

alcohol

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ALERT



Alcohol Strategy Questioned

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Alcohol Strat

The long-awaited Interim Analytical Report of the Cabinet Office Strategy Unit was finally published in September, months after it was originally promised. The Report is intended merely to describe the nature and scale of the problems and to summarise the available evidence in regard to methods of ameliorating them. The Government's Alcohol Harm Reduction Strategy, outlining the policies it intends to implement to tackle the problems, is not expected to appear for some time. The Government is saying publicly that it will appear as scheduled in late autumn, but it is widely believed that it will not in fact be published until next year.

The only real surprise in the Strategy Unit's analysis are the new estimates of the costs of alcohol problems. At approaching £20 billion per annum these are higher than previous estimates, and are considerably in excess of the revenue raised from the sale of alcoholic drink.

Predictably, reactions to the report were mixed. In the main, the alcohol field welcomed it though a number expressed disquiet at changes that were made to the original text presumably at the behest of the alcohol industry (see below).

It was also noticed that the report contains one particularly glaring omission, any attempt to relate the level of harm to overall national consumption of alcohol. This is akin to

developing a national plan to combat obesity whilst avoiding any consideration of the average intake of calories. This is a key issue for alcohol policy and one which tends to divide the scientific community on the one side from the alcohol industry and the Government on the other. Further evidence of this divide is provided by the fate of a special sub-group of advisers set up to assist the Strategy Unit which presented evidence in regard to the importance of average consumption for the level of harm. This was disbanded, it is believed because the research evidence it presented was inconsistent with the view the Government and the industry wish to promote. Clearly, these developments cast considerable doubt

on the degree to which the Strategy Unit was allowed to conduct a genuinely impartial and objective review. Speaking for Alcohol Concern, Eric Appleby said: "Overall this is a good piece of work



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and the best summary of the state of the alcohol nation that we have had. The Unit have grasped some nettles that government has previously been scared to touch, on advertising, for example. However there are some others, such as availability, that remain untouched and we still need a much more vigorous argument for the vital and overdue expansion in treatment services.”

Despite the clear biasing of the report in their favour, and the fact that the industry formed part of the Advisory Group to the Strategy Unit, alcohol industry spokesmen still chose to attack it for allegedly exaggerating the scale of the problem. Rob Hayward, chief executive of the British Beer & Pub Association, accused the Strategy Unit of “overplaying the numbers and using out-of-date information”. He said: “The Strategy Unit used an out-dated measure to define the scale of heavy drinking. Weekly units were replaced by the Department of Health in 1995 by the daily benchmarks of two to three units for women and three to four units for men. Consequently, many people drinking within those guidelines have been defined as heavy drinkers in this analysis.”

In reality, as can be seen from the illustration below, the Strategy Unit simply followed existing practice, defining as ‘moderate to heavy’ drinkers those consuming between 14/21 and 35/50 units per week for women and men respectively, and as ‘very heavy’ drinkers those consuming 35/50

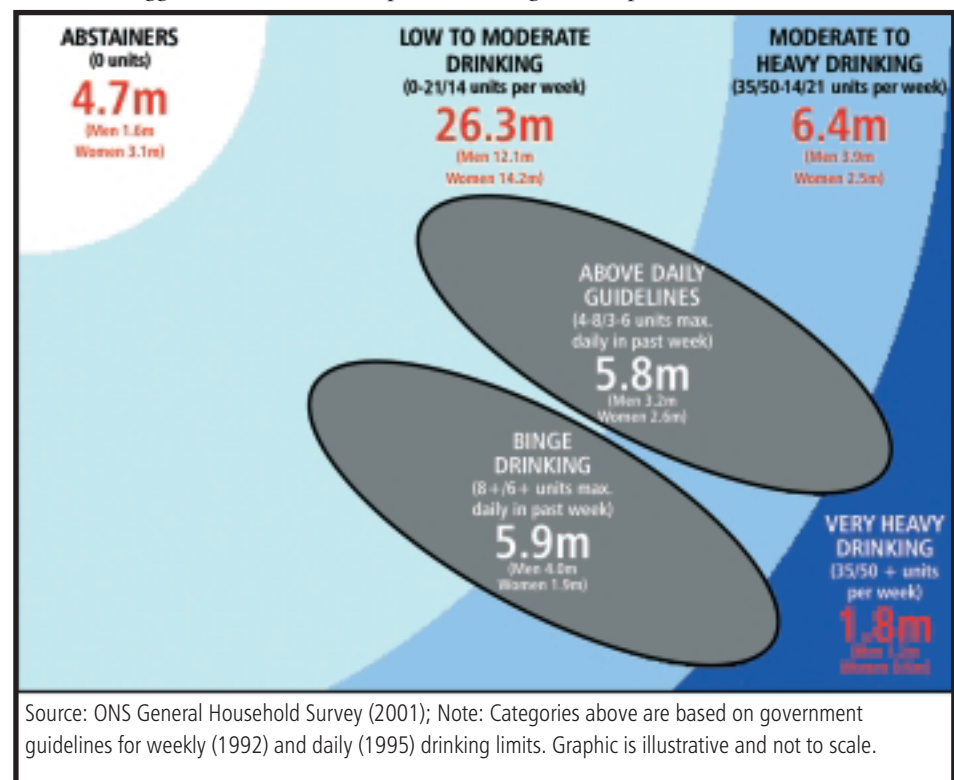
or more units per week.

Ironically, in view of his colleague’s incorrect claim that the Strategy Unit was guilty of exaggeration, Mark Hastings, another spokesman for the British Beer and Pub Association (BBPA) made an even more inaccurate allegation in relation to the Strategy Unit’s criterion of binge drinking as consumption of eight or more units of alcohol in a day. He said: “This means that a fifth of pensioners are binge-drinkers, as is 40 per cent of the population. It is ludicrous and undermines the strategy as a whole. The real focus of the strategy needs to be on what motivates a small minority of people to go out and behave in a disorderly way.”

However, even this was not sufficient exaggeration for Kieren

Simpson of brewers Scottish and Newcastle. Addressing a fringe meeting at the Labour Party conference he upped the stakes even further and insisted that on the basis of the Strategy Unit’s definition, “a quarter of all pensioners are binge drinkers.”

The most generous explanation of these wildly inflated claims is that Hastings and Simpson were overcome by wishful thinking. Government drinking surveys report that in the population as whole 20 per cent men and just 8 per cent women drank more than twice the recommended daily maximum of 8/6 units in a single day. In men aged 65 and over, the proportion fell to 6 per cent, and in women of pensionable age to 0.5 per cent.





A different reaction came from brothers Sudarghara and Ajmail Dusanj, the owners of Cains brewery in Liverpool, the first British brewery to be owned by an Asian family. The brothers announced that bottles of Cains 2008 Ale, brewed to mark Liverpool's status as a Capital of Culture, will carry advice and a health warning. The warning, which will later

appear on other Cains products, reads: "Alcohol advice: Robert Cain supports responsible drinking. Excessive drinking can cause harm. Observe the daily guidelines for

sensible drinking. Do not drink and drive."

Sudarghara Dusanj said that he hoped other brewers would follow suit. He did not think the heavy drinking culture that was causing health problems in the UK could be turned round overnight, but it was important that the whole industry took positive action rather than just talking about it. He continued: "There is mounting pressure to tackle the issue of binge drinking in the UK. We think that the brewers – along with the spirit and premixed alcoholic drinks manufacturers – have a responsibility to promote sensible drinking to our

customers. We're leading by example and doing our bit by packaging and marketing our products in a responsible manner. It seems that many of our competitors are just sitting on the sidelines and getting caught up in debating the Government's definition of binge drinking rather than taking action. It's this type of indecision that could harm the industry's reputation."

Strategy Unit ignored expert advice, then sacked the adviser

The services of Professor Sir Michael Marmot, one of the country's leading epidemiologists, were dispensed with by the Strategy Unit after he produced a paper containing research findings that conflicted with the line preferred by the Government and the alcohol industry. Professor Marmot was a member of a special sub-group of the Advisory Group set up by

the Strategy Unit to help prepare the national alcohol strategy. His paper brought together the evidence establishing that the amount of harmful drinking is a function of how much alcohol is consumed by the population as a whole. The obvious implication of this finding is that policies to reduce the harm caused by alcohol must be embedded in policies to control the overall level of consumption. In other words, to be effective the Strategy must be on alcohol, and not just on 'alcohol misuse'.

