

ALCOHOL KNOWLEDGE CENTRE

# BRIEFING



## LICENSING IN PRACTICE: THE AVAILABILITY OF ALCOHOL IN UK SOCIETY

**This briefing contains the following chapters:**

- Controlling the availability of alcohol

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# Licensing in practice: the availability of alcohol in UK society

## Summary

- In the UK, the licensing laws normally restrict the sale of alcohol to people aged 18 and over
- In terms of trading hours, legislation permits 24-hour trading, under the *Licensing Act 2003* in England and Wales, and the *Licensing (Scotland) Act 2005* in Scotland
- Other instances of licensing legislation used to control availability include Cumulative Impact Areas, bans on multi-buy promotions and on high strength drinks
- Legislation can also be used to make alcohol more available, including during events of 'exceptional national significance', such as the Queen's Diamond Jubilee in 2012

## Introduction

The legal availability of alcohol is generally accepted to be one of the main controls on levels of alcohol consumption and harm. Licensing systems are therefore a key component of an overall alcohol control policy.

However, other potentially conflicting considerations also come into play, such as safeguarding employment and promoting the night time economy. In regard to the prevention of harm, some specific issues arise in the context of licensing controls.

# Controlling the availability of alcohol

## Drinking age laws

Most societies restrict the availability of alcohol to children in some form. In the UK, the licensing laws normally restrict the sale of alcohol to people aged 18 and over, and also place some restrictions on the presence of under 18s in licensed premises, and on their consumption of alcohol unsupervised by an adult.

## Hours of trading

England, Wales and Scotland have now abolished the old system of permitted hours for the sale of alcohol, allowing for potentially 24-hour trading. In England and Wales, the *Licensing Act 2003* was introduced ostensibly to encourage the development of a Mediterranean-style 'café culture' and to tackle the problem of binge drinking allegedly caused by what were stated to be artificially early fixed closing times. These controversial claims were disputed by many alcohol control advocates who argued that they were not borne out by the available evidence, which shows that longer drinking hours normally tend to be associated with more alcohol harm rather than less.<sup>1</sup>

To counter the potential social and health problems arising from the 24-hour sale of alcohol, the *Police Reform and Social Responsibility Act* (PRSRA) 2011 provided and expanded the power of licensing authorities to impose Early Morning Restriction Orders (EMROs) and Late Night Levies (LNLs) on alcohol vendors within a local vicinity, as part of the government's *Alcohol Strategy*. EMROs enable a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.<sup>2</sup> So far, licensing authorities have been reluctant to make use of these extra powers; (to date) no EMROs and only a handful of LNLs have been approved.

On occasion, the Secretary of State for the Home Office may make an order relaxing licensing hours for licensed premises during events of 'exceptional national significance'. This order was enacted for the England football team's matches during the *2014 World Cup*, the first time such a power was used for a sports event. This step was opposed by the Association of Chief Police Officers (ACPO), Association of Police and Crime Commissioners (APCC), Local Government Association (LGA), the Chartered Institute of Environmental Health (CIEH), the National Organisation of Residents Associations (NORA), and the Alcohol Health Alliance (AHA). These organisations argued that licensing authorities are best placed to make decisions about which premises should be allowed to stay open late and that with a national relaxation, councils and the police would not have a definitive picture of which premises intend to open later, making effective public safety planning much harder.<sup>3</sup>

Opening hours for the trading of alcohol on licensed premises have been extended on subsequent occasions since the introduction of the *Licensing Act*: 1) the Royal Wedding of the Duke and Duchess of Cambridge in 2011 and; 2) the Queen's Diamond Jubilee in 2012.

