

Consultation – Licensing Act 2003: regulatory easements

Institute of Alcohol Studies response, April 2023

The Institute of Alcohol Studies (IAS) is an independent institute bringing together evidence, policy and practice from home and abroad to promote an informed debate on alcohol’s impact on society. Our purpose is to advance the use of the best available evidence in public policy decisions on alcohol.

We welcome the opportunity to respond to the consultation on the regulatory easements of the Licensing Act 2003. IAS is grateful to Dr Phil Hadfield for his support on this response.

Summary of IAS responses

Off sales

The consumption of alcoholic drinks consumed as off-sales occurs in relatively un-supervised public and private settings. In certain contexts, such as the Evening and Night-Time Economy where patrons may linger on the streets after leaving on-licensed premises and move on to public transport or journeys on foot and / or where there is a presence of ‘street drinking’ amongst persons who have alcohol dependence problems, the widescale availability of off-sales is likely to have a negative impact on the Licensing Objectives and impact the work load of public services. One important aspect may be the unsafe use and disposal of glass containers which can be used as weapons or present public safety risks when dropped and smashed on pavements.

Additionally, the IAS strongly believes that a public health objective should be introduced to the Licensing Act, so that public health authorities responsible for licensing could take into account the current level of alcohol harm and potential impacts to this when making licensing decisions.

Alcohol is the biggest risk factor for death, ill-health and disability among 15-49 year olds¹, costing NHS England an estimated £3.5 billion each year². The availability of alcohol plays a key role in this: research has shown that the density of licensed premises is correlated with alcohol-related deaths and hospital admissions³. Alcohol harm disproportionately affects those in lower socioeconomic groups, with alcohol-related deaths and hospital admissions over 60% higher in the most deprived groups compared to the least.⁴ Alcohol outlet density has also been found to increase with increasing neighbourhood deprivation.⁵ Alcohol also

¹ VizHub - GBD Results. (2019). [Global Health Data Exchange](#), Institute for Health Metrics and Evaluation, University of Washington.

² Home Office (2012). [Impact assessment: a minimum unit price for alcohol](#).

³ Alcohol Research UK (2018). [Alcohol outlet density and alcohol- related hospital admissions in England: a geographical analysis](#). Alcohol Focus Scotland and Centre for Research on Environment, Society and Health (2018). [Alcohol Outlet Availability and Harm in Scotland](#).

⁴ <https://www.gov.uk/government/statistics/local-alcohol-profiles-for-england-lape-february-2022-update/local-alcohol-profiles-for-england-short-statistical-commentary-february-2022>

⁵ Angus, C. et al. (2017). [Mapping patterns and trends in the spatial availability of alcohol using low-level geographic data: a case study in England 2003-2013](#). International Journal of Environmental Research and Public Health.

contributes to crime, violence, domestic abuse, and anti-social behaviour. In Scotland, research found that Neighbourhoods with the most alcohol outlets had crime rates over 4 times higher than neighbourhoods with the least.⁶

Yet, the current objectives in Licensing Act do not allow licensing decisions to be made based on local population health evidence and local outlet density. Including public health as a licensing objective has overwhelming support among Directors of Public Health in England, with 9 in 10 Directors supporting the change.⁷ The World Health Organisation has highlighted tackling the availability of alcohol as one of the most cost-effective tools to reduce alcohol harm.⁸ Adding alcohol as a licensing objective would empower public health authorities to improve local health and protect the NHS, while also helping to meet the Government's goal of tackling health inequalities, as well as crime and antisocial behaviour.

TENs

The possible additional risks of crime and / or anti-social behaviour are matters that should be assessed by Licensing Committees through the process of Licensed Operators applying to vary the hours permitted by their Premises Licence. Widescale use of TENs, originally intended only for 'events', sidesteps this process and therefore sidesteps the consideration of whether the proposed hours would support the Licensing Objectives and what steps should be taken by Licensed Operators to ensure that late-night trading is conducted safely and responsibly. Furthermore, Interested Parties, such as local residents who may be impacted by the increased numbers of late-night events and Responsible Authorities other than the police, are effectively removed from the process.

Premises using the full quota of TENs repeatedly in order to sidestep 'licence variation applications' are already creating a democratic deficit that runs contrary to the central tenets of the Licensing Act 2003. The removal of key stakeholder 'voices' through the 'streamlined' TENs applications is resulting in a failure to impart important local knowledge and data of a sort that should be used to improve decision-making and set appropriate Conditions on Premises Licences that trade for extended night-time hours. These are properly matters for consideration by a Licensing Committee.

