

**ORIGINAL ARTICLE**

## **The Licensing Act 2003: A step in the right direction?**

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### **Abstract**

The Licensing Act 2003 (covering England and Wales) introduced greater flexibility to the UK licensing laws, including the possibility of 24-h licenses. This paper reports a nation wide survey of 225 (63%) local authority chairs of licensing committees/senior members of licensing teams in England evaluating the short-term impact of the Act. A cumulative impact (saturation) area was only declared in 38 (17%) local authorities. Extended hours applications were more common than new applications in both on- and off-licensed premises. The perception of those surveyed was of 'no change' in the following alcohol-related variables; public noise levels ( $n=133$ , 59%) violence and fights ( $n=130$ , 60%), under-aged drinking ( $n=143$ , 67%), crime ( $n=141$ , 68%), and drink-driving ( $n=157$ , 86%). Contrary to the picture often presented in certain parts of the mass-media, the impact of the Licensing Act appears to be neutral. However, these are likely to be the result of a number of intervening factors, rather than the change to a more liberalized licensing regime. The role of the police would seem to be fundamental. Future research will need to disentangle the impact of these intervening factors and it will be a number of years before the impact of these changes can be assessed.

**Keywords:** *Alcohol Policy, Licensing, Harms, Evaluation.*

### **Introduction**

There is now good evidence that, after a steep rise *per capita*, alcohol consumption is falling in the United Kingdom (National Statistics, 2006), and customs and excise data suggest that less alcohol is being purchased (British Medical Association, 2008). Despite this, UK alcohol consumption is now high on the political agenda because of the problems presented by heavy episodic or 'binge drinking' (Plant & Plant, 2006). It is important to note that this pattern of drinking is becoming increasingly commonplace (Babor & Winstanley, 2008) and even Southern European countries, such as Spain, which have traditionally been seen as café cultures, are now reporting significant problems caused by binge drinking, particularly in young people (Gual, 2006).

The Licensing Act 2003 (Stationery Office, 2003), passed at least in part with the aim of tackling the problems presented by binge drinking in England and Wales, came into force in November 2005. It has four licensing objectives:

- prevention of crime and disorder;
- prevention of public nuisance;
- public safety;
- protection of children from harm.

It is administered through the Department of Culture Media and Sport (DCMS). Some readers may find this rather strange and feel that a more appropriate Government Department to lead such legislation would be the Department of Health, or failing that the Ministry of Justice. The fact that the Act is administered through the DCMS points to some of the tensions that are inherent in this area. In essence, the Act is creating a more liberal licensing climate by giving local authorities greater control of licensing issues. For a comprehensive discussion see Light (2005).

There have been a number of international examples of attempts to liberalize the licensing framework with mixed results. On most occasions, the impact of such changes has been negative. In Iceland, the granting of extended hours was reversed by the Reykjavik City Council after a request by the police following increased alcohol-related problems in the City Centre (Ragnarsdottir et al, 2002). Similar liberalization was partially reversed in Ireland, again after the reporting of increased alcohol problems, chiefly drunkenness (Butler, 2003). There has been an evaluation in Perth Australia on the impact of extended licensing hours upon alcohol-related violence. Later trading was associated with an increased level of assaults and this was largely accounted for by higher amounts of alcohol being consumed (Chikritzhs & Stockwell 2002). There is an example from the UK where there was a deregulation in alcohol licensing hours, which was not accompanied by a 'dramatic increase in alcohol problems' (Foster, 2003). This was in Scotland and occurred a number of years ago (1976). Researchers concluded that main reason for the smooth transition was that Scotland was in an economic recession and the real price of alcohol was high (Kendell et al, 1983). Thus, it is possible to argue that the UK government is taking a calculated risk in liberalizing the licensing regime.