In Northern Ireland, the Stormont Assembly have approved plans to relax rules on alcohol sales, such as streamlining pub opening hours by removing Easter weekend restrictions.<sup>4</sup> Other key changes include introducing an occasional additional late opening hour for some licensed premises, the doubling of 'drinking-up time' after last orders (from 30 minutes to an

hour) and prohibiting self-service and vending machines. These changes come as Minister of Health in the Northern Ireland Assembly Robin Swann pledged to hold 'a full public consultation' on introducing minimum unit pricing for alcohol (MUP) 'within a year', a move welcomed by Hospitality Ulster chief executive Colin Neill.<sup>5</sup>

## Responsible marketing practices

Anxieties about 'binge drinking' have led to greater attention being paid to the ways in which sales and marketing practices can encourage undesirable patterns of consumption. There has been a long-standing legal prohibition of sales to alcohol to people who are already intoxicated, but additional controls have now been incorporated into the conditions placed on premises licences.

In England and Wales, and in Scotland, the licensing legislation mandates certain conditions to be placed on sales of alcohol on the premises, banning irresponsible promotions such as drinking games in which customers drink as much as possible within a time limit; large quantities of alcohol being supplied free or at a fixed price; prizes and rewards for drinking large amounts, and posters and flyers inciting or glamorising drunkenness.

In Scotland, the *Alcohol etc. (Scotland) Act 2010* restricted the display and promotion of alcohol in the off-trade to within a single area of the store, so that alcohol could not be displayed at the end of aisles throughout supermarkets etc. The *Act* also bans quantity-based discount promotions, or 'multi-buy' purchases such as two-for-one or buy-one-get-one-free offers. The aim of such conditions is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which does not promote the licensing objectives.

In 2012, the Home Office launched a public consultation on the UK Government's *Alcohol Strategy* seeking views on a ban on multi-buy promotions in shops and off-licences in England and Wales. However, it decided against a ban following the consultation.

## Density of licensed premises

On both sides of the Anglo-Scottish border, alcohol licence applications can only be rejected on the basis that granting them would likely undermine one or more of the licensing objectives.

In Scotland, the *Licensing Act* permits the licensing authorities to take into account an 'over-provision' of licensed outlets in general, or licensed outlets of a particular type, in a given locality, in order to tackle problems caused by a proliferation of licensed outlets. Where over-provision is held to apply, there is a rebuttable assumption that additional licences may not be granted, though each application must still be considered on its own merits.

In England and Wales, the underlying assumption is that it is for the market, not the licensing authorities, to determine the number of licensed outlets in a given area, and the only provision for licensing authorities to control the numbers of outlets is in the context of special policies to tackle the 'cumulative impact' of concentrations of licensed premises in specific localities, normally the main entertainment zones of towns and cities. Here, too, however, each licensing application must be considered on its own merits.

This partly explains why the number of Cumulative Impact Areas has more than doubled since 2007 (figure 1), yet the proportion of new premises licences applications stood at only 3.3% in 2012/13.

**Figure 1 Number of cumulative impact areas, England & Wales, 2007 to present**

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
CIAs	71	112	129	132	N/A	160	175	202	N/A	215	223	222
Note: Home Office did not collect data in 2011 and 2015												

Source: Home Office, 'Alcohol and late night refreshment licensing', Tables

In Northern Ireland density is limited due to the *surrender principle* (see 'Licensing laws' briefing for a full definition). This means that is a cap on the number of licences granted for the sale of alcohol. Density is also limited for the reason that licences are granted for a five-year licensing period to the following categories of premises only:<sup>6</sup>

- Pubs
- Off-licences
- Hotels
- Guest houses
- Restaurants
- Conference centres
- Higher education institutions
- Places of public entertainment (theatres, ballrooms, race tracks)
- Refreshment rooms in public transport premises (railway or bus stations, airports and harbours)
- Seamen's canteens
- Indoor arenas
- Non-seagoing vessels

## Drinking in sports stadiums

The *Sporting Events (Control of Alcohol etc.) Act 1985* states the prohibition of: consumption of alcohol on public transport (such as trains, coaches and motor vehicles) travelling to designated football matches, and consumption of alcohol within view of the inside stadium area. In addition, entry into the stadium is refused to any spectators who are deemed to be drunk.<sup>7</sup>

