

Briefing for licensing professionals: Licensing and Public Health

This briefing includes key points from chapter 15 within the report: *The Licensing Act (2003): its uses and abuses 10 years on*

Licensing and Public Health

There is no health objective under the 2003 Licensing Act, but some more proximal health issues can be linked to the licensing objectives. Health was, however, made a responsible authority in 2011 and some local authorities have done significant work in order better to capture health concerns within the existing licensing objectives.

A large number of participants within the research stated that it had been a mistake to make health a responsible authority without introducing a specific health objective. There was strong support for such an objective.

Licensing and Public Health: Present tensions

When addressing this issue, participants tended to fall into two groups. The first group, consisting of people mainly with a pure licensing background, started from an understanding of the licensing system and then considered how public health might impact upon that, with varying interpretations. The second group consisted of people mainly from a public health or wider regulatory background (such as directors of regulatory services within local authorities). They tended to start with a public health perspective, identifying problems and concerns, and then seeking to tackle those problems and concerns through licensing.

As a result of these different ways of working there is a real need for licensing and public health to come to a common understanding of what is and is not possible within the current Act, and as part of this to develop a common language and approach. Key to this is a common view of evidence and decision making within licensing.

Statements of Licensing Policy and public health issues

Statements of Licensing Policy (SLPs) were reported as a key method for the better consideration of health issues within licensing. Guidance on effective participation in licensing for public health teams, produced by Public Health England (PHE) and the Local Government Association, states that SLPs:

Provide an important opportunity to incorporate relevant local public health concerns within the wider policy context of the local licensing authority. For example, including local health statistics on alcohol consumption, along with highlighting action that could help remedy any particular concerns.

More details about SLPs can be found in the accompanying two-page briefing and chapter 13 of the report.

Public Health data

There is no reason to think that health could, or would, work on a different basis from that currently found within the Act. Good, local data is key for better incorporating public health within licensing, and all the issues raised in chapter 14 regarding data and evidence apply

equally to health issues. Academic research and international studies can be useful for setting a broad context, but should not be relied upon on their own. Please see chapter 15 for examples of how local authorities have used evidence to link health concerns to the licensing objectives.

The potential impact of a public health objective

The existing framework of the Act means that more proximal health issues seem likely to be the most actively addressed via licensing. By looking at smaller time periods, and smaller areas, with more of a bottom up approach, many public health concerns can be linked to local social, rather than physical, health issues in an area. As a result it may be useful to shift from focusing on traditional public health issues and physical health, to social health issues, such as street drinking, domestic violence and issues linked to deprivation. Some areas have already done this.

Given the current four licensing objectives, these social concerns can be better applied and possibly provide a proxy route to addressing longer terms harms. While this may be an indirect route, it could be an effective one. It is also because of this that the notion of wellbeing could be particularly useful within licensing, focusing on local quality of life issues and the ‘wellbeing of the wider community’, as already mentioned in non-statutory guidance.

It is arguable that these social health factors could be included under the current objectives without the addition of a health objective. This may well be the case, but the risk averse nature of many local authorities, and the contested legal environment in which they operate, mean that the full extent of all the objectives are unlikely to ever be explored. Adding an additional health objective however would give local authorities the practical ability to address the wider social impact of licensing, in effect allowing for the more even application of the current objectives. From this perspective a public health objective could be seen more as an evolution than a revolution.

In reality any list of health issues that might be addressed would have to evolve over time and be based upon local data and the way in which local authorities are able to use this. It may not differ all that much from the concerns that some more innovative local authorities are already trying to address. A specific health objective could give these local authorities slightly greater scope however, and would certainly give other councils the green light to engage in this area. This is a significant obstacle in many areas. A public health objective would also give local authorities a greater ability to encourage trade participation in health issues.

More details on this issue, including case studies, can be found in chapter 15 within the report: *The Licensing Act (2003): its uses and abuses 10 years on*
(<http://bit.ly/la03report>)