Foster (2008) points to a number of comparatively recent developments. One of these is the 'decimation of the UK industrial base'. The 'Alcohol Harm Reduction Strategy for England' (AHRSE; Prime Minister's Strategy Unit, 2004) is explicit in seeing the alcohol industry as providing great potential for economic growth. Furthermore, another author points out that AHRSE 'was premised on a partnership between government and the alcohol industry' (Anderson, 2007). There has now been a second UK alcohol strategy document (Home Office, 2007) that Anderson cautiously welcomes, in particular the provision of an independent review into the link between alcohol price, promotion, and harm.

One government aim is to create a café culture, which is commonly believed to exist in Southern Europe and one of the chief tools to achieve this is believed to be the liberalization of the licensing laws (Foster, 2003). A tool open to local authorities in order to facilitate this is to create cumulative impact (CI) areas in localities that can be shown to be 'saturated' with premises selling alcohol. This creates a presumption against an application for a new/extended hours' license (for fuller details of CI see Light, 2005). Prior to the passing of the Act, the idea that a café culture could be created in the UK had been the subject of some scepticism. It has been described as a 'triumph of hope over experience' (Foster,

2003) and another writer (Drummond, 2003) has pointed out that the café cultures of the Southern Mediterranean countries have never been subject to serious evaluation in terms of alcohol-related harms.

The passing of the Act has brought alcohol-related issues sharper into focus and a number of powerful lobby groups have emerged. The Daily Mail has headed a campaign entitled 'Binge Britain', which clearly believes that the Licensing Act has created more alcohol-related problems. Recently, the Alcohol Health Alliance has been formed. This largely consists of doctors, academics and alcohol campaigning organizations. The BMA have recently produced a report describing 'an alcohol epidemic' and calling for measures to restrict the availability of alcohol, notably price. Another powerful lobby are the Local Government Association which has just produced a report that will be discussed later (LACORS, 2008). This report has been presented as 'A survey of medics, police officers and council bosses that has concluded that the introduction of 24-hour drinking has proved a failure' (Slack, 2008). Until recently, there has been one attempt to bring together the evidence of the impact of the Act (Foster, 2008). This article points out that most of the evidence has been localized and inconsistent. Thus, this paper is timely in that it produces nationwide data on the impact of the Act from key informants in a wide range of local authority areas in England. A more comprehensive report (Foster et al, 2008) discusses data that we are unable to report here. It is now one of a number of reports into the effect of the Licensing Act including the following (DCMS, 2008; Hough et al, 2008; LACORS, 2008). It adds to those previously mentioned because it represents an attempt to provide a large-scale nation wide picture of the Act from the point of view of some key local authority alcohol licensing personnel.

### **Sample frame**

A list of all 356 local authorities in England (including the Isle of Wight and City of London) was compiled using information available from the Office of the Deputy Prime Minister and local authority web sites. The survey took place from November 2006– May 2007. An e-mail was sent asking for the name and contact details of the Chair of the Licensing Committee or the head of the alcohol licensing team. The initial contact was made to the Chair of the licensing committee and, if this was unsuccessful, the head or member of the licensing team. Once the relevant person was identified, 2 weeks was allowed to respond to the email. Following this, repeated telephone calls were made for a further 4 weeks maximum or until a formal refusal was forthcoming. Finally, if no contact had been made either by email or telephone the questionnaires were sent via the post and a further period of 2 weeks was allowed for telephone follow-up. Following this the participant was deemed to have refused to participate.

### **Research questions**

The dimensions for exploration arose from issues emerging from the literature and current media debate and from the interviews with chairs of licensing committees from five London boroughs (Herring et al, 2008).

- This paper reports the results relating to:
- Creation of cumulative impact areas.
- How local authority alcohol-related and police resources were perceived to have changed following the Act.

- Estimated numbers of licensing applications during the first year of the Act.
- Perceptions of changes in alcohol-related harms:
  - noise and disturbance levels;
  - variety of licensed premises;
  - alcohol-related crimes;
  - underage drinking;
  - drink driving.
- Regional codes

In order to check upon the regional spread of the data collected, each borough was coded according to which local government regional assembly it was assigned to. These were:

- London.
- North West England.
- North East England.
- Yorkshire and Humberside.
- West Midlands.
- East Midlands.
- Eastern England.
- South West England.
- South East England.