Despite having the word ‘sporting’ in its title, the Act was introduced specifically to counter booze-fuelled hooliganism at football matches. It originally stated that alcohol may neither be sold nor purchased in view of the pitch for a period lasting from two hours before a match until one hour afterwards. However, this designated dry period was deemed too draconian by MPs and was subsequently reduced to ‘15 minutes before a match until 15 minutes afterwards’.<sup>8</sup>

In part because of the drinking ban, the game has changed to the point that critics have pointed believe today’s average match-day experience ‘bears little resemblance to the pre-Premier League environment of the 1970s and 1980s’, and that the law ought to take this into account and lift the ban.<sup>9</sup>

Any change could come in the shape of a trial period, which could be initiated by [5A\(3\) of the Sporting Events \(Control of Alcohol etc\) Act 1985](#), which allows the secretary of state to make the order designating amending the restriction – or that there shall be no restriction – on alcohol consumed in all seats.<sup>10</sup>

## Motorway pubs

In 2013, British pub chain JD Wetherspoon was granted permission by South Buckinghamshire District Council to open the country’s first dedicated 24-hour public house at junction 2 of the M40, Beaconsfield services.<sup>11</sup>

Newspaper reports at the time suggested it was an unpopular move: An RAC survey found that only 12% of the public support the idea of having pubs of motorways, with around two thirds of the 2,000 people asked saying they were actively against the practice.<sup>12</sup>

## Licensing and the night time economy

Studies have shown that the density of licensed premises can have an impact on violence and alcohol-related disorder in the night time economy. A main finding of studies of violence is that serious violence in a city’s entertainment thoroughfare is proportional to the overall capacity of licensed premises in that street, and the numbers of people present.

For illustration, the West End of London is the most heavily licensed district in the UK with over 3,000 licensed premises, and Leicester Square alone sees over 225,000 visitors every Saturday night. High levels of alcohol consumption and large crowds contribute to high levels of reported crime: indeed, there are almost as many reported crimes a year in the West End as in the city centres of Manchester, Leeds, Liverpool and Birmingham combined.

However, the problems are not restricted to London. In recent years there has been a major growth in the licensed capacity in the entertainment zones of many town and city centres. The result is that during busy periods even average-sized towns can have thousands, perhaps even tens of thousands, of revellers concentrated into a fairly small area, and the great majority of late-night revellers are drunk, exacerbating the burden of noise and disturbance placed on the local community, and the pressure on public services, notably policing and accident and emergency services.

A causal factor underlying the development of this state of affairs has been the growth in youth-orientated ‘vertical drinking’ establishments, where drinking is an end in itself rather than an accompaniment to other activities, such as having a meal while seated at a table.

A characteristic account was given in evidence to the Parliamentary Select Committee on Home Affairs by the chief constable of Nottinghamshire Police in 2005:

**As the Chief Constable of Nottinghamshire Police I have been concerned for some time about the effects that the burgeoning night time economy across the County, and in particular the City of Nottingham, has had upon policing and communities. Specifically, my concerns have centred upon the changing nature of the licensed economy and the increasing demands it places upon the municipal infrastructure. The concept of a typical bar has altered dramatically over the last decade, with many city centres now featuring developments packed with huge buildings converted to drinking "palaces", often with occupancies of 1,000 people or more. In many ways the development of the licensed economy during late 1990s and early part of this century has all the appearances of an alcohol-driven gold rush, with every available building being converted into a bar or nightclub. This scene is well evidenced by my own experiences in Nottingham, where the licensed capacity in the City Centre has grown from approximately 62,000 in 1997 to around 108,000 currently, amounting to a 74% increase in licensed capacity. Of further note has been the increase in late night capacity, associated with bars and clubs, Nottingham witnessing a rise over the corresponding period from around 24,000 to 32,000 for those premises which have a terminal hour of 2.00 am.**

