

Appendices

Appendix 1:

Licensing research project outline

(This was sent to all participants, including those who declined to take part)

This research project will review the current licensing system, highlighting its strengths and weaknesses, and identifying key issues of concern to licensing professionals and other key stakeholders with an interest in the prevention and reduction of alcohol related harm.

The project will explore practical ways in which the current licensing system could be changed or amended, with a particular focus on implementation and the views of the licensing community. The possible changes reviewed will include fees, ways of incorporating public health into licensing and options from alternative licensing systems in other countries.

Semi structured interviews will be conducted with a range of professionals from across licensing and public health. The findings will then be reviewed further with additional professional and legal advice so as to ensure that any recommendations are well founded and practical. Questions will be sent out in advance, and all interviews and input into the project will be reported under Chatham House rules.

We hope to complete the research project by March 2015 and will be feeding into the report to Government that Public Health England is producing on effective policies to reduce harm from alcohol.

Research objectives:

- How do key professions (the licensing community, the police, public health) view the effectiveness of the 2003 Licensing Act?
- What key tensions and problems do licensing practitioners face, how might these be addressed?
- How might licensing be changed or amended in order to better address current trends in alcohol consumption and licensed premises use. How might these changes be practically implemented?
- What lessons can we learn from international licensing systems, and can any of these lessons be practically applied in the UK?

Key areas of concern:

- How successful has the 2003 Licensing Act been?
- Licensing Fees:
 - Are they sufficient to cover the costs of administration and enforcement?
 - Could or should they be set to mitigate the costs imposed on the public purse in terms of policing and health services?
- What could be done to address tensions between the on and off-trade?
- Should public health be incorporated into licensing? If so, how?

- Should licensing be reactive and complaint led or proactive and policy-led?
- How might density/over-provision be measured and implemented in practice?

Semi-structured interview
The current Act:

1. How successful do you think the 2003 licensing Act has been in terms of:
 - The economy
 - Law and order
 - Health
 - Overall?
2. How successful do you think attempts to 'rebalance' the Act have been, such as Late Night Levies and Early Morning Restriction Orders?
3. How successful has the move from magistrates to Local Authorities been?
4. Do you think that there is a need for a fundamental review of the licencing system? Do you think there is any appetite for reform?
5. How accessible do you think the licensing process is in terms of:
 - The engagement of responsible authorities
 - The engagement of the public
 - The consultation on Statements of Licensing Policy
6. Laws around selling to drunks are rarely enforced, how could this be addressed? How well are laws against selling to minors enforced in your opinion?
7. Many groups involved with the night time economy view 'pre-loading' and the availability of cheap alcohol bought via the off trade as a significant problem. Do you agree with this? What do you think could be done via the licensing system to address this?

Licensing and Public Health

8. Do you think that it would be feasible to address public health concerns via the licensing system? How could this be achieved in practice?

Key issues:

- Any lesson from Scotland, including the overprovision principle?
- Premise by premise vs. holistic view?
- How might density/over-provision be measured and implemented in practice?
- How would you assess and compare the impact of the off vs. the on trade?
- Could you use a Cumulative Impact Policy and achieve the same results as a 5th objective?
- Could the concept of Wellbeing be used instead of Public Health?

Licensing and costs in the Night Time Economy

9. In many areas licensing fees often do not cover the costs of administration, resulting in the system being subsidised from other sources. Do you see this as a problem? How might it be addressed?

10. Do you think that premises should contribute towards other costs incurred in the night time economy, such as policing, licensing enforcement and trading standards? If so – in addition to the Late Night Levy - how might this be factored into the licensing system?

11. New Zealand and various parts of Australia and Canada use a Risk Based Licensing approach, which allocates licensing fees depending on the risk posed by a premises and contributes towards the enforcement of the night time economy. Given your understanding of this approach, what do you think of it and do you think a similar approach might be applicable in the UK? *(A short briefing will be sent out with the questions beforehand).*

12. The state of Victoria in Australia has a general harm minimisation objective with its licensing system. This allows for a wider assessment of risk than the four objectives within UK law. Relevant locality evidence that does not have a causal link with a premises is permissible, as well as specific incidence evidence that does have a causal link. Given your understanding of this approach, what do you think of it and do you think a similar approach might be applicable in the UK? *(This will also be covered in the short briefing).*

Appendix 2:

This briefing was sent to all participants who agreed to take part in an interview or workshop

Risk Based Licensing & harm minimisation

This paper summarises a number of international licensing systems, identifying issues relevant to those with an interest in UK alcohol licensing. A number of Risk Based Licensing (RBL) systems have been adopted in New Zealand and some Territories in Australia. While there are differences between each system, they share clear fundamental principles:

1. Licensing fees reflect and cover the cost the premises poses to the local authority, including enforcement activities, using to varying extents the 'polluter pays' model.

Some RBL systems, such as in Ontario and New Zealand, run on the principle that taxpayers should not subsidise the licensing system, and aim to ensure that the system is self financing in terms of its administration and compliance enforcement. However, Canberra's version of RBL goes one step further than this, and in addition raising funds that are used to pay for an increased police presence in the night time economy, as well as additional licensing enforcement activities. Either way, those premises judged to pose the highest risk in terms of alcohol related harm pay the highest fees.

2. RBL provides direct incentives for premises to adopt less risky business practices, and outlines clearly how this can be achieved.

Because of the fact that high risk premises generally attract the highest fees, RBL offers financial incentives for premises to reduce their risk levels. This could be by reducing their hours, capacity, or by changing their license type (eg from a nightclub to a bar). In addition, many RBL systems take a premises' past compliance history into account, charging escalating fees depending on the number of convictions or enforcement notices issued for infringements, such as serving alcohol to minors or an intoxicated person. In Ontario, the personal history of the licensee is also taken into account, with fees in part reflecting their training and experience, honesty and integrity, and financial responsibility.

3. RBL helps enforcement agencies to target their work on premises that pose the greatest risk, while often reducing the regulatory burden on less risky premises.

In Ontario, low risk premises face a less complicated reapplication process. However, high risk premises face a more difficult process, allowing the regulatory authorities to focus their attention on these cases.¹ In some systems, such as Queensland, high risk premises are also required to submit Risk Assessed Management Plans, along with a Community Impact Statement and other similar documents if needed. This increases their regulatory burden while aiming to ensure that they have plans in place to counteract their community impact.²

On versus off-trade

Most RBL systems cover both the on and off-trade, often setting a high base fee for off-licenses because of the fact that the majority of alcohol is bought through the off-trade (in Australia it is about 80%, in the UK it is about 65%). In Queensland and Canberra

however, they charge off-licenses risk based fees based on the gross purchase value of the alcohol they sold in the last annual reporting period.³ Issues of pre-loading and the impact it has on the night time economy appear frequently in the literature surrounding RBL.

Evaluation of RBL systems

In general, RBL systems suffer from a lack of formal evaluation, with the exception of Ontario and the system introduced in Canberra. Internal evaluation in Ontario has found that under their system of RBL, compliance issues have fallen 43% in four years, with the number of suspensions and suspensions days falling over 70% in the same period.⁴

In Canberra, the increased police presence was judged to have had a positive impact, venues with the greatest number of risk factors did pay a larger share of the costs, and there was no detrimental impact on the night time economy.⁵ While there was a general reduction in crime, alcohol related offences specific to RBL reduced to a larger degree (16.6%) than other alcohol related offences (15.1%).⁶

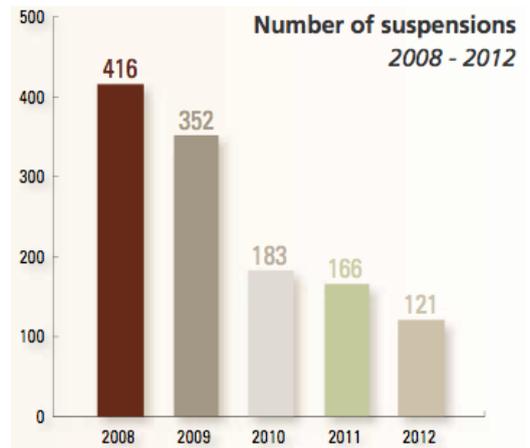


Figure 1. Reduction in suspensions, Ontario

However, the study also found that this version of RBL had failed to incentivise licensees to modify their trading hours, venue type or capacity.⁷ It also criticised the simplicity of the risk criteria used, which failed to consider outlet density, the added risk of certain locations such as the civic centre, and venue compliance history.