## Results

In total, 225 (63%) of 356 local authorities in England were surveyed. Of these 53 (23%) were completed by the chairs of the licensing committee, 168 (74%) by heads of the licensing team, and 4 (3%) by other members of the licensing team. Over half of the sample ( $n=114$ , 51%) described their area as mixed; thereafter, 62 (28%) were described as urban and 48 (21%) rural. Table 1 shows the number of areas surveyed according to their administrative area. There was a significant interaction (chi-square=22.9,  $df=8$ ,  $p=0.003$ ). Those areas with the highest representation (all > 60%) were Eastern, Greater London,

Table 1. Number of Authorities Surveyed by English Administrative Areas

Local Government Regional Assembly	Total Number of Licensing Authorities	Surveyed		Not Surveyed	
		Number	%	Number	%
Greater London	33	24	72	9	28
North West	45	28	62	17	38
Yorkshire and Humberside	23	12	52	11	48
North East	21	10	47	11	53
West Midlands	34	13	38	21	62
East Midlands	42	35	38	7	62
South West	56	38	68	18	32
South East	76	46	60	30	40
East	26	19	73	7	23

Chi-Square=22.9,  $df=8$ ,  $p=0.003$ .

South-West, North-West, and South-East England (highest response rates first). The most under-represented areas were the North East (47%) and the West Midlands (38%).

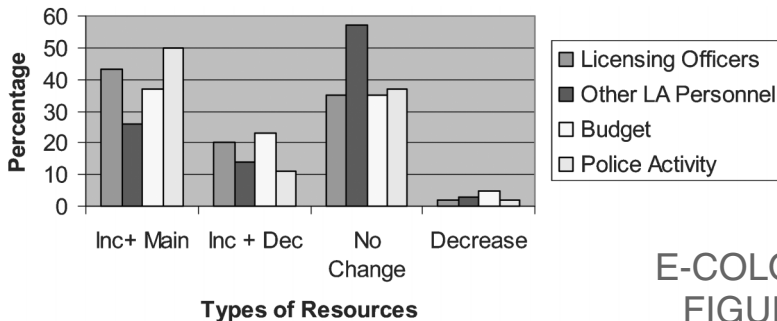
*How local authority alcohol-related and police resources were perceived to have changed following the Act*

Data presented in Fig. 1 shows that in the majority of areas the level of police activity increased and was maintained. The same was true for licensing officers though to a smaller degree. For other local authority personnel connected with alcohol licensing (such as environmental health offices) the main trend was ‘no change’. There was a perception that marginally more licensing budgets had increased and been maintained ( $n=37%$ ) than ‘no change’ ( $n=34%$ ). A small amount of areas perceived that their licensing budget had decreased since the Act was implemented.

*Cumulative impact areas*

Only 38 (17%) of the areas surveyed in our study had created a CI. The majority (51%) were in urban areas all the others were in areas self-designated as ‘mixed’. Participants were also asked which bodies were consulted to decide whether to create a CI or not. The most common body to be consulted were the police ( $n=211$ , 94%) followed by local residents ( $n=130$ , 58%).

In a semi-structured question, the participants were asked what types of information they would like to access in arriving at future licensing decisions (including whether to create a CI or not). There were 129 (57%) replies to this question. The highest number of replies ( $n=69$ , 53%) related to health-related data. These included more information from health professionals and statistics such as alcohol-related accident and emergency, and ambulance use. This was followed by 31 replies (21%) from respondents who wanted more information from local businesses and licensees ( $n=30$ ) and more information from the police.



E-COLOUR  
FIGURE

Key:

Inc + Main = Increased and Maintained

Inc+ Dec = Increased and Decreased

Figure 1. Resources used by Local Authorities Since Passing of the Licensing Act.