**The nature of the alcoholic products available has also changed dramatically; in the past, products such as bitter, mild and pale ale, with all their traditional connotations, were to the fore, with lager considered a continental oddity and spirits limited to the serious drinker. However, today's reality provides for a truly cosmopolitan cocktail of premium strength lagers, traditional beers, Alco pops, liqueurs and lurid spirits; all advertised and promoted in a crescendo of vivid colours, images and formats and all seemingly promoted with the intention of appearing "cool". .... it should be noted that most of these recent products arrive with significantly higher alcoholic contents...**

These considerations explain why the IAS responded as it did to the consultation on licensing reform undertaken by the Coalition Government:

**... We opposed the previous Administration's plans for licensing reform precisely on the grounds that they constituted an un-balanced approach to the issues involved, and while the legislation was, it is true, improved during its progress through Parliament, it still retains the unhelpful imprint of its origins.**

**The original concept of Labour's new Licensing Act was essentially that of a conflict-resolution mechanism between individual licencees or applicants for licences on the one side, and individual objectors on the other. While the objectives were later broadened in response to political pressure, the original concept was never abandoned and this ensured that the legislation would be ill-suited to achieve what was then stated to be its main objective – the better management of the night time economy. Whereas the better management of the night time economy requires an approach which is holistic, proactive and policy-led, the new Act, by focusing almost**



**exclusively on what occurred in individual premises, was by its nature a reactive, complaint-led system which actually put obstacles in the way of an holistic approach, and also obstructed community involvement in licensing decisions. For example, it placed an arbitrary and artificial restriction on which members of the community were allowed to make representations in regard to licensing decisions.**

The eventual changes made to the licensing legislation regarding the night time economy which appeared in the Alcohol Strategy included not only the EMROs, but also the LNLs. The LNL enables licensing authorities to impose a charge on persons who are licensed to sell alcohol late at night in the authority's area as a means of raising a contribution towards the costs of policing the late-night economy.

In its attempt to reform the environment within which alcohol can be bought at night, as well as the affordability of alcohol, Newcastle City Council was first to approve the introduction of a LNL in its town in June 2013, for implementation in November.

Milton Keynes Council has followed suit with its intention to introduce the levy in 2014. Other local authorities reported to be contemplating adopting the measure include Plymouth, Southampton, and the City of London. EMROs are yet to be introduced in England & Wales.

### Minimum unit pricing as a licensing condition

In addition to EMROs and LNLs, the Coalition Government flirted with the idea of enforcing a minimum unit price for alcohol before it was abandoned in July 2013. However, in the wake of the Government climbdown over introducing the measure as part of national legislation, Newcastle City Council announced its decision to introduce a minimum unit price for alcohol locally on a voluntary basis, as part of its Statement of Licensing Policy 2013 – 2018. Business owners applying for new licences in the town are encouraged to apply a minimum unit price of 50p to all alcohol products sold on their premises. Although the condition is voluntary, the local authority warns that 'where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the Licensing Authority will consider imposing controls'. This extends to restricting promotional offers on alcohol, including on the sale of super-strength beer, lager and cider.

### Voluntary bans on high strength drinks

In recent years, an increasing number of local authorities have adopted the *Reducing the Strength* initiative, first implemented in the Suffolk regions, reflecting the Coalition Government's desire for more collaborative, local-led voluntary approaches aimed at limiting the availability of low cost, high strength alcoholic drinks. The measure aims to encourage off-licence owners to stop selling the cheapest high strength drinks in their stores as part of an overall effort to reverse the damaging social effects of irresponsible drinking in their local communities.

Suffolk Constabulary revealed that the campaign was having a positive effect, one year on from its launch. The number of reports of street drinking being made to police in the 12 months since the campaign began dropped by nearly a quarter (23.5%) when compared with the same period the year before; from 26/09/11 to 17/09/12 police were contacted 341 times with reports of street drinking in Ipswich, compared with 261 in the same period a year later.<sup>13</sup>

A notable tension with this scheme is that there is no legal obligation for off-licences to participate. This means that the initiative can only be as effective as the willingness of off-licence owners to place alcohol harm reduction above their profit margins.