While this conclusion is regarded as a truism by most alcohol researchers and by many other western Governments, it is seen as highly objectionable by the alcohol industry and, it seems, the British Government. They prefer to promote the idea that there are two distinct populations of drinkers – the great majority of the population who are responsible drinkers and, apparently, never have any alcohol problems, and a small minority of deviant individuals called 'alcohol misusers', who have or cause all the problems. The implication of this view is that preventative policies should ignore the overall level of consumption and focus exclusively on the small minority of 'misusers' so as not to 'punish' the responsible majority.

Professor Marmot's analysis was therefore regarded as decidedly unwelcome, and the special sub-group was promptly disbanded. The members of the sub-group, like all the advisers, are inhibited from speaking publicly because all meetings and communications were held on a confidential basis. However, Alcohol Alert



understands that a special group which included Sir Michael Marmot has been convened under the auspices of the Academy of Medical Sciences, a joint initiative of the Royal Medical Colleges, with a view to ‘putting alcohol back into alcohol policy’. The group is due to report in January 2004.

Changes to the text

Other evidence of possible alcohol industry influence on the Strategy Unit is also provided by changes to the text of the Interim Analysis. The final published version was notably different in certain key respects from the earlier draft.

Extracts from the Draft analysis of August 2003 read as follows:

Extract 1

“There are two main supply side levers, price and availability, which can be used to influence alcohol use and misuse....Availability is governed by a number of factors: number and density of outlets; opening hours; regulation on who buys” (p. 150 –now page 152 of final report).

Professor Sir Michael Marmot



Extract 2

“As with price, restrictions on availability reduce general consumption and therefore general levels of harm. Conversely relaxing availability increases general harm whether through more outlets (Finland), denser outlets (California), longer hours (Western Australia) or reducing minimum age (New Zealand) where measures are not taken to pre-empt the consequences...” (p. 152, now p.154)

Extract 3

“Supply and Pricing: Key Findings....Availability: Number and density of outlets and opening hours: where there are too many outlets, too densely packed, harm results. Communities need power to choose, and to respond where there is clear harm” (p.154, now p.156).

In the final version of the report as released for public consumption on 19 September 2003, the analysis is notably different. All mention of the control of outlet numbers/density and opening hours has been removed, and the research findings from Finland, California and Western Australia in this regard have also disappeared.

The Analysis now asserts that, as levers of harm reduction, price and availability:

“...act in the context of a complex range of other factors that influence consumption (culture, advertising, setting and market innovation described earlier in the analysis). This means that changes in price and availability alone will not always affect behaviour, and that changes in behaviour may come about

for other reasons (p.152 final version)

...In New Zealand a reduction in the minimum drinking age led to a perceived increase in anti-social behaviour by young people. But again the evidence suggests that the issue is more complex (p.154 final)

...So the issue is more complex than simply restricting price and availability for the whole population...The impact of policies involving price and availability will depend upon the range of different factors that influence consumption...there are limitations in using the evidence base to predict the response to specific policy measures on actual consumption. Whilst there is a clear association between price, availability and consumption overall, there is less sound evidence for the impact of introducing specific policies in a particular social and economic context and determining the right level. Other factors have to be taken into account too: Targeting-restricting price and availability would affect all drinkers, not just those experiencing problems. Limiting choice to reflect the needs of a minority who do experience problems may raise questions about fairness and acceptability...All of this suggests that price and availability, whilst important, are not the only levers and that they interact with other factors in ways which can have unintended consequences” (p.155 final).



“Supply and demand: key findings- Price and availability are important levers on overall consumption: there is clear evidence of links between price and availability and overall consumption, and hence harm. However, the evidence is less able to demonstrate the likely impact of specific measures: in some cases measures which should have reduced consumption have failed to do so; and in other cases consumption has fallen independent of policy measures. The interplay with other factors is crucial in determining overall behaviour. This means that policies can have unintended consequences...policies on price and availability have to be seen in a wider economic and social context” (p. 156, final).

The issues involved in these changes are at the heart of the debate around the whole nature of the alcohol strategy and, in particular, the management of the night-time economy. The original text was clearly inconsistent both with the views of the Portman Group and with the assumptions underlying the new Licensing Act, which are of course one and the same. The Strategy Unit refused to say at whose behest these changes were made, explaining that advice from its expert panel was confidential.

In the House of Lords, in an attempt to get to the bottom of the mystery, Liberal Democrat peer Lord Avebury wrote to Lord Mackintosh of Haringay seeking an explanation, but the answer eventually came from Home Office Minister, Hazel Blears, sponsor minister to the Strategy Unit project. In her reply, Ms Blears gave Lord Avebury a good ticking off for having seen the working draft which “was circulated to our

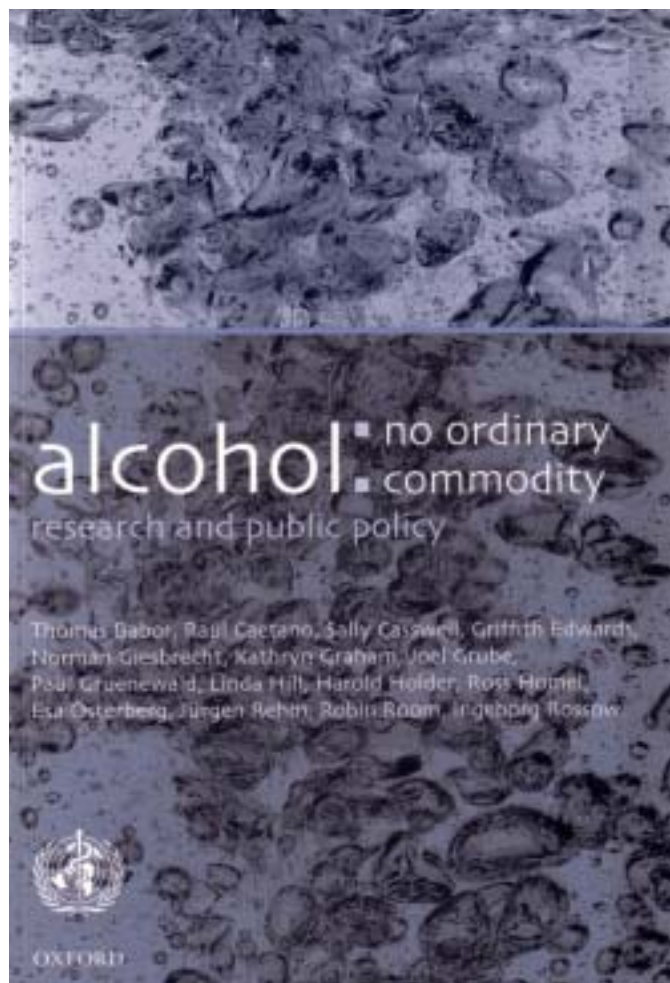
advisory group on a personal basis and on the understanding that, being a draft, it should not be circulated further.”

Ms Blears went on to say that as the whole point of the process was “to enable us to draw on expert advice and, consequently, to present the best possible analysis”, it was hardly surprising that the draft changed as a result. Ms Blears, in concentrating on this statement of the obvious, did not explain in detail how the quality of the Analysis was enhanced by the sudden omission of well-recognised research findings nor at whose behest the decision to excise them was made.

It is particularly ironic that the

minister’s comment coincided with the publication of the recent authoritative work on alcohol policy, **Alcohol: no ordinary commodity** for the World Health Organization. The book is the work of a group of leading scholars on the subject from around the world and among their conclusions they state: “In general, effectiveness is strong for the regulation of physical availability and the use of alcohol taxes. Given the broad reach of these strategies, and the relatively low expense of implementing them, the expected impact of these measures on public health is relatively high.” For example, **Alcohol: no ordinary commodity**, in comparing the

Alcohol: no ordinary commodity, published by Oxford University Press 2003. ISBN 0-19-263261-2



impact of different policies, shows that restrictions on the density of outlets is not only very effective but is supported by the widest range of research. Conversely, strategies such as alcohol education in schools and colleges, public service messages, and warning labels on alcohol containers – the strategies the government appears to be considering most seriously – score zero for effectiveness.

Alcohol Alert has established that none of the academic or expert advisors to whom it has spoken asked for those changes to be made, or was even given prior notice of them.