In addition to these limited evaluations, there is robust evidence that many of the factors taken into consideration are separately known to increase the risk of alcohol related harms.⁸ The importance of enforcement is also clearly shown in research literature,⁹ something RBL aims to improve. Given that effective policies for reducing alcohol related harm tend to be unpopular, with ineffective policies more likely to get government backing,¹⁰ RBL may be a more subtle and therefore attractive method of implementing successful actions.¹¹

Case Study: Victoria, Australia

Introduced at the start of 2010, Victoria's RBL system includes an annual base fee along with risk-based fees. Before introduction, Allen Consulting Group were commissioned to explore the impact of various risk factors in the night time economy and ensure that the RBL system accurately accounted for them.¹²

It was found that restaurants presented a lower risk than other types of license, and as a result their base fee is reduced versus other license types. In contrast, off-licenses were seen to play a large part in overall levels of alcohol related harm because they account for a very large proportion of overall alcohol sales. As a result their base fee has a higher weighting than other license types.

Opening hours and compliance history were also found to be significant risk factors, and risk fees may be added to the base fee depending on these two factors. For opening hours

within the on-trade, additional graduated risk fees are applicable for premises opening between either 11pm and 1am, 11pm and 3am or 11pm and the start of trading the next morning. For off-licenses there is one standard fee for premises opening outside of normal opening hours (9am to 11pm Monday to Saturday; 10am to 11pm Sunday).

Compliance history is taken into account for both on and off-licenses, with additional fees based on the number of paid infringements or successful prosecutions of: supplying alcohol to an intoxicated person; permitting a drunk or disorderly person on the premises; supplying alcohol to a minor; permitting a minor on licensed premises.¹³ A scale-based venue-capacity multiplier is also applied to the annual license renewal fee in order to take into account the increased risk posed by larger venues (starting at a 200 person capacity).^{14 15} See Figure 2 below for details.

Operating in parallel to the RBL system, Victoria also has a complementary Demerit Points System (DPS) and Star Rating System (SRS). Premises with a history of compliance problems accrue demerit points, which can lead to the license being suspended for between 1 and 24 days. In contrast, premises with good compliance history can earn stars – building up to 5 stars for no incidents in the last 36 months. Those with 4 stars receive a 5% reduction in their annual licensing fee, and those with 5 stars receive a 10% reduction.¹⁶

The Harm Minimisation Test in Victoria

This example from the State of Victoria in Australia is separate to Risk Based Licensing, but does complement it. In the UK the 2003 Licensing Act aims to minimise harm, but only around four specific objectives: crime and disorder, public nuisance, public safety and protecting children from harm.

The State of Victoria have taken this principle one step further. Rather than listing specific objectives, they have a broad and open commitment to minimising harm and the risks associated with the misuse and abuse of alcohol.¹⁷

Despite trade scare stories, this does not mean that every license application should be denied,¹⁸ and other factors such as the diversity of licensed premises in an area have to be considered and balanced in decisions. However, harm minimization is recognized in legislation and case law as the overriding consideration, underpinning a conservative approach.

Potential risks need to be looked at with 'regard to the proved circumstances of the particular area in relation to which the application is made', and three levels of useful evidence are applicable:

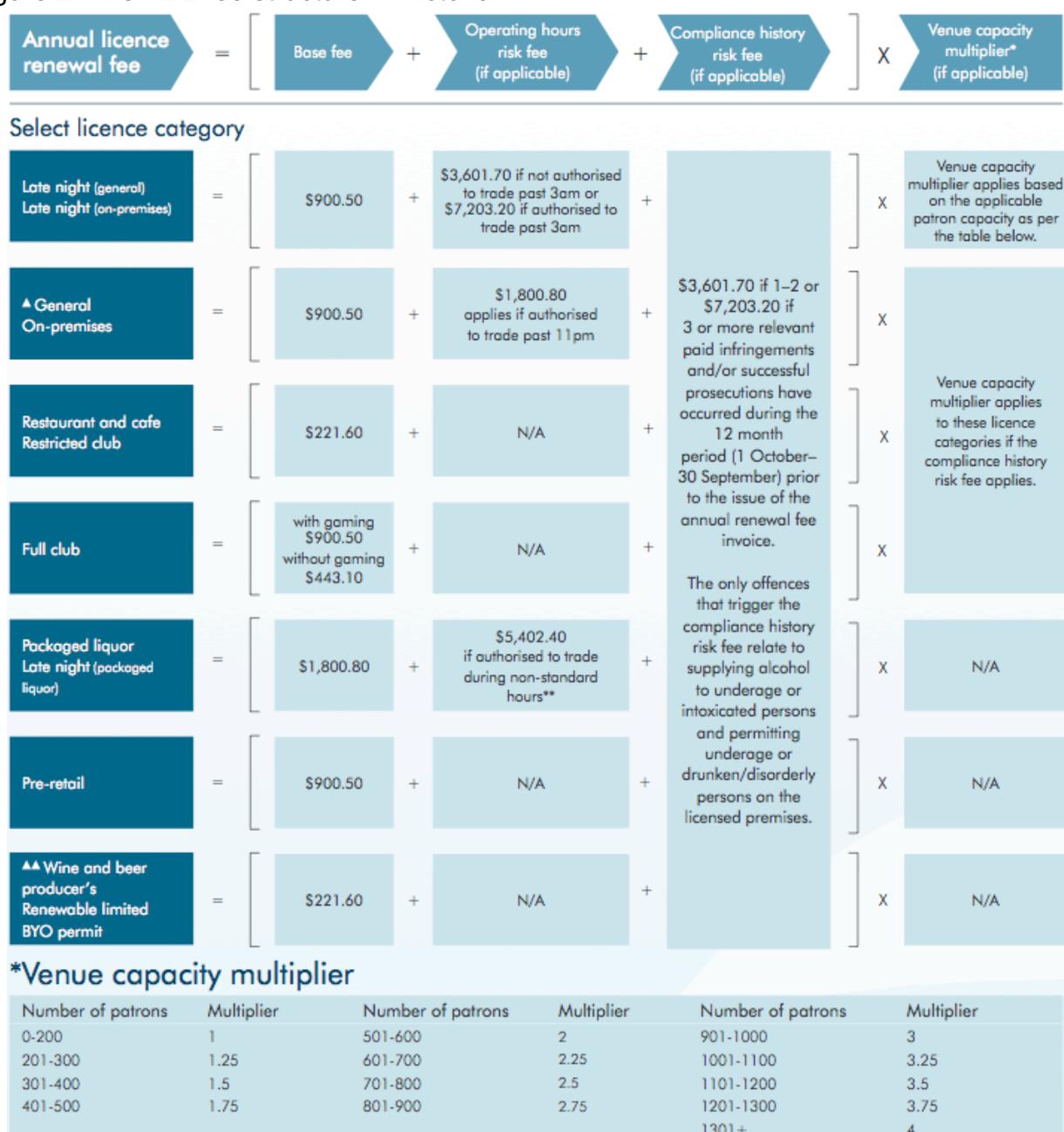
- **General evidence:** such as population level studies regarding alcohol related harm, is regarded as useful but limited, and not sufficient for rejecting or accepting licences on its own.
- **Locality evidence:** includes factors such as the nature and make up of the area. There must be a link with the premises, but this link need not be causal: 'Licensed premises are not to be considered in isolation from the social and cultural environment that they inhabit.'¹⁹

- **Specific incident evidence:** including either compliance offences by the licensee or incidents of harmful behaviour, such as violence, for which a causal link can be established with the premises.

