



department for
**culture, media
and sport**

EVALUATION OF THE IMPACT OF THE LICENSING ACT 2003

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EVALUATION OF THE IMPACT OF THE LICENSING ACT 2003

Introduction

The Licensing Act 2003 (“the 2003 Act”) made provision for the regulation of the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment and for offences relating to alcohol and connected purposes.¹

The Act brought together eight separate licensing regimes into one and in so doing transferred the regulation of the sale of alcohol from licensing justices and magistrates’ courts to licensing authorities, which are in virtually all cases the local authorities.

The Government undertook to review the implementation and impact of the 2003 Act after it came fully into force on 24 November 2005. The then Secretary of State wrote in the foreword to her Guidance to Licensing Authorities issued in July 2004²:

‘We will monitor the impact of the 2003 Act on crime and disorder and the other licensing objectives. If necessary in the light of these findings, we will introduce further legislation with the consent of Parliament to strengthen or alter any provisions.’

The review comprised a programme of projects that are now complete. This report aims to pull together the overall findings from those projects in relation to the four licensing objectives and wider aims of reform.

The four statutory objectives which must be addressed when licensing functions are undertaken are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

The modernisation of the legislation was also intended to support a number of other key aims and purposes which the Government statutory guidance states should be principle aims for all involved in licensing work:

¹ Regulated entertainment includes the performance of plays; the exhibition of films; indoor sporting events; boxing and wrestling entertainments whether indoors or outside; performances of live music; any playing of recorded music; and performances of dance. It also includes providing facilities for making music and for dancing (for example, where facilities are made available to the public for such purposes). Late night refreshment means the provision of hot food or hot drink to the public between the hours of 11pm and 5am.

² http://www.culture.gov.uk/Reference_library/Publications/archive_2004/guidance_issued_under_section_182_of_the_licensing_act_2003.htm

- the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment;
- the introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet customers' expectations;
- greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
- the encouragement of more family friendly premises where younger children can be free to go with the family;
- the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities; and
- the regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring.

As well as working with stakeholders to look at the implementation of the Act in general, the Government put in place specific projects to focus on key areas of concern that were being raised in the run up to implementation, such as crime and disorder, licence fee levels and the impact on live music. The elements of the evaluation programme were:

- **Home Office evaluation of the impact on levels of crime and disorder** (appendix A)
- **Scrutiny Councils Initiative** summarising the views of ten local authorities on the implementation of the 2003 Act (appendix B)
- **Review of Secretary of State's Statutory Guidance** to licensing authorities
- **DCMS Simplification Plan**, including better regulation proposals to improve the licensing regime and an assessment of the administration costs to licence holders and applicants.
- **Independent Fees Panel Report** on the licensing fees structure and licence fee levels.
- **Live Music Forum Report** including the impact of the 2003 Act on live music.
- **Live Music Research** into the level of live music before and after the 2003 Act and the experience of small venues.
- **National Statistics licensing data bulletin** which collected data on the number of licences issued, the number of licence reviews and the information relation to 2006/07.
- **Work undertaken by CGA Strategy Ltd** showing changes in actual on licensed closing times (appendix C)

This paper reviews the extent to which the aims and objectives of reform have been met by looking at the outcome of the various evaluation projects. Evidence from additional material is included where this provides further insight or illustrates how the new legislation has worked in practice.

SUMMARY OF FINDINGS

This first review of the Licensing Act reveals a mixed picture.

Its introduction has not led to the widespread problems some feared. Overall, crime and alcohol consumption are down. But alcohol-related violence has increased in the early hours of the morning and some communities have seen a rise in disorder.

Our main conclusion is that people are using the freedoms but people are not sufficiently using the considerable powers granted by the Act to tackle problems, and that there is a need to rebalance action towards enforcement and crack down on irresponsible behaviour.