The members of the Advisory Group are:

Eric Appleby

(Alcohol Concern)

Mary Agnew

(No10 Policy Unit)

Peter Barnett

(Service User Representation and Lambeth Drug Action Team)

Jean Coussins

(Portman Group)

Andrew Cunningham

(Department of Culture, Media, and Sport)

Professor Colin Drummond

(Royal College of Psychiatrists)

Professor Griffith Edwards

(National Addiction Centre)

Mike Gillespie, Peter

Edwards, Joan Bonelle

(Home Office)

Professor Ian Gilmore

(Royal College of Physicians and Liverpool University)

Cathy Hamlyn

(Department of Health)

Mark Hastings

(British Beer and Pub Association)

Peter Keown, Rob Taylor

(Association of Chief Police Officers)

Suzanne Payne

(Local Government Association)

Mela Watts

(Department for Education and Science)

The inclusion of representatives of the alcohol industry would seem to be in contravention of the European Alcohol Action Plan, agreed to by this Government, which says that health policy on alcohol should be formulated without influence from the industry. Similarly, the Declaration on Young People and Alcohol, which again was signed up to by the Government, states: “Public health policies concerning alcohol need to be formulated by public health interests without interference from commercial interests.”

Alcohol Industry Submissions

The nature and quality of alcohol industry arguments is revealed in their responses to the Strategy Unit Consultation Document. These have now been published. There was one joint submission on behalf of the alcoholic drinks industry, representing the views of the British Beer and Pub Association, Business in Sport and Leisure, The Advertising Association, The Association of Multiple Retailers, the Bar Entertainment and Dance Association, the British Hospitality Association, the British Institute of Innkeeping, the British Retail Consortium, the Federation of Licensed

Victuallers Associations, the Gin and Vodka Association, the Guild of Master Victuallers, the National Association of Cider Makers, The Restaurant Association, the Scotch Whisky Association, the Society of Independent Brewers and the Wine and Spirit Association. There were in addition separate submissions from the Advertising Association and the Institute of Practitioners in Advertising, Anheuser-Busch, Coors, and, of course, the Portman Group.

Some of these submissions are mainly restricted to the sections of the Consultation Document concerned with the role of the alcohol industry, but some are more wide ranging, reiterating all the familiar industry arguments – that the overwhelming majority of people – apart, presumably, from high proportions of old age pensioners – ‘drink sensibly’



and that alcohol problems are restricted to a small minority of deviants; that any problems of 'binge drinking' are the fault of pub closing times; the customary denials that there is any significant causal relationship between alcohol and crime, or between the overall level of alcohol consumption and the amount of harm.

What makes these submissions, from a certain point of view, extremely entertaining is that, presumably because of the terms of reference of the Strategy Unit which at least in theory require it to take an evidence-based approach to policy formation, their authors clearly felt obliged to pay lip service to science while of necessity actually trying to subvert its influence. This exercise in sustained hypocrisy is elevated to an art form in the submission of the Portman Group.

Founded in 1989, the Portman Group's origins can be traced to five years earlier when Tim Ambler of Grand Metropolitan set out in a paper not intended for general circulation what he considered to be the principal dangers facing the beverage alcohol industry. These were:

- Excise duties to be raised faster than inflation
 - More vigorous measures to reduce drunken driving
 - Restrictions on retail hours, licences etc
 - Funding rehabilitation for those suffering the effects of alcohol abuse
 - Advertising and other marketing restrictions
 - Warning labels on alcoholic drinks, and
 - Ingredient labelling.
- Ambler stated that "it is

generally agreed that the tobacco industry reacted to not dissimilar threats in a passive, inadequate manner and most of all too late..."

What was later to become known as the Portman Group was thus an expression of the alcohol industry's determination not to go down 'tobacco road'. The Group is generally regarded as the most successful of the industry's 'social aspect groups' that have now spread across Europe and much of the rest of the world in heading off what are regarded as threats to the interests of the alcohol industry whilst cultivating a public image of caring social responsibility.

When it was first set up the Portman Group was listed in the telephone directory as providing "research and media releases for the drinks industry" but it subsequently put on a new disguise and re-branded itself as both the alcohol industry's "watchdog" and at the same time its 'initiative against alcohol misuse'. To achieve credibility, an important element of this re-branding has been the adoption of the appearance of scientific objectivity and attempts to cultivate relationships with the scientific community. This last strategy has necessarily had to be implemented in a world in which, from the point of view of the Portman Group's paymasters, scientists have the irritating habit of coming to highly inconvenient conclusions. Fortunately, the Group discovered early on that it has the means to deal with this problem – money.

In 1994 the Portman Group was discovered offering secret payments to academics to 'rubbish' a major research report from the World Health

Organisation. The Group's activities were exposed by journalist Leonard Doyle. Writing in *The Independent* under the headline 'Pro-alcohol academics paid by drinks lobby', Doyle revealed that the Group, having somehow obtained a pre-publication copy of the new WHO report, promptly offered secret payments to a number of academics to produce anonymous critiques of the book and its findings.

The story received considerable publicity in the UK and generated intense debate over the ethics of academic research and possible conflicts of interest. Doyle quoted an unnamed senior Government medical scientist as saying:

"The secret inducement to academics by the Portman Group is a classic example of the sort of underhand tactics that the drinks industry engages in all the time to prevent good research on the harm that is caused by alcohol."

Doyle referred to an internal drinks industry memorandum which stated that one of the aims of the Portman Group was 'dominating research into alcohol policy', and academic recipients of the Portman Group's largesse were conspicuous among those found expounding the alleged health benefits of alcohol consumption and in pressing for the 'sensible drinking' limits to be raised.

Subsequently, the Portman Group commissioned reports from researchers prepared to come up with the, to its sponsors, extremely welcome findings that alcohol is not really a cause of violent or any other form of crime, and that the statistics on alcohol-related crime and disorder are almost entirely meaningless.



The secret payments prompted Professor Griffith Edwards, doyen of British alcohol researchers and one of the lead authors of the WHO report, to compare the Portman Group's tactics with those of the tobacco industry in trying to neutralise unwelcome medical evidence. Writing in the *British Medical Journal* he said: *"If the drinks industry goes on behaving in Britain and in other countries in its present unethical manner, it will inevitably and deservedly join the tobacco industry in a pariah status."*

It is unlikely that such critics of the Portman Group will change their view as a result of reading its submission to the Strategy Unit. This is given the appearance of a properly researched and referenced piece of work, and indeed contains repeated demands that the national alcohol strategy must be based on 'the best available evidence' and on 'robust research evidence and sound data'. Unfortunately, the submission's scientific credentials turn out to be more appearance than reality. For one thing, issues on which the whole debate hinges are conspicuous only by their absence.

Firstly, and bizarrely, there is no acknowledgement of the rising levels of health harm from

alcohol in Britain, let alone any exploration of why there should be an increase. There are of course numerous references to the alleged health benefits of alcohol consumption. The submission even seems reluctant to concede plainly that alcohol is a cause of accidents, preferring instead to refer to 'drinking to intoxication (being) highly correlated with accidental injury..' But then, it could hardly be conceded that raised blood alcohol levels falling short of outright intoxication increase accident risk without undermining the Portman Group's highly successful campaign to retain a high legal alcohol limit for drivers in the UK. (see below)

Even more importantly, what passes for a discussion of contemporary drinking patterns carefully avoids any reference to the fact that in Britain, as in all English speaking countries, about 10 per cent of the drinking population accounts for around 50 per cent of the total alcohol consumed. This skewed pattern means that the alcohol market, and thus the profits of the companies that sponsor the Portman Group, are dependent on heavy drinkers.

This is crucial because it is the basis of the conflict of interest that ensures that the Portman

Group's campaign for 'responsible drinking' must be a charade. The people the Portman Group tries to stigmatise when it is convenient as 'irresponsible alcohol misusers' are its sponsors' best customers. If by some miracle they were persuaded to mend their ways and 'drink sensibly', the alcohol industry's profits would plummet.