Conclusion

Parts of the current UK licensing system are based upon a risk based approach, but in a far less overt manner. These international systems offer interesting examples, elements of which could be used to address a number of current UK issues. These include the fact that current licensing fees do not cover the costs of administration, that Local Authorities want the ability to set their own licensing fees, and the tensions felt within the on-trade because of ‘pre-loading’ and the availability of cheap alcohol via the off-trade. Levels of evidence similar to those used in Victoria could also provide valuable guidance to licensing committees unused to interpreting public health data.

Figure 2. The RBL fee structure in Victoria.²⁰



Appendix 3:

Risk Based Licensing & Harm minimisation, detailed briefing

This paper summarises a number of international licensing systems, identifying issues relevant to those with an interest in UK alcohol licensing. A number of Risk Based Licensing (RBL) systems have been adopted in New Zealand and some Territories in Australia. While there are differences between each system, they share clear fundamental principles:

- Licensing fees reflect and, to varying degrees, cover the cost the premises poses to the local authority using the 'polluter pays' model.
- It provides direct incentives for premises to adopt less risky business practices, and outlines clearly how this can be achieved.
- In many cases it provides additional funds for enforcement activities, as well as identifying where they should be targeted.

Ontario in Canada also has RBL. However, in this case risk is not used to designate fees, but to focus enforcement activities on potentially problematic premises.

RBL sits within the widely accepted theory of responsive regulation,²¹ which suggests that voluntary change methods meet less opposition from business - particularly when compared to top down enforcement and sanctions - which increases the likelihood of measures being adopted with minimal government effort. It does though allow for a legitimate escalation of sanctions if businesses are found not to comply.

Parts of the current UK licensing system are based upon a risk-based approach, but in a far less overt manner. These international systems offer interesting examples, elements of which could be used to address a number of current UK issues. These include the fact that current licensing fees do not cover the costs of administration, that Local Authorities want the ability to set their own licensing fees, and the tensions felt within the on-trade because of 'pre-loading' and the availability of cheap alcohol via the off-trade.

Ontario, Canada

Ontario, in Canada, was the first area to introduce RBL. Low risk premises face a less complicated reapplication process, whereas high risk premises, such as those with poor compliance, face a more difficult process. This allows the regulatory authorities to focus their attention primarily on higher risk cases.²²

The Ontario RBL system has four key principles:

1. To identify persons or places that pose specific risks
2. To lessen any risks and ensure compliance through the entire lifecycle of a liquor licence
3. To reduce the administrative burden for those who pose a lower risk where possible
4. To focus resources on establishments that pose greater risks²³

There is no one time assessment, and the RBL process can be initiated to reassess conditions if evidence suggests a change in circumstances. New licenses are valid for two years, whereas renewed applications last for three years.

The risk a premises poses to public safety and public interest is assessed using an approved criteria, which includes the type, location, occupancy, activities and hours of operation. In contrast to RBL systems in Australia and New Zealand, this includes an evaluation of the applicant, whose 'past conduct, liquor-related infractions, honesty and integrity, financial responsibility, and training and experience' are considered.

This review results in the premises being given a risk classification of either no designation, or a Level I, Level II or Level III risk designation. A risk designation of any level is an indication that support or assistance is needed to keep compliant with the Liquor License Act, and assists AGCO (Alcohol and Gaming Commission of Ontario) in determining where to focus its compliance and enforcement work. Conditions may be placed on the premises, and additional plans, such as a safety and security plan or a nuisance mitigation plan, may also be required.²⁴

Whilst this variation of RBL does aim to motivate premises to reduce their level of risk, it does not charge premises differing fees depending on their risk designation, or use fees to fund additional enforcement activities. However, various antipodean versions of RBL do include these factors.

Victoria, Australia

Introduced at the start of 2010, Victoria's RBL system includes an annual base fee along with risk-based fees. Before introduction, Allen Consulting Group were commissioned to explore the impact of various risk factors, such as venue type, patron intoxication and opening hours, but did not investigate crowding and management practices because of a lack of data.²⁵ Their results were used to ensure that the RBL system accurately accounted for key risk factors.

It was found that restaurants presented a lower risk than other types of license, and as a result their base fee is reduced versus other license types. In contrast, off-licenses were seen to play a large part in overall levels of alcohol related harm, because they account for a very large proportion of overall alcohol sales. As a result their base fee has a higher weighting than other license types.

Opening hours and compliance history were also found to be significant risk factors, and risk fees may be added to the base fee depending on these two factors. For opening hours within the on-trade, additional graduated risk fees are applicable for premises opening between either 11pm and 1am, 11pm and 3am or 11pm and the start of trading the next morning. For off-licenses there is one standard fee for premises opening outside of normal opening hours.¹

Compliance history is taken into account for both on and off-licenses, with additional fees based on the number of paid infringements or successful prosecutions of: supplying alcohol to an intoxicated person; permitting a drunk or disorderly person on the premises;

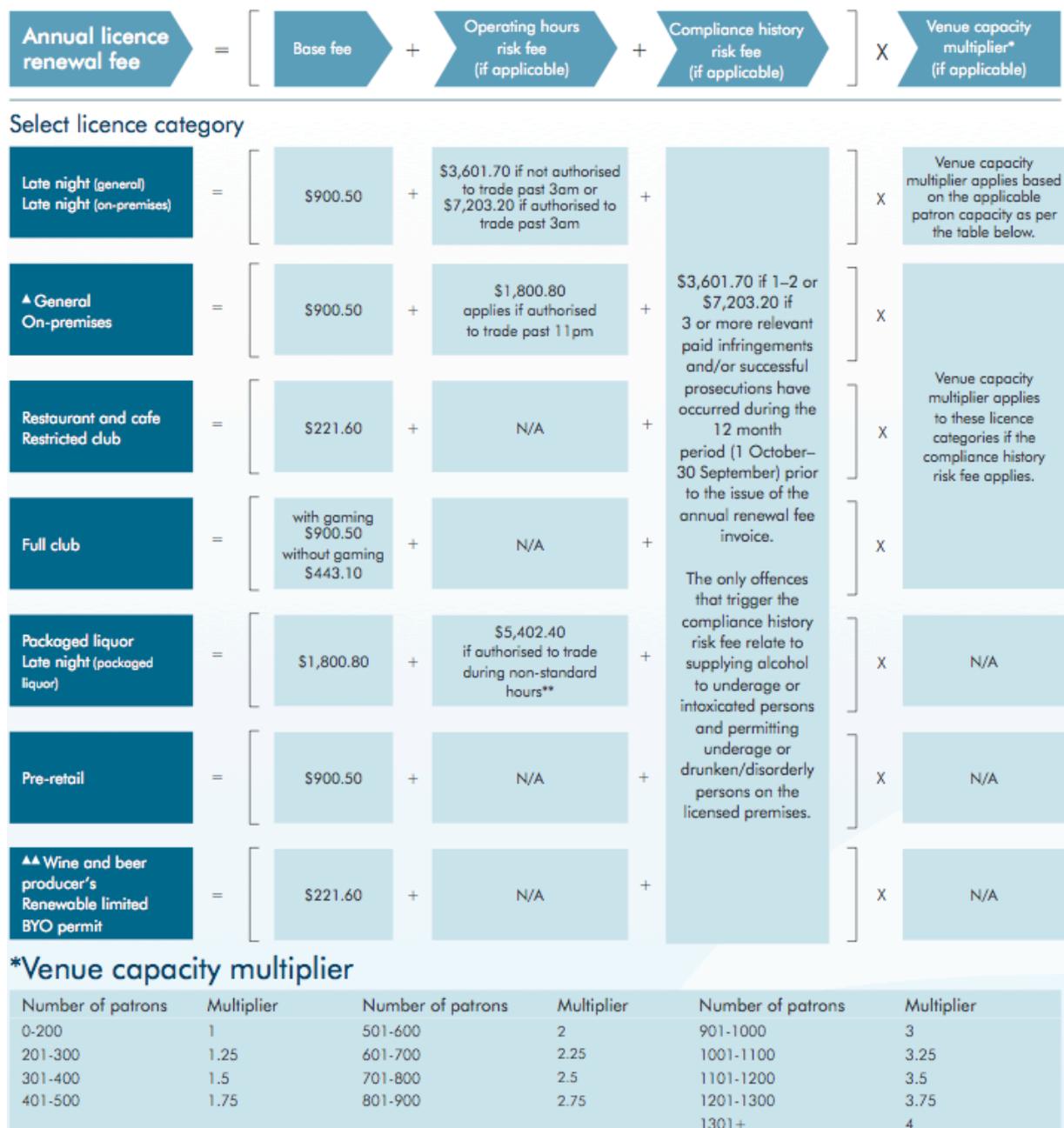
¹ Ordinary trading hours for a off licenses (known as a packaged liquor licence) in Victoria are: 9am to 11pm Monday to Saturday; 10am to 11pm Sunday; 12pm to 11pm ANZAC Day; no trading on Good Friday and Christmas Day.

