *most* frequent sources of complaints, running behind only those concerning single family houses and purpose-built flats and ahead of those concerning, for example, industrial premises and even construction sites. It is important to understand that noise in general is a serious problem and removing any opportunity for controlling it, and in particular controlling it *in advance* of its occurrence, is likely only to result in an increase in that problem. That such an increase may be transient is not a justification.

Turning to the noise powers, whereas the Noise Act would normally provide some help in the case of excessive noise emitted from licensed premises after 2300h that will cease to apply where no premises or club licence or TEN is in force. It will be a dead letter.

The blunt closure powers of the Anti-social Behaviour Act are no substitute because of their restrictive criteria (in particular the need to show the *necessity*, *cf* convenience, of closure to prevent *public* nuisance), and summary closure is unlikely to be practicable (or

popular with the Police). In addition, the use of closure powers requires the presence of trained local authority officers who may not be available. That barrier applies to the use of statutory nuisance powers too as other Government Departments have recognised in the past.[1]

In conclusion, we would suggest the Government's proposal goes too far. It is unnecessary in order to allow many people to enjoy matches in licensed premises while there already exists a mechanism to do that and it is an unnecessary device to facilitate that administratively. The clear consequences of enacting the paper's proposals will, in our view, be to undermine local decision-making and accountability and to increase late night disturbance which, in the current state of diminished local authority resources, will go unchallenged. The examples of recent Orders are a poor guide, concerning very different occasions, different demographics and especially, different times of day. We think it would be a mistake for the Secretary of State to make a Licensing Hours Order in the circumstances now proposed.

We hope these comments assist.

Yours faithfully

Howard Price
Principal Policy Officer

[1] See *Regulated entertainment: a consultation proposal to examine the deregulation of Sch 1 of the Licensing Act 2003,* DCMS, Sept 2011, Para 3.32 which noted 'most local authorities do not operate a full nuisance complaints service outside normal working hours.'