The bogus nature of the demand for robust evidence is also shown by the way the Group attempts to discredit authentic scientific research findings and to substitute the spurious ones that suit the interests of its sponsors. It is entirely characteristic, for example, that a demand that the National Strategy must be based "on the best available evidence", is followed by the assertion that "education (is) the best form of prevention", and by calls for more alcohol education in schools and renewed efforts to sell the 'sensible drinking' message. Needless to say, what the best available evidence actually shows is that school alcohol education may increase knowledge and influence attitudes but it rarely affects behaviour. There is no good evidence that the sensible drinking message, which has now been running for 20 years, has made any appreciable difference to what people actually do.

A key paragraph of the Portman Group's submission attempts to debunk the 'control of consumption' approach – the approach that got Professor Marmot into trouble with the Strategy Unit.

This paragraph reads:

"There are those who still believe that reducing overall

consumption is the best way of reducing alcohol misuse. These supporters of the control of consumption theory would argue that tax increases and tighter licensing and marketing restrictions should form key planks of the strategy. This theory has been widely discredited. Indeed, experience across the world in countries that pursue such policies has demonstrated not only a failure to achieve any significant reduction in alcohol misuse but perversely an increase in unhealthy drinking patterns and unregulated trading with all its associated criminal activities."

The Portman Group's scientific credentials are evident in the references selected to give credence to this succession of assertions. One of them is an out-dated pamphlet produced by a Home Office official which was roundly criticised by the scientific community when it first appeared 20 years ago, and which has failed to achieve any greater credibility in the intervening period.

The second reference, the scientific authority behind the revelation that all alcohol control policies everywhere in the world are always total failures, turns out to be the famously impartial and objective Brewers Association of Canada.

The most telling citation however is the third, that referring to the late Professor Geoffrey Rose. Here the Portman Group excels itself by totally misrepresenting the author as saying the exact opposite of what is actually in the text.

On the face of it, it is difficult to understand how this misrepresentation could have occurred by accident, for Professor Rose, far from

attacking the 'control of consumption' approach, was well known as one of its leading advocates. The whole point of his book, *The Strategy of Preventive Medicine*, is to debunk the very idea fostered by the Portman Group and the alcohol industry that policies to prevent harm should focus exclusively on a minority of 'sick individuals', and to demonstrate, rather, that to be effective in reducing levels of harm they must address the drinking population as a whole. In Professor Rose's words, it is clear "*that any hope of controlling the alcohol problem depends on reducing the general level of alcohol consumption.*" (p88)

The most successful pariah in Britain

The Portman Group's pariah status in the scientific community has not in any way prevented its becoming easily the most influential lobby group in the alcohol field. The picture Leonard Doyle painted of the Portman Group was that of a highly sophisticated and successful public relations cum lobbying organisation for the drinks industry, having access to senior politicians and policy-makers and also having close links with the media, thus ensuring a steady stream of editorials, feature articles and television news items favourable to the interests of the drinks trade.

That was almost ten years ago. Its influence appears if anything to have increased in the intervening period. It's director since 1996, Jean Coussins, is of course a member of the Advisory Group set up by the Strategy Unit. The introductory sections of the

Interim Analysis extolling the benefits of alcohol is lifted almost verbatim from Portman Group publicity. The Group was the only non-statutory body acknowledged in the Government's White Paper on licensing reform as having done any work of value in alcohol education, and it was a Portman Group report that provided the 'evidence', clearly considered spurious by most academic commentators, on which Ministers relied to justify the introduction of 24 hour licensing. Only last year, the House of Lords European Committee, in condemning the Government's U-turn on lowering the drink drive limit, complained of the undue influence of the Portman Group which was known to have had a number of meetings with Transport Minister David Jamieson just before the decision was announced. The House of Lords Committee commented:

"We note that the (transport) department's position coincides with that of the alcohol industry but is opposed by local authorities, the police, the British Medical Association, the Royal Society for the Prevention of Accidents, the Transport Research Laboratory and the Parliamentary Advisory Council for Transport Safety."

Interestingly, the previous director of the Portman Group, Dr. John Rae, did finally appear on TV saying that the Group's sponsors should not have required it to oppose a lower limit, but that was only after he had left the job.

The Government's own research suggests that the refusal to lower the legal limit to 50mg is costing in the region of 50 lives a year. ■

National Alcohol Harm Reduction Strategy

Interim analysis: Executive summary

September 2003

The interim analysis is the evidence base for the National Alcohol Harm Reduction Strategy. The full interim analysis is available on the Strategy Unit website www.number-10.gov.uk/output/Page77.asp. It is not the final report and does not contain any policy recommendations. The interim analysis covers alcohol and its effects; problem drinkers and addressing harms. The National Alcohol Harm Reduction Strategy will be published later in the year.

Key points

- Alcohol plays an important part in our society and makes a substantial contribution to the UK economy. The harm reduction strategy will be part of this wider picture.

- Over 90% of adults in Britain, nearly 40 million people, consume alcohol. It is widely associated with pleasure and relaxation; drinking in moderation can confer some health benefits;

- The total value of the UK alcoholic drinks market exceeds £30 billion and generates approximately 1 million jobs in the UK; it plays a key role in tourism and leisure industries
- Excise duties on alcohol raise about £7 billion per year in Exchequer revenues.

We are drinking more and more often

- Over half the adult population drinks less than 14/21 units a week;
- However almost 1 in 3 adult men and nearly 1 in 5 women now exceed 21 and

Harms resulting from alcohol misuse affect a wide cross-section of society at considerable cost

Type of harm and cost	Numbers affected
Crime and Disorder [Up to £7.3 billion]	An estimated 1.2m incidents of alcohol related violence 360,000 alcohol related incidents of domestic violence 85,000 cases of drink driving
Health [Up to £1.7bn]	Alcohol-related disease accounts for 1 in 26 NHS bed days (c. 2m) Up to 35% of all A&E attendance and ambulance costs, £0.5bn, are estimated to be alcohol related Some 40% of all A&E admissions are alcohol-related Up to 150,000 hospital admissions are related to alcohol misuse
Workplace/ Productivity [Up to £6.4bn]	Up to 17m working days are lost annually due to alcohol related absence
Family/ social networks	Between 0.78-1.3m children affected by alcohol misuse in the family [unquantifiable] Up to 20,000 street drinkers in the UK

We calculate the additional human and social costs of crime at £4.7bn; lack of data has not allowed them to be calculated in other areas.

14 units per week respectively;

- Drinkers under the age of 16 are drinking twice as much today as they did 10 years ago and are likely to get drunk earlier than their European peers;
- In this report, binge drinking is intended to describe heavy or risky consumption of alcohol in a single session. For research purposes, the definition we have used is double the daily guidelines. This equates to 6 units (about a two thirds of a bottle of wine) for women or 8 units (about 4 pints) for men. This definition reflects the benchmark used in official national surveys.
- In the UK binge drinking accounts for 40% of all drinking occasions by men and 22% by women;
- Heavy drinking matters because it leads to an increased risk of a range of harms.

A wide range of factors influence the likelihood of an individual drinking excessively

- Individual characteristics such as age, gender, personality and family background influence drinking behaviour and hence the risk of harm



- External factors such as surrounding culture, price, availability, setting and advertising also influence drinking behaviour and hence the risk of harm
- What is crucial is the interaction of these factors
- So there is no such thing as a typical heavy drinker, but groups at greater risk of harm can be identified.

Interventions designed to address alcohol related harm fall into four broad categories

- Educating people about the effects of alcohol, particularly young people; this includes looking at the effect of advertising
- The supply of alcohol: the industry are key partners in reducing harm
- Effective help to prevent, identify and treat problems
- Preventing alcohol-related crime and disorder and dealing with it where it occurs.

In all these areas there is much good practice to build on. But experience shows that interventions work best as part of a package. A strategy with clear objectives and indicators is needed to make the best of the good work already going on.

Introduction

Alcohol plays an important part in our society. The majority of people drink sensibly the majority of the time. Alcohol is a major part of our economy. It is against this wider context that the Strategy Unit has been asked to look at the harms caused by alcohol and ways of reducing

them. This report therefore focuses on analysing the harms associated with alcohol misuse.

As a nation we are drinking less than we did a century ago, but the trend has been steadily up over the last fifty years. In terms of the total amount of alcohol drunk, the UK has been a relatively moderate consumer compared with other Western European countries. Historically, the heaviest drinking countries have been the wine-producers. However, in recent years, consumption has fallen in most of these countries, and tended to stabilise elsewhere in Western Europe. In the UK, by contrast, consumption is still rising. If present trends continue, the UK would rise to near the top of the consumption league within the next ten years.