supplying alcohol to a minor; permitting a minor on licensed premises.²⁶ A scale-based venue-capacity multiplier is also applied to the annual license renewal fee in order to take into account the increased risk posed by larger venues (starting at a 200-person capacity).^{27 28}

Compliance history can have a significant impact on the overall license fee. For example, a premises with a general late night license (\$900.50), opening past 3am (additional cost of \$7,203.30) and a capacity of over 1301 people (venue capacity multiplier of 4) would pay a total fee of \$29,713.30 if it has no compliance problems.

However, if such a venue had 3 or more compliance problems within the last year, their fee would jump to \$36,916.50. For licensed sex establishments the difference between no compliance incidents and three compliance incidents in the last year is an additional \$33,977.70. Figure 1 outlines the fee structure for different types of licenses in Victoria.

Figure 1. The RBL fee structure in Victoria.²⁹



Operating in parallel to the RBL system Victoria also has a complementary Demerit Points System (DPS) and Star Rating System (SRS). Premises with a history of compliance problems accrue demerit points, which can lead to the license being suspended for between 1 and 24 days. In contrast, premises with good compliance history can earn stars – building up to 5 stars for no incidents in the last 36 months. Those with 4 stars receive a 5% reduction in their annual licensing fee, and those with 5 stars receive a 10% reduction.³⁰

Australian Capital Territory (ACT – Canberra)

ACT introduced RBL for at the end of 2010, with the specific aim of:

‘recovering some of the policing and regulatory costs of alcohol-related offences, with higher risk licenses required to contribute proportionally more to these costs by paying higher licensing fees.’³¹

Additional funds raised have been used to increase police presence in the night time economy, which is something not found in other RBL systems. Similar to Victoria, chargeable risk factors include opening hours and capacity, with an annual renewal fee. However, compliance history is not taken into account in any way. On-trade premises pay a base fee according to venue type, with additional fees for opening past midnight. These however increase hour by hour rather than in larger blocks, and rather than a venue capacity multiplier being added at the end of the fee calculation, the fees are pre-calculated for venue size, starting with a capacity of 80 people.³²

For example, a nightclub opening until 5am with an occupancy level of over 350 people would pay \$25,184 per year. However, a bar with the same hours and occupancy would pay \$16,790 and a restaurant would pay \$8,394.³³

For off-trade premises, annual renewal license fees are based solely on gross liquor purchase value for the annual reporting period. Fees range from \$532 pa for less than or equal to \$5,000 gross liquor purchased, to \$27,355 p.a. for in excess of \$7,000,000 gross liquor purchased.³⁴ License applicants are required to include a Risk Assessed Management Plan (RAMP), which details their procedures for selling liquor on the premises.³⁵

Queensland:

Queensland introduced an RBL system in January 2009. Premises pay an annual base fee set according to license type, along with an additional risk based fee determined by trading hours, service practices and compliance history. Those trading outside the hours 10am to midnight are charged additional amounts, and as in ACT must also submit a Risk Assessed Management Plan, along with a Community Impact Statement. In addition the previous year’s compliance history is taken into account, with warning letters, infringements notices or prosecutions resulting in additional fees of up to \$20,000.³⁶

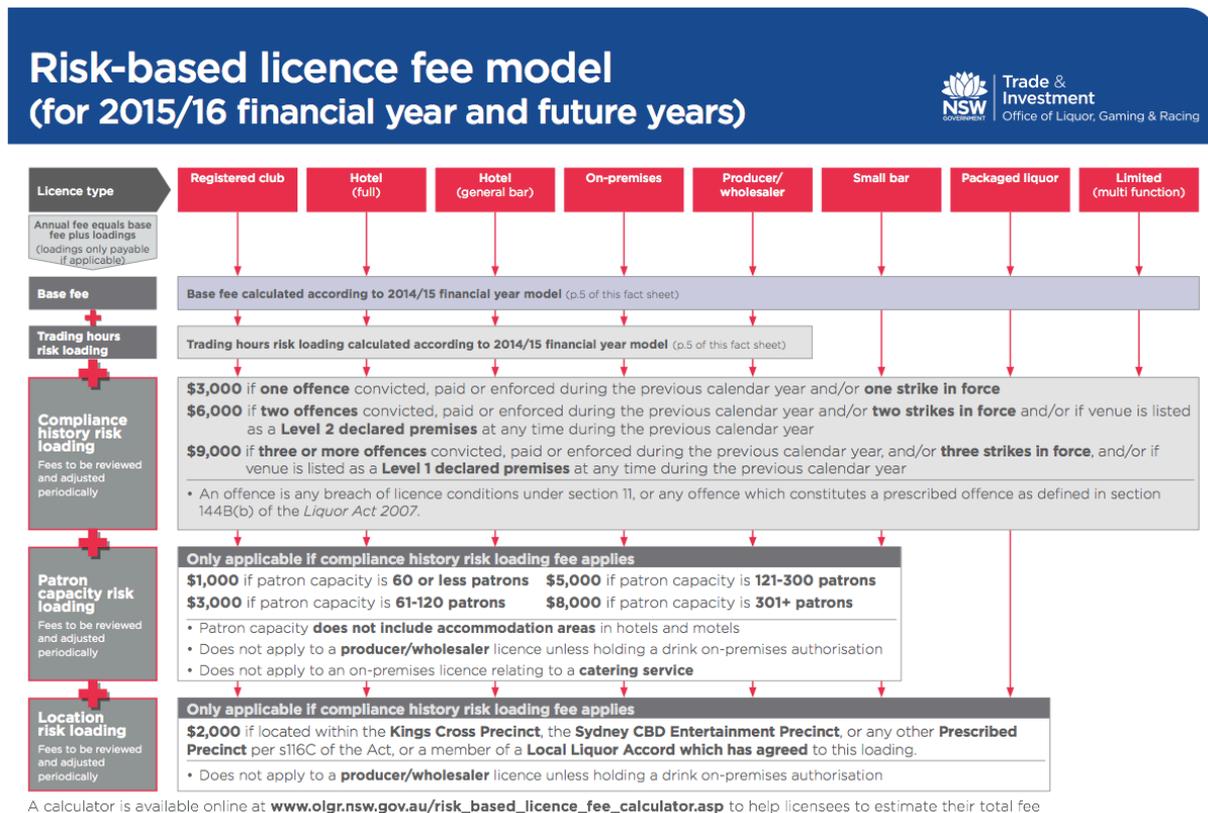
New South Wales

Starting in the financial year 2014/15 all holders of a perpetual liquor licence in New South Wales (NSW) will have to pay an annual risk-based fee, made up of a base fee that varies according to venue type, and ‘risk-based loadings’ that reflect the level of risk posed by a

venue and its operation. The risk-based loadings will be calculated according to: authorised trading hours, compliance history, patron capacity and venue location.³⁷

The compliance history, patron capacity and venue location elements will only come into force from the financial year 2015/16. Figure 2 below outlines the fee structure from that financial year.