There is clear evidence from a number of evaluation projects and official statistics that the negative forecasts about the impact of the new legislation have not materialised:

- There is no evidence of 24 hour drinking, with only a minority of premises securing 24 hour licences and very few actually utilising those hours. There have been only limited changes to actual opening hours.
- The overall volume of incidents of crime and disorder has remained stable and not risen.
- There is no evidence of increases in overall alcohol consumption.
- There has been no serious adverse impact on the provision of live music.

A number of positive trends have emerged from the introduction of the new regime:

- Transfer of alcohol licensing to local authorities is viewed as a success.
- The alcohol licensing system is more democratically accountable and residents are better able to influence licensing decisions.
- There is much better partnership working between local authorities, the police and other responsible authorities and licensees.
- The new powers, including the ability to review licences, have been welcomed by local authorities and the police, and are being used to good effect.
- The administrative arrangements for the new regime appear to have delivered the administration cost savings to businesses, third sector and other licence holders of around £99m a year.

There are, however, some aspects that require further attention:

- While some areas report improvements in dispersal from licensed premises because flexible opening hours have helped to smooth the peaks of trouble, there is no clear picture of consistent improvements in all areas.
- While there has been a small fall in serious violent crimes, the impact on overall crime levels appears to be limited, with evidence of some displacement into the small hours.
- The use of the new legislation, in conjunction with other interventions and as part of a coherent strategy, may vary between different authorities and areas.
- There has yet to be a discernible change in the diversity of evening and late night venues, although there is some evidence of good practice and success in certain areas.
- While benefits in terms of bureaucracy and red tape have been delivered, some stakeholders are experiencing difficulties, which suggest that the regime could be more proportionate in its application.
- While the impact on live music has been broadly neutral, reform has not led to the increases in events hoped for by Ministers, and the regime may be disproportionate for some types of live music events and other types of events.

The 2003 Licensing Act was a significant change in the way a number of activities were licensed and involved nearly 400 licensing authorities, 200,000 licence holders, responsible authorities and local people in every part of England and Wales. In general, the new licensing system appears to be functioning smoothly and has delivered a number of positive outcomes.

'Whilst acknowledging that it is probably still too early to draw any firm conclusions about the new regime, the feedback we have received from stakeholders that have engaged with us throughout the review process – both local government and fee payers – has been generally positive about the intent of the Act. It seems to us that new licensing systems are working now that they are starting to settle down.'

Report of the Independent Fees Panel, December 2006³

³ http://www.culture.gov.uk/Reference_library/Publications/archive_2007/final_ifrp_report.htm

KEY CONCLUSIONS

The Licensing Act could be used more effectively in some areas, in conjunction with other interventions, as part of a coherent and effective local strategy.

The National Audit Office report, *The Home Office: Reducing the risk of violent crime*⁴ recommended:

'To improve the effectiveness of violence reduction at a local level the Home Office should:

Work with the Department for Culture, Media and Sport to raise awareness amongst Partnerships and the police about how the Licensing Act has been used successfully in some areas to reduce alcohol related violence and ensure that all areas are using the Act to its maximum potential to reduce the risk of violent crime.'

Several studies concluded that the impact of licensing cannot be considered independently of other factors. A report for the Alcohol Education and Research Council (AERC) published⁵ in January 2008 found that:

"Assessing the impact of the Licensing Act 2003 will require time. Furthermore, in the light of other interventions – such as the development of local alcohol policies and strategies and encouragement to mount partnership, multi-agency responses to prevention and harm reduction – it is unlikely that change can be attributed to any one kind of intervention."

Future monitoring should therefore focus on the effectiveness of national and local alcohol strategies, as well as the impact of late night drinking patterns on crime and disorder.

This suggests identifying and disseminating best practice, and that the Government should help partners understand how to use the Act to its maximum potential to tackle alcohol related problems (e.g. tough conditions which can be applied to retailers who are selling irresponsibly).

This effort will be assisted by the new Beacon Council⁶ theme 'Afterdark', to be launched on 4 March 2008 which will identify good practice in the development of a thriving, diverse, accessible and safe night time economy. Programmes such as the roll out of Best Bar None⁷ and the Civic Trust's purple flag initiative⁸ will also be important in the context of encouraging and disseminating best practice and celebrating success.