Over half the population drink less than 14/21 units a week. 6.4m drink up to twice that much in a week and a further 1.8m more than twice. Nearly 6m drink more than twice the daily guidelines. We define two harmful patterns of drinking:

- **binge drinking:** this is based on intake of double the daily guidelines. However since alcohol will affect different people in different ways, there is no fixed relationship between the amount drunk and its consequences. So although many people understand “bingeing” to mean deliberately drinking to excess, or drinking to get drunk, not everyone drinking over 6/8 units in a single day will fit this category. Similarly many people who are drinking to

get drunk will drink far more;

- **chronic drinking:** a general term to refer to sustained drinking above the previous weekly guidelines which is having or likely to lead to risk of harm.

As a population we are drinking more, and more often: men still drink more than women but women are catching up fast. We have particularly high levels of binge drinking amongst 16-24 year olds, and British teenagers are some of the heaviest teenage drinkers in Europe. Most young drinkers reduce their levels spontaneously, but a significant minority continues to drink at high levels.

Heavy drinking matters because it leads to an increased risk of harm, both immediately and in later life. Not all heavy drinkers suffer harm. But their risk of encountering a range of harm is much higher and they can harm not only themselves, but also families, friends, employers and society.

Alcohol and its effects

The harms and their costs

There are four broad areas of harm associated with alcohol misuse:

- Health – up to £1.7bn in costs to the NHS
- Crime and public disorder – up to £7.3bn (and a further £4.7bn in human and emotional costs of alcohol related crime.)
- Productivity at work – up to £6.4bn in lost productivity
- Family and social networks – there are no reliable estimates. This reflects the difficulty of defining the role of alcohol compared to other factors in complex

problems; and lack of reliable data on a problem which by definition is often hidden.

Those who are affected

Binge drinkers - defined as drinking over twice the daily guidelines (8+ for men/6+ for women): predominantly but not exclusively between 16 and 24. Both men and women are at greater risk of accidents and alcohol poisoning; young men in this group are far more likely than women both to commit and to experience alcohol-related violence between strangers and acquaintances, whilst young women are at increased risk of sexual assault and domestic violence. Both genders are likely to have lower earnings and higher unemployment than other drinkers are.

Chronic drinkers - sustained drinking above previous weekly guidelines: men over 40 and, to a lesser extent, women are likely to suffer chronic diseases and to die earlier (although for men over 40 and post-menopausal women this has to be offset against lower risk of heart disease). They are less likely than binge drinkers to commit crimes. Up to a point they prosper at work;

Chaotic drinkers - very vulnerable with multiple problems - for example, rough sleepers.

Families of drinkers - suffer as their health, productivity and ability to cope decline: between 0.78 and 1.3m children are affected by parental drinking.

Society as a whole - there are an estimated 1.2m alcohol-related violent incidents every year, and a quarter of the population see drunk and rowdy

behaviour as a problem in their neighbourhood.

The numbers affected

- alcohol dependence syndrome accounts for over 30,000 hospital admissions per year;
- »■ 150,000 hospital admissions as a consequence of alcohol;
- around 20,000 people die prematurely, about a fifth of those because of acute problems;
- there are an estimated 1.2m alcohol-related violent incidents every year;
- around 480 deaths as a consequence of drink-driving;
- up to 17m days lost from alcohol-related absence and up to 20m due to alcohol-related reduced employment activity;
- between 0.78 and 1.3m children affected by family drinking; and up to 20,000 street drinkers.

Problem drinkers

Broadly, the relationship between drinking and harm is shaped by the interaction of risk factors at three levels:

- alcohol (frequency/volume of consumption);
- individual (e.g. personality, genetics, physiology); and
- environment (e.g. price, supply, beverage type,





brand, social/cultural factors) These factors interact in a variety of ways to determine drinking behaviour and therefore risk of harm.

The interaction of the factors is as important as the factors themselves. For example, a young man may drink heavily without causing harm; his friend may drink the same amount but commit a violent offence because of other factors such as his personality and drinking environment; another friend may end up in hospital with alcohol poisoning because of peer pressure to drink and inability to cope with the amount consumed.

It is important to emphasise that there is no such thing as a typical heavy drinker. We cannot pick out specific individuals at risk of harm.

However, those with a mix of the factors described above are most likely to drink heavily and therefore to experience or cause problems. The highest risks lie with young unskilled males who take risks, have less stable family backgrounds, early experience of drinking, live in a heavy drinking culture and are influenced by alcohol promoted at low prices.

The most powerful determinant of drinking pattern is age. Those aged 16-24 drink

heavily and often. As they reach their late twenties, the majority reduces drinking levels. A minority continues to experience and cause harm.

Addressing harms

The current UK system covers a wide range of approaches. There is a lot of very good practice and innovation at a local level by providers, both statutory and voluntary. But from an individual's perspective the system is complex, confusing to enter and to navigate around with little referral from one part to another, and often perceived as running at full capacity. And from a service provider perspective funding and accountability are complex; mechanisms for co-ordination are patchy; and there are few shared objectives or indicators. So there is little incentive - or often capacity - to tackle harm coherently.

The strategy will therefore need to build on and support local good practice, allowing maximum flexibility to meet local need and co-ordinate delivery against a clear framework of objectives and indicators.

Interventions designed to address alcohol related harm fall into four broad categories:

- **Education, information and communication** – education is important to impart information, but cannot change behaviour in isolation;
- **Supply and pricing** – price and availability are important levers on overall consumption but the evidence is less able to demonstrate the likely impact of specific measures, and the interplay with other

factors is crucial in determining overall behaviour.

- **Health and Treatment Services** – different categories of drinker are likely to take different courses through the system and provision needs to reflect this. Supporting motivation may be crucial to success of treatment.
- **Community safety** – planning ahead and prevention make a major contribution to minimising harm. The alcohol industry is a key partner and there are examples of excellent practice. However public drunkenness remains widely tolerated, and some reoffend repeatedly. Drink-drive policies are delivering good results though there is no room for complacency. A successful strategy to reduce the harm caused by alcohol will:
 - include a variety of approaches spanning both the need to prevent harm from occurring and to deal with the consequences of harm;
 - recognise that changing behaviour and attitudes is a long-term process requiring a package of measures;
 - work with the attitudes and culture in seeking to change behaviour;
 - ensure best use of resources, particularly in seeking to prevent harm;
 - draw on best practice and what works; and
 - recognise that responsibility is shared between individuals, the alcohol industry and Government. ■

Drink driving deaths have reached their highest point in ten years

Figures published by the Department of Transport indicate that the number of people dying last year as a result of drink driving was 560 – a rise of six per cent. This happened in the context of an overall drop of one per cent in the total of road accident deaths. The figures further indicate that all casualties from drink driving leapt by seven per cent – more than 20,000 people killed or injured – which is the highest level since 1990.



The present drink-drive limit was questioned by Brake, the road safety charity. Calling for the Government to take “urgent action”, it argued that the limit as it stands encourages drivers to take the chance of getting away with having one or two drinks. Brake’s Chief Executive, Mary Williams, said, “We need more high profile anti-drink and anti-drug advertising all year round to combat a rise in young drivers impaired behind the wheel”.

Road safety minister David Jamieson said that the United Kingdom’s penalties for drink driving are among the toughest in Europe. “Meanwhile, the police have one hand tied behind their back

because they cannot randomly breath-test high-risk drivers late at night near nightclubs.” Mr Jamieson said that a hardcore of reckless drivers were presenting “a danger to themselves and everyone else on the road”.

A spokeswoman for the Department of Transport deployed the argument that lowering the drink-drive limit would “dilute” the message the government was trying to promote, that is “Don’t drink and drive at all”. She added that the Government has already spent millions of pounds on advertising campaigns to get this across. The problem was that a group of drivers in their

twenties and early thirties are said to consider themselves above the law.

In the mind of the public, road safety enforcement at the moment is done by camera and concentrates its efforts on motorists who drive too quickly and not other criminal motoring behaviour. The head of road safety at the AA Motoring Trust, Andrew Howard, said, “Drink-drivers face an automatic twelve-month ban, hefty fine and possible prison sentence. Hard-hitting publicity campaigns have helped establish an anti-drink-drive culture. But these statistics show education and enforcement must continue to be a priority. Motorists must be responsible for their actions.”