Table 2. Number of Licensing Applications During the First Year of the Act

Type of Application	Mean	Median	SD	Range
New Public Houses (n=221)	13.7	2.0	45.9	0-405
Extended hours in public houses (n=219)	99.8	30.0	186.0	0-2000
New Off-licenses (including supermarkets) (n=220)	8.0	4.0	13.8	0-100
Extension of hours for Off-license premises (n=219)	18.8	4.0	44.8	0-400

*Estimated number of licensing applications during the first year of the Act*

Participants were asked to estimate the number of types of applications they received during the first year of the Act (shown in Table 2). They were not asked to provide precise data as it was felt this would have made them less willing to participate in the study. The median figure is the most reliable to consider, especially when considering extended hours in public houses, as the mean has been heavily influenced by a number of outliers in urban districts. The majority of applications were for extended hours for public houses. The median ratio of extended public hours to new public house applications was 15:1 (the equivalent mean ratio was 7.3:1). The median number of new off-licenses and extended hours was identical, but the mean figure for extended hours for off-licenses was greater than that of new off-license applications (ratio 2.35:1) suggesting that this, too, was affected by outliers.

*Perception of changes in alcohol-related harms*

Participants were asked to state whether they believed that the following harms had increased, decreased, or there was no change in the first year of operation of the Act. (As not every participant felt able to reply to each question, the number of responses are shown in brackets) public noise levels (n=222), alcohol-related violence and fights (n=217), drink driving (n=182), alcohol-related crime (n=206), under-aged drinking (n=212), and number of licensed premises (n=220). These results are shown in Fig. 2. The only variable where there was felt to be an increase was in number of licensed premises (n=110, 50%), in all the other variables the picture was of ‘no change’.- figures for ‘no change’ are shown in brackets; drink-driving (n=157, 86%), alcohol-related crime (n=141, 68%), under-aged drinking (n=143, 67%), alcohol-related violence and fights (n=130, 60%), and public noise levels (n=133, 59%).

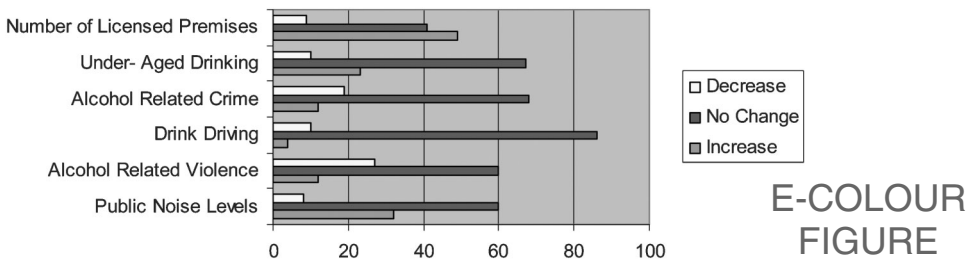


Figure 2. Perception of Changes Since Passing of the Licensing Act.

## Discussion

This nation-wide study suggests that the impact of the Licensing Act has been largely neutral in terms of alcohol-related harms. Our findings confirm those of a recently published government reports (DCMS, 2008; Hough et al, 2008) and suggest that the much predicted mayhem on the part of the media has not happened. LACORS (2008) has recently been published (July 2008) and has been presented as stating that the Licensing Act had failed, resulting in greater alcohol-related problems (Slack, 2008). Furthermore, a local government conference with much additional media coverage accompanied its launch and presented, largely the same message. The LACORS report followed the current paper and DCMS (2008), and it is worth looking at it more closely. It samples three distinct bodies – local licensing authorities (LLA), Primary Care Trusts (PCT; Health Board in Wales), and police authorities in England and Wales. The sample has not been randomly selected and is small – LLA ( $n=51$ , 14%), PCT ( $n=49$ , 28%), and police ( $n=20$ , 46%). The LLA are reasonably distributed across England and Wales, whilst the PCT and police are skewed towards the South and North as opposed to Central England, London, and Wales. No data is reported in terms of the demographic characteristics of the areas surveyed or other key variables, such as baseline alcohol-related problems. Closer examination of the data reveals that, for all three samples, the majority perception in terms of alcohol-related incidents is ‘no change,’ LLA ( $n=69\%$ ) PCT (45%) and police ( $n=55\%$ ). There were areas where alcohol-related disorders increased, and these were as follows LLA ( $n=4\%$ ) PCT ( $n=29\%$ ), and police ( $n=10\%$ ). The concerns of the PCT, who felt the situation had significantly worsened following the Act ( $n=14$ , 28%), have been widely reported, but in the majority of the PCT surveyed there was little or no difference (37%) in alcohol-related harms and there was felt to be a positive effect in 10% of PCT surveyed. In reality the picture of ‘no change’ in the current report is consistent with both DCMS (2008) and LACORS (2008).