Figure 2. Risk based licence fee model in New South Wales, from financial year 2015/16.³⁸



Western Australia

Western Australia currently has statutory provisions to enable additional fees to be charged for acts of non-compliance. A report published in 2014 recommended substantial reform of the licensing system, including adoption of a base fee coupled with additional costs based on the size of the premises.³⁹ The Western Australia Government has since signalled its intention of introducing some form of RBL.

New Zealand

New Zealand introduced its own version of RBL in December 2013 and has followed many of the key principles found in Australian RBL systems. The public consultation document used in the preparation of the legislation gives a clear overview of their approach, as can be seen in figure 3.

Figure 3. The criteria used in New Zealand for a cost/risk-based fee approach.⁴⁰

Criteria	Description
Those who create the greatest need for regulatory effort bear the commensurate costs	A framework, and the risk/cost-factors used in a framework, should result in the licensees/businesses who create the greatest regulatory costs bearing those costs (as far as is possible and reasonable)
Easily identifiable and measureable	The cost/risk factors used in a framework should be easily identifiable and measurable to ensure they can be applied consistently and transparently.
Supported by evidence and strong rationale	The risk/cost-factors used in a framework should be supported by evidence and/or a strong policy rationale.
Cost minimisation	The framework should recover only those costs that are needed to recover reasonable costs.
Administrative simplicity	The framework should be simple to administer and enforce.
Accountability and transparency	How fees are determined and how they related to actual reasonable costs should be accessible to everyone. There should be regular reviews of the framework to ensure transparency and accountability about levels of cost and revenue gathered.

In a similar manner to the State of Victoria, who engaged Allen Consulting Group to investigate the licensed premises risk factors, the New Zealand Ministry of Justice conducted an analysis of the relationship between the characteristics of licensed premises in New Zealand and alcohol-related harm.⁴¹ The system was designed to ensure licensing costs are met by the alcohol industry, rather than ratepayers 'who subsidised about 50 percent, or \$5.4 million a year, of the licensing system under the previous Sale of Liquor Act 1989.'⁴²

The RBL system adopted in New Zealand includes an application fee for new, renewed or varied licenses (due every three years unless varied). This is intended to cover the costs of administering the system. An annual risk based fee is also paid, determined by hours of trading and licence type and the number of enforcement holdings in the last 18 months. This is intended to cover the cost of licensing inspectors enforcing and monitoring the system.

Points are awarded depending on premises type, opening hours and compliance history, with the total number of points accrued used to calculate the full annual fee each year. Figure 4 outlines this process in more detail.

As with other RBL systems, it is worth noting that the weighting for off license premises is high, and in line with the weighting for a Class 1 on-license. The research conducted by the New Zealand Ministry of Justice recommended this approach, noting that:

'One of the key principles for a fees regime is that, to the extent reasonably practical, those who create the greatest need for regulatory effort should bear the commensurate costs.... discussions with enforcement agencies indicates that the issues of pre-loading - that is, consumption of (usually large amounts

*of) alcohol purchased from an off-license before going to a licensed premises or event – is a major driver of alcohol-related harm and regulatory effort... Given this, and the fact that 75 percent of alcohol is supplied from off-licenses, it is considered appropriate that large off-license suppliers should carry a reasonable proportion of the cost recovery burden.*⁴³

A set percentage of the fees each license pays is transferred to the Alcohol Regulatory and Licensing Authority. Territorial Authorities within New Zealand can alter the fee amounts by passing a byelaw, but cannot alter the framework for determining the cost/risk ratings and fee categories.⁴⁴

Figure 4. How premises cost/risk rating are determined in New Zealand⁴⁵

Licence type	Type of premises	Weighting
On-licence	Class 1 restaurant, night club, tavern, adult premises	15
	Class 2 restaurant, hotel, function centre	10
	Class 3 restaurant, other	5
	BYO restaurant, theatres, cinemas, winery cellar doors	2
Off-licence	Supermarket, grocery store, bottle store	15
	Hotel, tavern	10
	Class 1, 2 or 3 club, remote sale premises, other	5
	Winery cellar doors	2
Club licence	Class 1 club	10
	Class 2 club	5
	Class 3 club	2
+		
Licence type	Latest trading hour allowed by licence	Weighting
On-licence or club licence	2:00am or earlier	0
	Between 2:01am and 3:00am	3
	Any time after 3:00am	5
Off-licence (excl. remote sales premises)	10:00pm or earlier	0
	Any time after 10:00pm	3
Remote sales premises	Not applicable	0
+		
Licence type	Number of enforcement holdings in last 18 months	Weighting
All licence types	None	0
	1	10
	2 or more	20

Figure 4. New Zealand RBL fee categories

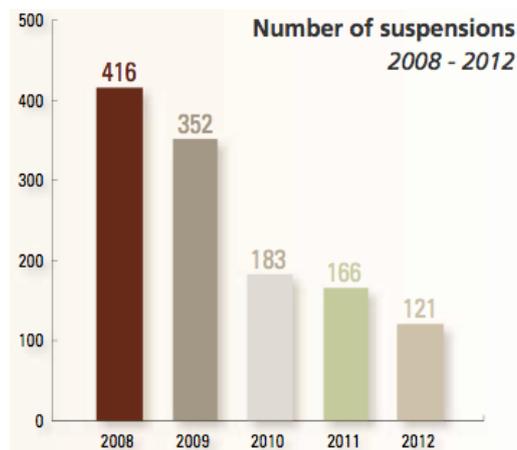
Total rating	Cost/risk fee category	Application fee		Annual fee	
		Total amount payable by applicant	Amount of total fee transferred to ARLA by relevant TA	Total amount payable by licensee	Amount of total fee transferred to ARLA
0 - 2	Very low	\$320	\$15	\$140	\$15
3 - 5	Low	\$530	\$30	\$340	\$30
6 - 15	Medium	\$710	\$45	\$550	\$45
16 - 25	High	\$890	\$75	\$900	\$75
26 plus	Very high	\$1,050	\$150	\$1,250	\$150

Evaluation of RBL systems

Currently RBL systems suffer from a lack of formal evaluation, with no peer reviewed research available. A joint Australian and Canadian team of academics has recently been awarded funding for a major study of the effectiveness of RBL in Victoria, New South Wales and Western Australia, with additional research into Ontario’s experience with RBL. This will not report for some time, however.