According to Mr Howard, “Some drink-drivers assume they can break the law because they are unlikely to be caught.

The public perception of road safety enforcement at the moment is that it is done by camera and concentrates on speeding motorists and not other criminal motoring behaviour.”

In opposition the Labour Party suggested that it would lower the drink-drive limit from 80mg to 50, but since coming into power the Government has listened to the arguments of the alcohol industry and failed to bring the United Kingdom into line with most of the rest of the European Union. ■

Grassroots ac

The Government is very fond of talking about “empowerment” and “grass-roots democracy” and it is perhaps ironical that opposition to one of its own flagship policies has provided more than one notable example of these phenomena.



The Licensing Bill – now an Act, having received the Royal Assent – brought together disparate groups and individuals throughout the country to fight what they see as a threat to the quality of life of many communities, especially those in town and city centres. The Open All Hours? Group consisted individuals, local authorities, residents associations, the Civic Trust, and the Institute of Alcohol Studies.

One of the individuals was Dr Sarah Webb, who described the situation in her city of Bath in Alert (Issue 2, 2002). Her case is the classic one of a private citizen propelled into activism and public life by a manifest

injustice. She saw around her the evidence of what could well happen when the then Bill inflicted a liberalised licensing law on England and Wales.

Dr Webb moved to Bath in 1998. As one of the most attractive cities in England, with its wealth of Georgian architecture and its lively cultural life, Bath promised to be an ideal place to live. The surprise and disillusion was almost immediate. *“I discovered that after midnight I was in the centre of clubland,”* says Dr Webb. *“I put up with it for two years until a man was nearly killed by drunks outside my front door at two-thirty one morning.”* After that she began campaigning for more police on the streets, increased CCTV, and a curb on the number of licences.

Dr Webb discovered that the local Council had no policy to address the problems caused to city centre residents by the proliferation of late-night clubs and bars. She formed the view that the City was badly managed and that the prevailing attitude was to pretend that the issue did not exist in order not to damage the tourist industry. In this Bath City Council were mistaken in that quite the opposite is the case: tourists fight shy of areas where there is uncontrolled revelry and crowds of

uncontrolled drunks on the streets. Sarah Webb makes the point that the only winners were estate agents as home owners tended to sell quickly and quietly once they found what life was really like in the seemingly idyllic streets of Bath.

Like many people who have become active in local politics, Dr Webb’s involvement grew from tackling specific issues, in her case one which was profoundly affecting the quality of life of the residents of the historic core of Bath. In 2001, after she had been fighting successfully against the granting of new licences for some time, the Government made the decision to deregulate Sundays. One particular Bath nightclub owner, and Liberal Democrat supporter, Phil Andrews, had his application for Sunday trading all ready to go, right down to leaflets printed advertising Sunday night jazz. Says Sarah Webb: *“I fought his application and those of the other Bath nightclubs and nightpubs and none of them have managed to get a licence for Sunday.”* In this case the magistrates supported the case made by local residents – that they need a night’s rest. In September, 2001, the Council retreated and adopted a policy not normally to grant a Sunday Public Entertainment Licence after 10.30 pm and that night remains a relatively quiet one in the city.

“The other big issue,” continues Dr Webb, *“has been an experiment pushed through by*

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the Lib Dems after years of pressure from Phil Andrews. This is to allow extended PELs on Fridays and Saturdays. The Council granted twenty-four hour licences to the only three clubs which had the necessary CCTV to qualify." All of these clubs lost money by staying open an hour or so after the bar closed for liquor sales and do not seem to have increased door takings to offset the costs involved in operating longer hours. Clearly they were looking ahead to the ending of permitted hours in the new Licensing Act. The main problem for local residents has been the spread of noise into the previously silent part of the night. "The plus," says Dr Webb, "has been some reduction in the intensity of the 2.00am noise, but many people prefer a spate of louder noise all over at once rather than intermittent disturbances going on longer into the night. The other interesting effect outside one club has been a reduction in police calls to the area at 2.00am. Whether this is the later opening or some other factor is not clear. Residents have been pressing for the experiment to end so that we can see what effect reverting to the old hours would have."

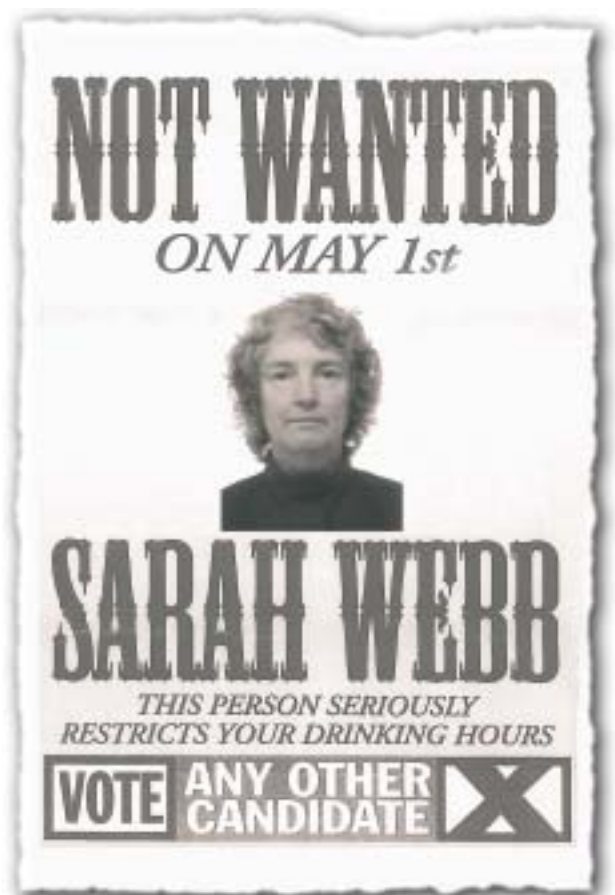
Sarah Webb's campaign against the expansion of licensing in Bath had the support of her two local councillors on the Abbey Ward of Bath. Both of these were Liberal Democrats, even though that party was the main proponent of later licensing. "Our Councillors have generally not followed the party line on this issue,

but have defended Abbey Ward residents who bear the brunt of late licensing as all the venues are compressed into this area."

According to Dr Webb, "The Lib Dems are the dominant political group and are keen to keep the 12,000 or so students happy. And seem to want to allow Bath nightclubs to compete with Bristol."

Sarah Webb's involvement with the issues of licensing in Bath brought her naturally into contact with the Open All Hours? Group where she was impressed by the attitude of Westminster Council, which chimed with the robust approach she saw in her local Conservatives. She was also struck by the way in which Conservative Lords and MPs were "trying to get reason back into the Licensing Bill". In the run-up to last May's local elections, Dr Webb learned that the two sympathetic Liberal Democrat councillors for her ward were standing down and were being replaced as candidates by people in favour of later licensing – one of whom was moving from a seat in another ward to make room for Phil Andrews, the nightclub owner. She decided to volunteer to canvass for the Conservative and, in the way these things work, soon found herself recruited as one of the candidates. Not only did she win the election but she topped the poll ("And a Conservative beat Phil Andrews!" she adds gleefully).

In her election campaign, Sarah Webb tackled all sorts of issues relevant to local people, but she made it clear that she was particularly interested in getting the City's nightlife better managed. Some landlords responded by putting up posters



attacking her – a piece of free publicity any candidate would be grateful for.

Dr Webb's success is not only an example of activism on a particular issue leading to involvement in local government but of the electorate demonstrating that its views are quite different from those it is assumed to hold. Throughout the passage of the Licensing Act the Government has taken it for granted that the entire population is eagerly awaiting the end of permitted hours. Despite all the voices raised against it and which have been ignored, it is now law and will come into operation in January, 2005. It is up to people at a local level, in councils in Bath and throughout the country, to do what they can to ameliorate its worst effects. ■

Hell and Halifax

Just as the Licensing Act looks like making Britain's binge drinking habit worse, the problem is being challenged in a northern city which has seen some of the worst excesses. In Halifax a major campaign has been launched to tackle the local "booze culture and stop job violence in its tracks". The Evening Courier, like so many such papers, takes its responsibility to the community seriously and is in touch with the feelings of the average residents of the city. The mood of local people is not unlike that in many other communities where grassroots objections to the threat posed by the new licensing laws led to the establishment of the Open All Hours? Group.