In February 2014, the Home Office announced a pilot of the Local Alcohol Action Areas (LAAAs) initiative to combat the harmful health and social effects of irresponsible drinking in the night time economy. During the first phase, 20 LAAAs were selected with the aim of bringing together local agencies (including licensing authorities, health bodies and the police), businesses and other organisations to address problems being caused by alcohol in their area.<sup>14</sup> In January 2017, 33 new LAAAs were announced for the second phase of the programme. Similarly, each area is supported and advised by specialists from the Home Office, Public Health England, the Welsh Government and Nightworks, with the aim of helping local communities reduce problems mediated by alcohol use.<sup>15</sup>

<sup>1</sup> Anderson, P., and Baumberg, B (June 2006), 'Alcohol in Europe', London: Institute of Alcohol Studies

<sup>2</sup> www.gov.uk (March 2013), 'Alcohol licensing: early morning alcohol restriction orders (EMROs)', Home Office

<sup>3</sup> Institute of Alcohol Studies (IAS) (March 2014), 'Government confirms plans to relax licensing hours for 2014 World Cup' <<https://bit.ly/31Oc2DO>>

<sup>4</sup> Institute of Alcohol Studies (IAS) (July 2020), 'Licensing-laws-relaxed-in-Northern-Ireland' <<http://www.ias.org.uk/What-we-do/Alcohol-Alert/July-2020.aspx#Licensing-laws-relaxed-in-Northern-Ireland>>

<sup>5</sup> Belfast Telegraph (July 2020) 'Minimum alcohol pricing for Northern Ireland consultation to begin this year' <<https://bit.ly/2GI07oP>>

<sup>6</sup> NI Direct, 'Law on licensed premises and registered clubs' <<http://www.nidirect.gov.uk/law-on-licensed-premises-and-registered-clubs>>

<sup>7</sup> Legislation.gov.uk (July 1985) Sporting Events (Control of Alcohol etc.) Act 1985, CHAPTER 57 <[https://www.legislation.gov.uk/ukpga/1985/57/pdfs/ukpga\\_19850057\\_en.pdf](https://www.legislation.gov.uk/ukpga/1985/57/pdfs/ukpga_19850057_en.pdf)>

<sup>8</sup> Hansard archives (April 1986) 'Private facilities for viewing events' HC Deb 30 April 1986 vol 96 cc1056-62 <<https://api.parliament.uk/historic-hansard/commons/1986/apr/30/private-facilities-for-viewing-events>>

<sup>9</sup> The Guardian (December 2014), 'Banning football fans from drinking alcohol in sight of the pitch is unfair' <<https://bit.ly/2YTkdWA>>

<sup>10</sup> Legislation.gov.uk (July 1985) Sporting Events (Control of Alcohol etc.) Act 1985, CHAPTER 57, Section 5A <<https://www.legislation.gov.uk/ukpga/1985/57/section/5A>>

<sup>11</sup> The Huffington Post (June 2013), 'Wetherspoons Defends Opening Motorway Pub' <[http://www.huffingtonpost.co.uk/2013/06/03/wetherspoons-defends-open\\_n\\_3380165.html](http://www.huffingtonpost.co.uk/2013/06/03/wetherspoons-defends-open_n_3380165.html)>

<sup>12</sup> The Independent (January 2014) 'JD Wetherspoon opens first motorway pub' <<https://bit.ly/3i1t5Yw>>

<sup>13</sup> Suffolk Constabulary, 'Reducing the Strength – one year on' <<http://www.suffolk.police.uk/safetyadvice/personalsafety/alcoholawareness/reducingthestrength/oneyearon.aspx>>

<sup>14</sup> www.gov.uk (February 2014), 'Local alcohol action areas', Home Office <<https://www.gov.uk/government/publications/local-alcohol-action-areas>>

<sup>15</sup> Alcohol Policy UK (October 2016) 'Second phase of 'Local Alcohol Action Areas' (LAAA) open' <<https://www.alcoholpolicy.net/2016/10/second-round-of-local-alcohol-action-area-laaa-open.html>>