Internal evaluation in Ontario has found that under their system of RBL, compliance problems have fallen 43% in four years, with the number of suspensions and suspensions days falling over 70% in the same period.⁴⁶

As the ACGO state: ‘while liquor inspections and enforcement activities (such as warning letters, monetary penalties, suspensions and revocations) are still required, there is now much more emphasis by the AGCO on prevention and education to help infractions from happening in the first place, and making decisions based on specific risks that might be posed by any licensed establishments.’⁴⁷



The system introduced in ACT has also been evaluated. It was found to have coincided with a general reduction in crime, but alcohol related offences specific to RBL were found to have reduced to a larger degree (16.6%) than other alcohol related offences (15.1%).⁴⁸ The study did find a slight increase in the proportion of offences involving alcohol in the immediate period after the introduction of RBL. This though was put this down to the increased police presence paid for by RBL, resulting in greater intervention and reporting of offences. In the second year after implementation the proportion of offences reduced, but further research is needed to see if this trend continues.⁴⁹

Overall the ACT RBL system was found to have achieved its main objective, by helping to:

‘recover the policing costs in preventing and intervening with alcohol-related offences... in a way which ensures that the venues with the greatest number of

risk factors pay a larger share of the costs. Furthermore it has done so without any detrimental impacts on the liquor licensing market.⁵⁰

The study also found that RBL had failed to incentivise licensees to modify their trading hours, venue type or capacity.⁵¹ Anecdotally, it was reported that RBL caused 'bad' operators to close, and that these were replaced by premises more inclined to work within the RBL system. However, there was no data within the study to substantiate this.

A number of ways in which the RBL system introduced missed important risk factors in the night time economy were identified, most notably the impact of preloading and off-trade licensing, but noted that preloading would be best tackled outside of the licensing system with minimum unit pricing.⁵² Indeed it was noted that RBL had possibly increased the price difference between the on and off-trade and contributed to an increase in preloading. Adaptations to address this were recommended.

The simplicity of the risk criteria were also criticised, failing to consider outlet density, the added risk of certain locations such as the civic centre, and venue compliance history. It was also suggested that good compliance history should be rewarded and an overall 'master plan' for Canberra should be considered.⁵³

The Harm Minimisation Test in Victoria

This example from the State of Victoria in Australia is separate to Risk Based Licensing, but does complement it. In the UK the 2003 Licensing Act aims to minimise harm, but only around four specific objectives: crime and disorder, public nuisance, public safety and protecting children from harm.

The State of Victoria have taken this principle one step further. Rather than listing specific objectives, they have a broad and open commitment to minimising harm and the risks associated with the misuse and abuse of alcohol.⁵⁴

Despite trade scare stories, this does not mean that every license application should be denied,⁵⁵ and other factors such as the diversity of licensed premises in an area have to be considered and balanced in decisions. However, harm minimisation is recognised in legislation and case law as the overriding consideration, underpinning a conservative approach.

Potential risks need to be looked at with 'regard to the proved circumstances of the particular area in relation to which the application is made', and three levels of useful evidence are applicable:

- **General evidence:** such as population level studies regarding alcohol related harm. This is regarded as useful but limited, and not sufficient for rejecting or accepting licences on its own.
- **Locality evidence:** includes factors such as the nature of the area, types of other licensed premises nearby and anti social behaviour. There must be a link with the premises, but this link need not be causal:

'Licensed premises are not to be considered in isolation from the social and cultural environment that they inhabit... or as entities around which strict boundaries can be drawn separated from their respective social milieu.'⁵⁶

On its own, locality evidence could be used to show that, for example, 24-hour trading in a certain area would not serve the objective of harm minimisation.

- **Specific incident evidence:** including either offences by the licensee, such as serving an intoxicated person, or incidents of harmful behavior, such as violence, for which a causal link can be established with the premises. The licensee's conduct is regarded as having particular weight.

Within Victoria, decision makers need to balance these factors, and levels of evidence, in deciding if a premises may contribute to alcohol-related harm. This process is likely to favour those premises with a less risky profile, particularly in areas with higher levels of demonstrable alcohol-related harm.

Conclusion

Adopting Victoria's harm minimisation principle in the UK would require a fundamental change to the licensing system. It would however, do a great deal to help local councils address alcohol's public health impact, whilst allowing for diversification within the night time economy. It very helpfully identifies levels of evidence and the way in which they can be used by decision makers. This individual element would be considerably easier to incorporate into the UK system, and could be extremely useful, particularly for the interpretation of public health data by licensing committees.

RBL also contains elements that would complement the UK system. It ensures those that contribute the most to alcohol related harm pay the most, either financially, in terms of regulatory burden, or on both these measures. A risk based approach could be used in parallel with locally set fees, giving councils greater autonomy the shape their night time economy, while also helping overstretched licensing enforcement teams. By reducing the burden on low risk premises and penalising the off-trade, it may also offer opportunities to work constructively with the on-trade and others within the night time economy.

Figure 5. A comparison of the current RBL systems in use.

	Victoria	Queensland	Australian Capital Territory	Ontario	New South Wales	Western Australia	New Zealand
Date of introduction	Aug 2009	Jan 2009	Jan 2010	2008	2014/15	Some current, some proposed	Dec 2013
License duration	Renewed annually	Continuing, but with annual fees	3 years, with annual risk based fees	New licenses are valid for two years, whereas renewed applications last for three years.	Continuing, but with annual fees		3 years, with annual risk based fees
Base fee	Y	Y	Y	Y	Y	Proposed	Y
Risk fee	Y	Y	Y		Y	Y	Y
Risk Factors							
Trading Hours	Y	Y	Y	Y	Y		Y
Hour categories	For on-trade: 11-1am, 11 - 3am, 11 - trading hours next day. One standard rate for off trade outside of normal hours	After midnight	Hour by hour increases past midnight	11am - midnight, 11am – 2am, 2 am – 8am	12:00 to 1:30, 1:30 +		Before 2am, 2am - 3am, 3am and after. Off licenses: before 10 pm and after 10pm
Occupancy/ Size	Y	Y	Y	Y	Y	Proposed	
Compliance	Y	Y		Y	Y	Y	Y
License Type	Y	Y	Y	Y	Y		Y
Location				Y	Y		
Gross Purchase of liquor sold (for off-trade licenses)		Y	Y				
Provision of meals		Y					
Licensee history							
Staff training and management				Y			
Honesty and integrity				Y			
Financial responsibility				Y			

Appendix 4:

Home Office press release, 19th February 1990



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**HOME SECRETARY ADVISES LICENSING MAGISTRATES
AND PLANNERS TO AVOID THE "ALCOHOL FLASHPOINT"**

The Home Secretary, the Rt Hon David Waddington QC MP, speaking at a conference on alcohol misuse in Newport, Gwent, today advised licensing magistrates and town planners to take great care in granting licence applications that might lead to small areas becoming congested with licensed premises.

The Home Secretary said:

"Recent work has shown that alcohol consumption is a common theme throughout criminal misbehaviour, and that when there is disorder alcohol has almost always played a part."

Mr Waddington spoke of the displays of male bravado provoked by excessive drinking. Such occasions could be deeply embarrassing and distressing to young women in particular.

"One of the most interesting features of the Newport Alcohol Abuse and Social Disorder project was the way it highlighted the problems of a high concentration of licensed premises in a small area.

"The report notes that a high proportion of alcohol-related disorder occurs in the early hours of Saturday and Sunday mornings in the town centre. To be precise, an area of no more than 200 yards by 100 yards, where there are more than 80 licensed alcohol outlets.

"At the most congested times as many as 4,000 people can be found in this tiny area, many of them much the worse for drink. Indeed, at one point many of these people crowd through an area of no more than 40 square yards. Is it any wonder that this is regarded as a trouble 'flashpoint' by the police?

"The Newport project has shown that determined action by the magistrates and the Borough Council in the light of this 'alcohol flashpoint' when considering licensing is of assistance to the police in reducing the levels of disorder in the town centre. I am sure that others in a similar position will wish to learn from Newport's painful experience and will find the report of their creative action against alcohol misuse very valuable.

"Those responsible for the Newport project are to be congratulated for their diligence and hard work in testing new solutions for this major problem."

The Home Secretary went on to outline the Government's action against alcohol-related disorder. He said:

"Amongst the provisions of the 1988 Licensing Act were ones placing licensees under a clearer burden of responsibility, in terms of training, supervision and sales to the under-age. The licensed trade were in no doubt that unacceptable standards could lead to the early revocation of a licence."