Highlighting the "drink till you drop" offers and "happy hours" which are now a major marketing tool throughout the country, the paper's "Win Back the Streets" investigation reveals how binge drinking, especially among young men, has hugely increased the number of assaults and brawls. The Yorkshire city in Calderdale, which it is trying to promote as a tourist attraction, has been shocked at the revelation that violent crime in its centre has risen by 440 per cent in only four years.

The local police force is equally worried and with good reason. In the first part of this year there were twelve serious sexual assaults reported in the

centre of Halifax, one of them a male on male rape. Police are convinced that the ready availability of cheap all-inclusive offers in pubs and clubs is behind the frightening rise in violence.

Launching its campaign, which was supported in an Early Day Motion in the House of Commons, The Courier said that it would "*champion police efforts to tackle the problem by targeting cheap booze offers and persuading bar managers to charge sensible prices and end the temptation to customers to drink themselves senseless.*" There is a real fear that city centres like Halifax's could become no-go areas if something is not done. The economic threat to many businesses is as real as that of violence to the individual, as more and more people avoid going into the town, especially on weekend evenings.

Police statistics show that the number of crimes in the square kilometre of Halifax centre was 82 for the last eight months of 1997. In the whole of 1999 the figure was 192. But for 2002,

the number had soared to 532. By the end of July this year the figure stood at 462 – a huge increase of 60 per cent. If the trend continues, by the end of the year the total of violent recorded crimes will have reached 850 in that one small area alone.

The great majority of these crimes occur on Thursday, Friday, and Saturday nights when there are abundant cheap booze offers available in the city centre where revellers can pay a few pounds to drink as much as they can.

Calderdale Police, which has responsibility for Halifax, are anxious to curb the problems caused by binge drinking. Chief Inspector Bill Hall, the divisional community safety officer, summed up the situation which faces many communities throughout the country: "*If Halifax is known as a cowboy town then it will just get the cowboys coming in.*"

The Win Back the Streets Campaign is based on the simple proposition that our town centres are for everyone – in the evening as much as during the day. The Evening Courier provides the rallying cry: "*We want action! Action to restore the right of ordinary, decent people to walk unafraid and unmolested by those who drink themselves senseless then want to impose their senselessness on others.*" The Campaign proposes "*three simple measures to stem the tide of jobbery*":

- Town centre pubs and club-owners – all of them – must sit down with the police to

agree a “booze truce”, putting a stop to the dirt-cheap booze offers.

- Courts must support the police fully when yobs are arrested and sentences must reflect the damage to society when town centre violence becomes the norm.
- Youngsters themselves must learn to have fun without imposing their antics on others who want to share the streets with them.

A bigger problem than heroin

Not far away from Halifax, across the Pennines on the Lancashire coast, Blackpool offers a lesson in how to deal with the problem of drink-fuelled violence.

Police in the famous holiday resort are making real progress in their own campaign to counter the same sort of problems as confronts their colleagues in Calderdale, and in many other towns across the country. Blackpool’s “central zone” had become notorious for riotous behaviour and violence – to such an extent that leaders of the town’s all-important tourist industry feared that the once favourite spot for a family holiday would become a no-go area for visitors. Blackpool police have responded with their own scheme to put an end to cheap booze and inclusive drink offers.

Superintendent Andy Rhodes, Blackpool’s police operations manager said, “When you look at the damage caused by alcohol, it is a far bigger problem than heroin. It is controlled by the fact that there is a huge industry behind it.

“Binge drinking has knock-on effects on domestic violence, drink

driving and public disorder and the harmful effect on public services is massive. You only have to go to casualty on a weekend to see the number of people who end up there through alcohol.”

Superintendent Rhodes added that the majority of licensees were happy to take part in the scheme because many premises were full to capacity at weekends without the help of marketing gimmicks. It was a common complaint among licensees that their bosses in the industry forced them to put on special drink offers in order to win a competitive advantage.

He said that a campaign was now underway in Blackpool in partnership with the town’s Nightsafe Initiative and licensees. This arose from research into the harmful effects of binge drinking. The evidence was overwhelming that linked this with price discounting. Superintendent Rhodes pointed out that there had been a number of cases of wounding in Blackpool where the accused lawyers had put forward the cheap drink promotions as a mitigating factor.

“Someone had twenty vodka shots in an hour because it was a “£10 all you can drink offer” and he went out and shoved a glass in someone’s face. The defence solicitor said ‘what do you expect when someone has so much to drink?’” Although the defendant was found guilty, the mitigation was taken into account.

Superintendent Rhodes said that the policy to curb cheap booze offers could be enforced using current legislation. The police would need to take evidence which proved that the licensee had acted irresponsibly by selling cheap alcoholic drink

and fuelling disorder.

When the Licensing Act of 2003 comes into effect at the beginning of 2005, police will have the powers to close premises which are considered to be causing problems. The jury is still out on whether this



Facts

- Around 125,000 people suffer facial injuries in violent circumstances each year in Britain.
- In the majority of cases, either the victim or the attackers had been boozing.
- There are about 5,000 “glassings” each year, in which a smashed beer glass is used as a weapon.
- Two out of five people in this country aged between 18 and 24 are classified as “binge drinkers” – the men among them consuming in excess of eight units a night and women more than six.

will do much to stem the tide of problems likely to arise from round the clock opening times.

Home Office report

A Home Office report earlier this year emphasised the clear links between the booze culture prevalent in so many of our communities and violent crime. It says: “Research on alcohol and violent crime has consistently shown that a high proportion of violent crime (50 per cent to 80 per cent),

The Early Day Motion put down by Alice Mahon, Member for Halifax, and signed by over fifty MPs

That this House congratulates the Halifax Evening Courier on its campaign to raise awareness of the way cheap alcohol promotions by pubs and clubs encourages binge drinking by growing numbers of young people; believes such binge drinking disinhibits and leads to a spectrum of anti-social behaviour ranging from yobbism and vandalism to serious violence; notes that in Halifax there is a proven link to a rise in rape cases; realises Halifax is not unique in suffering from the booze culture as other towns and city centres have become no-go areas for ordinary people after dark; and believes that efforts by police and magistrates, encouraged by the local media, can persuade club and pub operators to be made responsible.

including assault, rape and homicide, is committed by intoxicated persons.

“Studies of violent offenders have found them much more likely to be heavy drinkers.

“Some studies have shown that alcohol consumption by young men increases the likelihood that the behaviour of others will be seen as

insulting or challenging, and that alcohol increases the tendency of male drinkers to project aggression on to others and respond to imagined hostile behaviour more aggressively as a result.” ■

We are grateful to the editor of the Halifax Evening Courier for his kind permission to reprint the photographs from his newspaper

Can the Civil Law implement Alcohol Policy?

By Jonathan Goodliffe

People often get hurt or die because of what happens when someone has too much to drink. In what circumstances should compensation be payable? It will usually not be too difficult for the victim to sue the drinker and recover compensation if the drinker is insured. But should the victim, who may be the drinker himself, if he gets hurt through his own drinking, or his widow if he dies, be able to sue the publican or whoever organised the event at which the drinking took place?

Recent English cases

These questions have come up in a number of recent cases in the courts. The first concerned a Mr. Barrett who was an airman

stationed at an airbase in Norway. He got drunk and unconscious at a party in 1988 at the base. He was taken to a stretcher and put in the recovery position, but he

died by choking on his own vomit. The Court of Appeal held the Ministry of Defence (“MOD”) liable.

This was not because MOD were to blame in law for what happened at the party itself. The Court of Appeal (unlike the judge at the trial) considered that, although the Navy may not have enforced its own regulations, it was Mr. Barrett’s responsibility not to get drunk. However, once he had become unconscious, responsibility had been accepted for looking after him and those in charge had failed to exercise enough care.

But the compensation payable to his widow and his estate, assessed at £160,000, was reduced by two thirds because of his “lack of self-control in his own interest”. A subsequent application to the European Commission of Human Rights claiming that the Ministry had infringed Mr. Barrett’s right to life failed.