It is also important to note that in many central urban areas and resorts large numbers of licensed premises may decide to use their full quota of TENs each year in order to keep pace with their neighbouring competitors. A situation is then created in which there is a *de-facto relaxation of licensing hours across the night-time economy* of areas that are already experiencing high levels of crime and disorder. This may run contrary to carefully devised local Statements of Licensing Policy and has implications for public services and the quality of life within communities. Police forces in these areas also have to process thousands of TENs applications annually.

⁶ Alcohol Focus Scotland. (2018). [Alcohol outlet availability and harm in Scotland](#).

⁷ Local Government Association (2016). [LGA Survey: Public Health and the Licensing Process](#).

⁸ World Health Organisation (2017). [Tackling NCDs: "best buys" and other recommended interventions for the prevention and control of noncommunicable diseases](#).

Questionnaire

Please see below the full list of consultation questions with IAS draft responses to each.

Off-sales

Q1: Do you agree that when the regulatory easement ends on 30 September 2023, there should be no automatic extension of an on-sales premises licence; anyone wishing to do off-sales should apply to their Licensing Authority for a variation to their on-sales licence?

Yes – As with other aspects of an On-Sales Operating Schedule, any off-sales component of a Premises Licence should involve an application to vary the Premises Licence being made to the Licensing Authority. This will allow the Responsible Authorities and other Parties the opportunity to make Representations regarding the suitability of the permissions that are sought and to risk assess them in relation to the statutory Licensing Objectives. The Licensing Authority also needs the opportunity to attach any Conditions to the Premises Licence it sees fit in response to the varied trading arrangements.

Additionally, off-license sales increase the time that alcohol is available in the neighbourhood and at home, and relocated alcohol-related problems such as violence, crime and anti-social behaviour. This can make it harder to public health professionals to analyse alcohol-related harms, and can have an impact on local public health prevention measures that are aimed at tackling these harms from occurring in the first place. The IAS therefore also strongly supports including public health as a licensing objective under the Licensing Act 2003.

Q2: Should any such amendment to an on-sales licence be treated initially as a minor variation?

No – the issue of how and when on-licensed premises provide off-sales is not a ‘minor’ issue in terms of the Licensing Objectives. The issue frequently arises in Representations from the Responsible Authorities, particularly in relation to the Evening and Night-Time Economy and in locations where there are issues with ‘street drinking’ supplied by off-sales. Furthermore, as discussed above, amendments to on-sales licenses can significantly impact the patterns of alcohol consumption and harm, with a significant impact on public health.

Q3: Should all variation applications automatically be sent to responsible authorities?

Yes – this is essential as the Responsible Authorities have detailed knowledge of the local crime and health risks environment into which they provide public services.

Q4: Should any such amendment to an on-sales licence always be a major variation?

Yes – because the Responsible Authorities and the wider community need the opportunity to express their views and receive sufficient information to judge their responses, if any. As discussed above, amendments to on-sales licenses can significantly impact the patterns of alcohol consumption and harm, with a significant impact on public health.

Q5: Should all new applications for premises licences specify on-sales and off-sales or should they automatically include both?

On and off-sales listed separately – because on-sales and off-sales have different accompanying health and crime risks. For example, the consumption of off-sales alcohol will usually occur outside of the direct control of the licensed premises and its staff; this means that many of the ‘checks and balances’ inherent in the on-sales environment are removed. Off-sales thereby relocate alcohol-related problems and harms to homes and other places in the neighbourhood. This renders alcohol-related harm more invisible and less manageable, and thus has different implications on public health analysis and intervention. Therefore, new applications for premises licences should specify on-sales and off-sales to inform the decision-making processes.

Q6: If a premises licence holder also holds a pavement licence for the same venue, should the area covered by the pavement licence be automatically deemed to be included in the area covered by the premises licence?

Yes – As long as the ‘pavement licence’ covers a defined area on a Plan within the Operating Schedule. This may bring part of the public realm under the supervision of the premises when it is used by those premises for the sale, service and consumption of alcohol. As the supervision of drinking occasions is so important, particularly around issues of crime and vulnerability management, this is likely to promote the Licensing Objectives in most instances.