The data in the current report indicates that the creation of cumulative impact (CI) areas has been rare and these are predominantly urban concerns. Although a number of the areas where a CI was created were ‘mixed’, had the research team been allocating the categorizations they would have applied the code urban. The classification ‘mixed’ seemed to be used when an area was not entirely rural or urban – it seemed to be a default option in case of any doubt.

Although we asked our interviewees to estimate the numbers and different types of licensing application, these were consistent with data presented in a recently published government review (DCMS, 2008). This study found that, since the passing of the Licensing Act, on Saturday nights across England and Wales the average closing time for licensed premises had increased by 21 min. Only 1% more premises were closing after midnight.

The fact that the impact of the Licensing Act is largely neutral should not really be a surprise. As Hadfield (2007) points out, in terms of licensed premises the Licensing Act was largely responding to the reality of open times in licensed premises. This quote illustrates his point:

With a range of licensing arrangements allowing for the sale of alcohol up to 2 am (3 am in London) and the potential for licensed entertainment until dawn, Britain’s night-time high streets were, pre-November 2005, far removed from the 11pm curfew zones of media mythology.

The same article also points out that, in reality, 24-h licenses are largely ‘the domain of supermarkets, petrol stations and other off-sale retailers’. Data from the DCMS (2008)

confirms this. By March 2007 there were 5100 premises with 24-h licenses – 3320 were from hotels (these have always been able to serve alcohol to guests over 24 h), 920 supermarkets and stores, and 470 pubs, bars, and nightclubs. Of these, bars, pubs, and nightclubs, very few operated a 24-h license in practice.

If this nationwide evaluation suggests that the short-term effect of the Licensing Act is largely neutral, it is important not to conclude that this means that the impact of the greater flexibility in the licensing hours is also necessarily neutral.

The Licensing Act is about far more than just a liberalization of licensing hours and it is the task of researchers to disentangle the impact of ‘important variables’. The authors suggest that the following are some of the ‘important variables’ that need to be considered in future methodologies.

There is now data from both the General Household Survey (National Statistics, 2006) and custom excise data (British Medical Association, 2008) that *per capita* consumption peaked in 2005 and has continued to fall since. It is probably too soon to conclude that this is a trend, but if a fall in consumption continues then it will become necessary to separate the impact of a fall in consumption and liberalization of licensing upon alcohol-related harms.

A recent press release from the British Beer and Pub Association (BBPA, 2007) has claimed that if there is an institution that is under threat as a result of the changes introduced by the Licensing Act 2003, it is the traditional British public house. The BBPA claim that British public houses have been particularly hard hit by the recently introduced public smoking ban, and the discounted prices supermarkets and off-licenses are able to offer customers who purchase alcohol. Thus, researchers need to separate the effects of drinking in and outside licensed premises (often the home).