In another case against the MOD, a Mr. Jebson, a soldier, climbed on the back of an army lorry when he was in a state of drunken high spirits and fell off, injuring himself. This was after a night out organised by the company commander. The judge at the trial dismissed the claim but the Court of Appeal considered that the MOD had accepted some responsibility, having organised the outing and the transport. There should have been adequate supervision when in fact the only sober person was the driver who could not see the back of the lorry. However the damages payable (which at the time of the judgment had not been assessed) were to be reduced by 75% because of Mr. Jebson’s “contributory negligence”.

In the last English case, in 1999, Airtours had provided a package holiday to Tunisia for Mr. Brannan. It put on a party with free alcohol in a crowded environment, with people sitting at tables. Mr. Brannan, who was “merry but not drunk” got hurt when, to get away from the party, he climbed up onto one of the tables and hurt his face on a fan. There had been a previous accident involving the fan and Airtours had warned people about walking on the tables, but they were held liable anyway. They had created the dangerous setting, put people into a party mood and given only one warning. However, again the compensation of

£5,000 payable to Mr. Brannan was reduced by 50% because of his contributory negligence.

The North American Experience

In the USA and Canada claims of this kind are more common. The operators of a bar might be sued by someone who has too much to drink there and gets hurt afterwards. This may be either on the basis that he should not have been served or, because, having had too much to drink, the owner or operator should have tried to stop him driving off. Claims of this kind have also been made against people who organise private social events.

In North America people who operate bars may be sued by the victims of road accidents or aggressive behaviour involving intoxicated people who were served at the bar. Such a claim would be much more difficult to make in England. In road traffic cases there would not be much point in suing the publican, because compensation would usually be recoverable from the insurer of the drunken driver or from the Motor Insurers’ Bureau and the injured person would not be compensated twice over. Similar considerations would apply to victims of alcohol related violence. There would be little point in their suing the pub if they could recover from the Criminal Injuries Compensation Board. On the other hand an incident in a pub, leading to one customer causing accidental injury to another, could lead possibly to a viable claim against the publican.

There are other reasons why claims of this kind are more common in the USA. Each state has its own civil procedure, but in general compensation is assessed by a jury rather than a judge. It

may to some extent reflect the jury’s outrage at the defendant’s behaviour as well as what is necessary to compensate the victim for his loss. The compensation is often greater than it would be in the UK and thus more likely to be worth pursuing. Secondly, US lawyers may be more willing to take on very difficult claims because they are allowed to agree with their clients that they should be paid a proportion of the compensation if they win (“contingency fees”). Thirdly, the losing party in personal injury claims does not, as in the UK, have to pay the successful party’s lawyers’ fees. Fourthly the approach of the courts towards civil claims in this as in all contexts, reflects attitudes in society as a whole. In the USA people are perhaps more conscious, and less tolerant of, alcohol related problems than in Britain. This is reflected in, for instance, the relative extent of research in the two countries on legal issues relating to substance abuse.

All this comes at a cost, however. The US system is often criticised for encouraging speculative and morally unjustifiable claims and for making it too easy for defendants to be blackmailed into paying up on claims which would fail if they went to trial. And when cases do go to trial perverse or “runaway” jury verdicts are sometimes returned.

Effectiveness of the civil law

Should English law be moving in the same direction as the US and Canadian courts? The civil law of negligence and compensation is rarely used in this country as a primary means of enforcing social policy. Criminal law or regulatory sanctions more often fill that purpose. In any event compensation awards are

sometimes so low that their deterrent effect must be minimal.

In many ways, however, the civil law, properly used, can be a more effective and economical way of enforcing legal rules than the criminal law. The case against the rule-breaker only has to be proved on a “balance of probabilities” (or in the USA “preponderance of evidence”) rather than “beyond reasonable doubt”. Most of the expense is not borne by the state, since public authorities are not involved in enforcing the law and legal aid in England for negligence claims is rarely granted. In an era of “priority crimes” which for political or other reasons must absorb most of the resources of the police, a large range of other offences may be left unenforced with the risk that the rules in question may be ignored or brought into disrepute.

Scientific research establishes that modifying the drink context can reduce alcohol related harm. This can take the form of serving regulations and providing training for handling problem behaviour in pubs (see, for instance, the World Health Organisation Report Alcohol: No Ordinary Commodity - Research and Public Policy, Babor et al. 2003). In Ontario, Canada, the emergence of civil liability for the conduct of intoxicated patrons contributed to a movement towards the training of managers and servers in licensed establishments in the responsible service of alcohol. Under the subsequent Liquor License Act, all persons who serve alcohol in licensed establishments in Ontario were required to attend a server training course (Eric Single: The interaction between policy and research in the implementation of server training. *Addiction*: [January (Supplement)], 1993, p105S-113S).

In Texas, USA the results of a study revealed 6.5 percent and 5.3 percent declines in injurious traffic crashes following the filing of two major liability suits in 1983 and 1984 respectively. It appears that server liability is regarded in that state as one of several important public policy tools in efforts to achieve health objectives regarding reduced injury morbidity and mortality (Alexander C Wagenaar and Harold D Holder: Effects of alcoholic beverage server liability on traffic crash injuries. *Alcoholism: Clinical and Experimental Research*: 15, [6], 1991, p942-947).

Civil law as a policy tool

In modern society anti-social behaviour arising from or contributed to by heavy drinking is often tolerated or ignored even when the potential consequences can be severe either to the drinker, his family, other road users, colleagues at work, clients and customers, the resources of the police, the National Health Service and the insurance industry or taxpayers generally. The Government’s long promised alcohol policy may seek to achieve some change in these attitudes. The civil law can be one of the means to that end.

So returning to the case of Mr. Barrett, was it right that the compensation arising from his death should be reduced by two thirds? In moral terms it may be right to regard him as bearing the brunt of the responsibility for his own death. But Mr. Barrett’s widow and children (if he had any) were surely not to blame. They too had to suffer the consequences. That was not a relevant consideration in law but perhaps it should be. In any event the law does not have to follow slavishly traditional concepts of

legal responsibility when there is a broader social purpose, accepted by Parliament, to be achieved. This purpose may be to encourage people who serve alcohol to behave responsibly, by making the consequences for them, if they fail to do so, as painful as possible.

Should the law of negligence adhere to the puristic view that the courts should only compensate people for losses they have suffered? Personal injury awards are calculated in accordance with a tariff which was raised by the Court of Appeal in 2000 but might need to go up again if the civil law is to be really effective as a policy tool. Should there be a move some way towards the US model where the prospect of being sued is scientifically proved to influence people’s behaviour?

For many people the answers to these questions may depend at least partly on the success or otherwise of the Licensing Act 2003. Under Part 7 of the Act there are various offences such as “allowing disorderly conduct on licensed premises” and “sale of alcohol to a person who is drunk”. Under Part 6 persons applying for licences must hold licensing qualifications. However the Act makes no use of the civil law as a tool for reducing alcohol related harm. Will it achieve the same change in social attitudes as did the introduction of the breathalyser under the Road Safety Act 1967?

It is perhaps possible for some lessons to be learned from the US experience whilst guarding against its worst excesses. ■

The author, a lawyer who has written extensively on alcohol issues, is grateful to Richard Longaker, defence litigation and trial attorney of Los Angeles, California, for his help in the preparation of this article



Further publications available from the Institute of Alcohol Studies

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Counterbalancing the Drinks Industry: A Report to the European Union on Alcohol Policy

A response to a report published by the European drinks industry and a defence of the WHO Alcohol Action Plan for Europe.

Alcohol Policy and The Public Good

Alcohol Policy and the Public Good: A Guide for Action

An easy-to-read summary of the book written by an international team of researchers to present the scientific evidence underpinning the WHO Alcohol Action Plan for Europe

Medical Education

Medical Education in Alcohol and Alcohol Problems: A European Perspective

A review of educational programmes on alcohol and alcohol problems in European medical schools, identifying gaps in provision and proposing guidelines for a minimal educational level within the normal curriculum of under- and post-graduate medical students.

Alcohol Problems in the Family

Alcohol Problems in the Family: A Report to the European Union

A report produced with the financial support of the European Commission describing the nature and extent of family alcohol problems in the Member Countries, giving examples of good practice in policy and service provision, and making recommendations to the European Union and Member Governments.



Marketing Alcohol to Young People

Children are growing up in an environment where they are bombarded with positive images of alcohol. The youth sector is a key target of the marketing practices of the alcohol industry. The booklet depicts the marketing strategies of the industry and shows how advertising codes of practice are being breached.

alcohol



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