The experimental byelaw prohibiting drinking in public places, being piloted in seven areas, including Coventry, was commended by the Home Secretary for its potential for preventing misbehaviour. Mr Waddington said that, "the information so far available suggests that the experiment is going extremely well."

The Ministerial Group on Alcohol Misuse had taken a number of initiatives, said Mr Waddington:

"It has brought influence to bear on the advertising of alcohol. Jointly, we have taken steps to end insurance against disqualification following a drink driving conviction, and to introduce a new high risk offenders scheme to make it more difficult for the more serious offenders to get their licences back. We have encouraged the industry to promote low-alcohol products more actively, and there have been other initiatives concerning alcohol education, the service provision for people with drink problems, and strength labelling of alcoholic drinks."

Turning to measures aimed at keeping young people away from pubs, the Home Secretary expressed his support for Sir Peter Emery's Bill which seeks to amend the definition of intoxicating liquor. He said:

"Because of our concern about the possibility of alcohol misuse amongst under-age drinkers, the Government has lent its support to Sir Peter Emery's Private Member's Bill on Low Alcohol Drinks, which has secured a Second Reading and will shortly enter its Committee Stages.

"The Bill seeks to amend the definition of intoxicating liquor so as to make it clear that it excludes any drink with a strength of 0.5% (or below) by volume at the point of sale. If enacted, it would enable young people to consume safely a wider range of drinks in places other than pubs than is presently possible. This would have wide-ranging benefits in deterring the young from experimenting with strong drink, often breaking the licensing law in the process."

Appendix 5:

Country	Year	Outlet count	Source	Adult population	Source	Outlets per 1,000 adults	Source
England & Wales	2010	199,449	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/78482/Bulletintables_2010.xls	43,779,893	http://www.ons.gov.uk/ons/re/pop-estimate/population-estimates-for-uk--england-and-wales--scotland-and-northern-ireland/mid-2001-to-mid-2010-revised/sib---mid-2001-to-mid-2010-uk-revised-population-estimates.html	4.6	N/A
	2011-12	16,157	http://www.alcohol-focus-scotland.org.uk/media/89684/cresh-research-alcohol-outlets-and-health.pdf	4,257,900	http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcn%3A77-319259	3.8	
USA	2005					2.7	http://captus.samhsa.gov/sites/default/files/Handout5_EffectivenessLimitingAlcoholOutletDensityMeansReducingExcessiveAlcoholConsumptionAlcohol_RelatedHarms.pdf
	2001					0.1	http://s3.amazonaws.com/academia.edu.documents/30536498/alco_article_livingston_07_addiction.pdf?AWSAccessKeyId=AKIAJ66TQJPTW5MTNPEA&Expires=142970770&Signature=ePHEUQ4WenKGCQCljgmDR944FUXo%3D&response-content-disposition=inline
Victoria, Australia	2009					2.5 (overall population, not just adults)	http://www.sciencedirect.com/science/article/pii/S1054139X14003279

Appendix 6:

Poole Council conditions for home delivery sales.

The delivery driver has to ask for ID, to note the ID and then pass the information to the duty manager, who must keep a full record of all sales. While the Act specifically exempts the delivery driver from committing an offence, these conditions help ensure that Poole Council can take the appropriate action if the seller is subsequently found to have sold alcohol to a minor without checking for suitable ID.

The Sub-committee's decision is as follows:-

Upon the Licensing sub-committee hearing an application for a review of the Premises Licence for XXXXXX at the above premises and upon hearing Mr XXX XXX for the Weights and Measures Authority, and Mr XXX XXX for the Premises Licence Holder, the Licensing Sub-Committee has decided to amend the Premises Licence Conditions in order to Protect Children from Harm.

In addition to the existing conditions.

1. A refusals Register should be kept and signed off by the Designated Premises Supervisor at least once a week to ensure all members of staff are using it when necessary by way of a manual system in the form of a book and be made available for inspection by a responsible authority as and when required.
2. There be adherence to the principles highlighted in the training CD Rom package, "No I.D. No Sale" issued by Trading Standards and implementation and enforcement of a "Challenge 21 Policy."
3. Refresher Training given 6 monthly and extra training when there is a change in staff and or legislation using a combination of methods such as verbal, written and the SWERCOT'S CD Rom, and a record to be kept available for inspection by an appropriate Enforcement Officer.
4. Records of training should be dated and signed by the individual and produced for inspection when required showing what training was involved and understanding.
5. Notices displayed at the entrance to the premises to ensure all customers that enter the premises can see the company's under age sales policy.
6. To use till prompts at all times.
7. All customers placing an alcohol order for delivery either by telephone or via a website (internet) shall be informed that they must be 18 years of age or over to purchase alcohol and that identification shall be requested on delivery and records shall be kept in the premises detailing the delivery made and I. D. accepted. Records of deliveries should be made available to an Enforcement Officer on request.
8. Remote age restricted sales to be monitored and authorised by Personal Licence Holders when on the premises, and only by the Branch Manager/Duty Manager, who are SWERCOT trained as evidenced by certificate, if a Personal Licence Holder is not on the premises at the time.

A second premises amended its conditions to include the following:

5. All customers placing an alcohol order for delivery, either by telephone or via the xxx xxx web site, shall be informed that they must be 18 or over to purchase alcohol and that identification shall be requested on delivery. The delivery person shall request identification on every alcohol delivery and records shall be kept in store detailing the delivery made and the ID accepted. Records should be made available to an enforcement officer on request.

Appendix 7:

More detail on the Tameside data tool:

A System for Quantifying the Burden of Alcohol-Attributable Harm at a Local Level and its use in the Licensing Process in Tameside

Introduction

There is evidence of a link between the density of licensed premises and alcohol-related harm in the surrounding environment.

However, the role of Public Health as a Responsible Authority within the Licensing Act has been limited in the absence of Public Health as a 5th licensing objective.

Aim

To produce a toolkit and composite indicator set to measure alcohol related harm by Lower Super output Area (LSOA), to assess new license applications using the toolkit, and to make representations against new license applications in high harm areas.

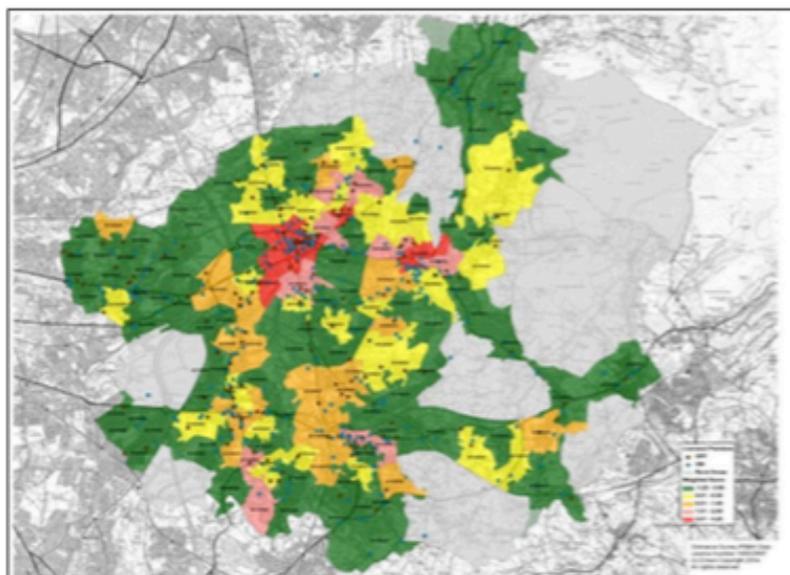
Design

Five indicators of alcohol-related harm were chosen representing:

- Crime,
- Anti-social behaviour,
- Domestic Abuse
- Alcohol-related A&E attendances
- Alcohol-attributable hospital admissions.