Our findings suggest that the changes introduced by the Licensing Act have not resulted in the predicted rise in alcohol-related crime. However, recent data from DCMS (2008) has shown there has been ‘an increase in alcohol-related violence in the early hours of the morning and in some communities there has been a rise in disorder’. Data from the Home Office (Hough et al, 2008) that has been included in the DCMS report points to a general picture of ‘no change’ in alcohol-related crime and disorder, notwithstanding the previously mentioned temporal shift. However, media reports of statements from the Police following the publication of earlier Home Office figures presented a different picture (*Daily Mail*, 2006). These statements indicate that the incidence of alcohol-related crime and disorder had increased and there had been an increase in alcohol-related arrests and, furthermore, there are not sufficient police resources to arrest many of the perpetrators. Similarly, there are not enough cells in which to house them. Thus, the picture appears to be an inconsistent one and there are clearly inconsistencies in the data. Equally important, how it is being interpreted and subsequently presented. There remains the possibility that increases in alcohol-related arrests reflect an increase in targeted police activity, rather than an increase in alcohol-related problems. In the data reported in Fig. 1 most of the respondents felt that alcohol-related police resources had been increased. Other data presented in Herring et al (2008) confirmed the police were the key local stakeholder in deciding how the act is implemented in practice. Thus, when evaluating the impact of the Licensing Act, it is important to introduce a methodology that can accurately assess the impact of the police upon how the Act is being implemented in reality.

Our findings and those of the DCMS suggest that the portrayal in certain newspapers (e.g. *Daily Mail*, 2008) of an epidemic in under-age drinking is misleading. Again, there are likely to be factors that have a larger impact than liberalization of licensing hours. There are

many local and national initiatives that have been aimed at targeting under-age drinkers, such as test purchasing and pub watch schemes. Furthermore, there are sanctions for staff who serve alcohol to under-age drinkers in both licensed and off-licensed premises; a key variable would be to assess how these sanctions are enforced in practice in given localities. In order to get an accurate picture of the impact of the Act, it becomes necessary to disentangle the impact of these various initiatives.

Our findings report the results of a national survey after a comparatively short period of operation of the Licensing Act 2003. This discussion has pointed out that the changes introduced and accompanying the Act are concerned with far more than merely creating a liberal alcohol licensing regime. The task of researchers when evaluating the impact of the Act is to take account of some of the other variables/initiatives that we have discussed (there are a number of others) so that an accurate picture can emerge. It is equally important that this is seen as a long-term process; the full impact, most notably on public health, will not be apparent for a number of years. However, recent, rather pessimistic health-related data has recently emerged. Information from 300 NHS Trusts and the English Primary Care Trusts has shown a nationwide increase in alcohol-related admissions (mental and behavioural disorders, alcoholic liver disease, and toxic effect of alcohol) of 7% from 2005 to 2006/7 (193,637, 2005; 207,788, 2006/2007; NHS Information Centre for Health and Social Care, 2008). It is likely these will be a result of a time lag of many years of increased *per capita* assumption, although some of the figures will include Accident and Emergency admissions. Clearly, it is of paramount importance to evaluate these changes in light of the Licensing Act.

### Limitations

To our knowledge, this article is the first attempt to collect systematic nationwide data. However, there are two limitations that should be acknowledged. First, there are areas of the country that are under-represented in our study, most notably the West Midlands and North-East England. The decision to map our data to a local government regional assembly was only taken once the data had been collected. We recommend that this method is adopted as part of a methodology so that greater efforts can be made to identify and contact areas that run the risk of being under-represented. Secondly, all our data is based upon 'perceptions' of the participants, rather than asking them to collect objective data (e.g. number of licensing applications). However, these interviewees are commenting from a knowledgeable position. They will be in regular contact with departments such as environmental health and trading standards who will have information concerning, for example, test purchasing and better bar schemes. In data reported in other parts of the report not published in this article (Foster et al, 2008), there is clear evidence that the key external local stakeholders are the police, who are likely to be in regular contact with the chair or members of the licensing team. Furthermore, the level of agreement between our study and the recent reports (DCMS, 2008; Hough et al, 2008; LACORS, 2008) is striking. Notwithstanding these comments, the study would have been enhanced by being checked against local data such as number of prosecutions for under-age drinking or alcohol-related offences/other epidemiological data. However, it was important to disseminate these findings as quickly as possible and there were insufficient resources to do this within a short time-frame. On balance, the research team felt that the most important step should be getting the data into the public domain without being checked against such data, which can, in itself, only be indicative of problem drinking levels.

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### *Declaration of interest*

The authors report no conflicts of interest. The authors alone are responsible for the content and writing of the paper.

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