Q7: Do you agree that the regulatory easement should be made permanent, meaning that any on-sales premises licence holder is automatically able to do off- sales without any need to amend their licence?

No – this would undermine the Licensing Objectives, operate contrary to s182 Guidance and undermine local Statements of Licensing Policy developed through local data gathering and local consultation. The core basis of licensing adjudication – as set out in the Guidance and in Case Law, is that each case should be treated on its merits.

Q8: If you answered yes to Q7, should it apply to off-sales, take-away or both?

Not applicable.

Q9: Are you aware of any change in the level of crime and / or anti-social behaviour as a result of the off-sales easement?

No – IAS are not aware that this particular intervention has been evaluated. Evaluation would provide an improved evidence base. Nonetheless, the Responsible Authorities and Interested Parties in licensing Hearings often present evidence of off-sales being a contributory factor in crime and anti-social behaviour. This will often have formed part of the evidence reviews for local Statements of Licensing Policy. Local Policy Statements developed in support of the Licensing Objectives are likely to be undermined by a national broad-brush approach involving ‘easement’ for businesses to provide off-sales in all social contexts.

Please give reasons for any of your answers to the above questions about off-sales.

The consumption of alcoholic drinks consumed as off-sales occurs in relatively un-supervised public and private settings. In certain contexts, such as the Evening and Night-Time Economy where patrons may linger on the streets after leaving on-licensed premises and move on to public transport or journeys on foot and / or where there is a presence of 'street drinking' amongst persons who have alcohol dependence problems, the widescale availability of off-sales is likely to have a negative impact on the Licensing Objectives and impact the work load of public services. One important aspect may be the unsafe use and disposal of glass containers which can be used as weapons or present public safety risks when dropped and smashed on pavements.

Temporary Event Notices (TENs)

Q10: Do you agree that when the regulatory easement ends on 31 December 2023, the annual allowance should return to the level set out in the Licensing Act which is 15 TENs per year?

Yes – This allows Licensed Premises the opportunity to promote 'events' approximately once a month as a streamlined process that requires only minimal 'paperwork' and does not place undue pressure upon police licensing staff who will check and authorise the 15 events.

Q11: Should the annual allowance set out in the Business and Planning Act be extended for a further 12 months to 31 December 2024?

No – Since 2021, the on-licensed trade has seen its footfall increase and customers willing to return post-pandemic. There is no longer an argument in 2023 that businesses need the extra 'support' of this measure to survive and therefore the Licensing Objectives should again take precedence.

Q12: Do you agree that when the regulatory easement ends on 31 December 2023, the annual allowance of 20 TENs should permanently remain at the level set out in the Business and Planning Act 2020?

No – Businesses making full use of their TENs allowance would be essentially trading repeatedly to later hours, sometimes much later hours. This state of affairs sidesteps the usual process of applying to vary their hours in order to obtain a permanent extension of hours supported by an appropriate set of Conditions and agreed management practices on their Premises Licence. Given that late-night trading presents greater challenges, widespread extensions of hours require proper consideration by the Licensing Authority. There is also greater pressure upon the staff resources of police licensing required to check and approve the increased number of TENs.

Q13: Do you agree that when the regulatory easement ends on 31 December 2023, the annual allowance of 26 days should permanently remain at the level set out in the Business and Planning Act 2020?

No – As Q12, businesses making full use of their TENs allowance would be essentially trading repeatedly to later hours, sometimes much later hours. This state of affairs sidesteps the usual process of applying to vary their hours in order to obtain a permanent extension of hours supported by an appropriate set of Conditions and agreed management practices on their Premises Licence. Given that late-night trading presents greater challenges, widespread extensions of hours require proper consideration by the Licensing Authority. There is also greater pressure upon the staff resources of police licensing required to check and approve the increased number of TENs.

Q14: Are you aware of any change in the level of crime and / or anti-social behaviour as a result of the TENs regulatory easement?

No – As far as IAS are aware this has not been subject to evaluation. The case that late-night trading generally presents greater risks of crime and / or anti-social behaviour than earlier closing is well established by empirical evidence. More pertinently, these assumptions are enshrined in the Licensing Act and accompanying guidance, for example one sees the ‘Late Night Levy’ applying only to the post-midnight period and ‘Late Night Refreshment’ licences only required by businesses that trade beyond 11pm.

Please give reasons for any of your answers to the above questions about TENs.

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