Values for each indicator were calculated for all 141 Lower Super Output Areas (LSOA) in Tameside, normalised to z-scores and weighted.

The resultant composite z-score was mapped across LSOAs using ArcMap:



A linked dashboard was developed to enable staff to quickly identify the levels of harm in an LSOA by postcode:

ENTER POSTCODE	INDICATORS		WEIGHTING
or	Alcohol Specific Hospital Admissions		33.3%
ENTER LSOA CODE	Weekend A&E attendances (12-05 AM)		33.3%
E01005948	Alcohol Related Crimes		33.3%
	Alcohol and Domestic Violence Associated Crimes		33.3%
	Alcohol Related Anti-Social Behaviour Incidents		33.3%
RESULTS FOR SELECTED LSOA		E01005948	
		VALUE	Z-SCORE
INDICATOR	Density of Licensed Premises (per 1000 population)	30.9	0.90
	Alcohol Specific Hospital Admissions (DSR per 100,000 Population)	2761.4	2.05
	Weekend A&E attendances (12-05 AM)	1008.9	2.40
	Alcohol Related Crimes	238.7	0.76
	Alcohol and Domestic Violence Associated Crimes	42.2	0.80
	Alcohol Related Anti-Social Behaviour Incidents	207.8	0.67
OVERALL SCORES	Unweighted Composite Score for LSOA	-	0.97
	Weighted Composite Score for LSOA	-	4.26

This is used to screen every new license application, to identify those in high harm areas, and to support the development of full representations to licensing committee.

Results/Conclusion

The system has been used to identify areas with significant levels of alcohol related harm and to successfully support representations against new licenses within such areas.

Submission by:

Matt Birchall – Public Health intelligence Analyst

David Boulger – Strategic Public Health Manager

Tameside Council

Full copy of the public health submission mentioned in chapter 17.



PUBLIC HEALTH

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Date 22nd December 2014

Re: Representation from the Public Health Department at Tameside Council regarding an application for a new Alcohol Licence at *****

Introduction

As a Responsible Body under the 2003 Licensing Act, the Public Health Team at Tameside Council would like to raise a representation against application applying for an Alcohol licence by ***** in relation to premises at *****.

The representation primarily relates to:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance

Our Approach

The Public Health Team at Tameside Council has begun screening every new licence application or application for a licence variation against a series of measures to enable the identification of applications that could have a significant adverse impact.

This screening is undertaken through a locally developed triage toolkit and ranks the 141 Lower Super Output Areas (LSOA's) in Tameside against a number of Alcohol Harm indicators and then provides an overall ranking.

The rankings are underpinned by robust official data sets as follows:

- Density of Licensed Premises – Tameside Council information as of 30th September 2014
- Alcohol Specific Hospital Admissions – Tameside General Hospital Statistics for the 3 year period 1st April 2011 to 31st March 2014
- Weekend A&E Attendances between 0000hrs and 0500hrs – Tameside General Hospital Statistics for the 3 year period 1st January 2011 to 31st December 2013.



- Alcohol Related Crime – Greater Manchester Police data from 1st July 2011 until 30th June 2014.
- Alcohol Related Domestic Violence - Greater Manchester Police data from 1st July 2011 until 30th June 2014.
- Alcohol related Anti-Social Behaviour Incidents - Greater Manchester Police data from 1st July 2011 until 30th June 2014.

A decision has been made to make a representation in relation to this specific application as it has an overall weighted ranking as being within the LSOA with the **4th highest level of Alcohol Related Harm out 141 LSOA's within the Tameside area.**

The overall screening results were as follows

INDICATORS		WEIGHTING		
Alcohol Specific Hospital Admissions		33.3%		
Weekend A&E attendances (12-05 AM)		33.3%		
Alcohol Related Crimes		11.1%		
Alcohol and Domestic Violence Associated Crimes		11.1%		
Alcohol Related Anti-Social Behaviour Incidents		11.1%		
RESULTS FOR SELECTED LSOA		E01006060		
		VALUE	Z-SCORE	TAMESIDE RANK
INDICATOR	Density of Licensed Premises (per 1000 population)	13.5	3.05	3
	Alcohol Specific Hospital Admissions (DSR per 100,000 Population)	1609.4	1.32	16
	Weekend A&E attendances (12-05 AM)	1183.7	1.31	13
	Alcohol Related Crimes	133.5	4.60	2
	Alcohol and Domestic Violence Associated Crimes	25.6	3.03	2
	Alcohol Related Anti-Social Behaviour Incidents	119.3	4.05	2
OVERALL SCORES	Unweighted Composite Score for LSOA	-	2.86	2
	Weighted Composite Score for LSOA	-	2.17	4

Alcohol Harm in relation to ***** (LSOA E01006060)

Tameside has some of the highest levels of Alcohol-related Harm in England.

The levels of existing Alcohol-related harm in the LSOA within which ***** sits are amongst the worst in Tameside.

In this area there are currently 4 'off' licence premises and 14 'on' licence premises. This means that it has the 3rd highest density of licensed premises in Tameside with 13.5 licensed premises per 1000 residents or **1 licensed premise for every 74 local residents.**

There is extensive research highlighting that there is a direct link between density of licensed premises and alcohol-related harm in the surrounding environment (Livingston (2011); Richardson (2014)).

The research body hypothesises that the density and prevalence of alcohol retail outlets influences alcohol-related harms in a number of ways. This includes, but is not exclusive to:

- Creating greater physical availability of alcohol within a local area
- Increasing the visibility of alcohol advertising within a local area

- Reducing the prices of alcohol products due to localised competition
- Shaping and reinforcing local attitudes and norms around drinking behaviour and drunkenness.

The evidence base behind this is extensive, but some examples of the research include Gruenewald et al, 2006; Livingston et al, 2007; Livingston et al, 2008; Pasch et al, 2009; Theall et al, 2009; Bryden et al, 2012; Pereira et al, 2013.

The following map, in which LSOA E01006060 is highlighted, shows the issue around density in this small area:



Some of the most recent research by Richardson et al (2014) highlighted that *“off-sales outlets have the greatest potential for alcohol-related harm, due to their cheaper product, large volumes obtainable, accessibility for under-age drinkers, and the absence of control over the final recipient”*.

This link can be exacerbated in areas of high deprivation and so it is worth noting that LSOA E01006060 ranks as the 24th out of 141 LSOAs in Tameside for deprivation as measured by the Index of Multiple Deprivation 2010 (IMD2010) and ranks 23rd out of 141 LSOAs in Tameside for income deprivation affecting children.

Given this context we would expect this area to experience high levels of alcohol-related harm and this is indeed the case.

All age Alcohol-specific hospital admissions are the 16th worst in Tameside and are two times higher than the Tameside average.

Alcohol-related attendances at A&E for young people aged under 18 are the 24th worst out of 141 LSOAs in Tameside.

The rate of alcohol related crime in the area is the 2nd highest out of 141 Tameside LSOAs and in 2013/14 the ***rate of alcohol related crime was approximately 5 times that of the Tameside average.***

The rate of alcohol related anti-social behaviour in this area was the 2nd highest out of 141 Tameside LSOAs and in the period July 2013 to June 2014 the ***rate of alcohol related anti-social behaviour was approximately 7.5 times higher than that of the Tameside average.***

The ***rate of alcohol related Domestic Violence in this area was the 2nd highest out of 141 Tameside LSOAs.***

Overall, we have assessed this LSOA within which ***** sits, as having the 4th worst levels of alcohol-related harm of the 141 LSOA's within the Tameside area.

The evidence would suggest that ***introducing a further licensed premise into this area would increase the level of alcohol-related harm*** even further.

Yours Sincerely,

David Boulger
Strategic Public Health Manager

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