⁴ http://www.nao.org.uk/publications/nao_reports/07-08/0708241.pdf

⁵ [Implementation of the Licensing Act 2003: A national survey -](http://www.aerc.org.uk/documents/pdf/finalReports/054_LARG_Survey.pdf)
http://www.aerc.org.uk/documents/pdf/finalReports/054_LARG_Survey.pdf

⁶ www.idea.beacons.gov.uk

⁷ <http://www.crimereduction.homeoffice.gov.uk/drugsalcohol/drugsalcohol092.htm>

⁸ <http://www.civictrust.org.uk/evening/index.shtml>

It is recognised that a strength of the new system is the ability of enforcement agencies to resolve issues without the need to go to a formal review. While this is an efficient and effective way to deal with many licensed premises, the number of licence reviews seems disproportionately low compared with, for example, the number of test purchase failures. There may be more scope to encourage further use of the review powers.

The statutory Guidance⁹ produced under section 182 of the Act was revised in 2007 and the changes have been generally well received. No significant issues were raised by stakeholders. However, the emerging message from various projects suggest there is scope for better use and understanding of the legislation and how it can be used to promote the licensing objectives. This may not require significant change to the statutory guidance, but may instead take the form of guidance to enforcement authorities that, in due course, could be drawn together as a supplement to the guidance. Work will also need to be undertaken with Local Authority Coordinators of Regulatory Services (LACORS) and other partners to ensure responsible authorities understand the requirements of the Act. There may also be a need to revise and update guidance to applicants and residents and ensure that the courts are aware of the options available when convicting personal licence holders.

In addition, the DCMS simplification plan¹⁰ has identified the need to make the licensing regime more flexible where there are no threats to the licensing objectives and to look at ways of adjusting the regime to remove unnecessary red tape. The aim is to promote better regulation by making the licensing process easier for low risk activities. This, in turn, will leave resources available to focus on higher risk applications as well as aiming to reduce paperwork for applicants, licensing authorities and responsible authorities, such as the police (for example by making it easier to make electronic applications).

Immediate actions

As a result of this evaluation and other evidence, the Government has agreed a number of immediate actions:

To make it easier to review premises where local intelligence suggests there is a problem;

To encourage the imposition of tougher sanctions on those found to be breaching their licensing conditions;

To change the offence of “persistently selling alcohol to a person under 18” from ‘three strikes’ to ‘two strikes’ in three months;

⁹

http://www.culture.gov.uk/Reference_library/Publications/archive_2007/guidancesection182_licact03june07.htm

¹⁰ http://www.culture.gov.uk/Reference_library/Publications/archive_2007/dcmssp2007.htm

To support the police and local authorities to identify problem hotspots by ranking geographical areas and concentrations of premises on the basis of the risks they present to crime and disorder, public nuisance and children; and

To introduce a new “yellow card and red card” alert system. A yellow card will put the problem premises on immediate probation together with tough and uncompromising sanctions and a red card will lead to withdrawal of the licence.

In addition, the Home Office will bring forward legislation to:

- Increase the maximum fine for anyone not obeying an instruction to stop drinking, or to give up their drink in a designated public place from £500 to £2,500;
- Make it easier for the police to disperse anti-social drinkers;
- Extend the use of Acceptable Behaviour Contracts for young people caught drinking in public; and
- Extending the alcohol arrest referral pilots so that under 18s may also benefit from a brief intervention from a trained worker.

Conclusion

The report published today should not be the end of the monitoring and evaluation of the impact of the 2003 Act. The report published today is not the end of the story. We shall use it better to focus our scrutiny. For example, we shall we will undertake further comprehensive research into post-midnight drinking patterns and their impact on crime and order; and we shall carefully measure progress on tackling sales to minors and the protection of children from harm. Measures to toughen enforcement of the Act are only part of the Government’s comprehensive strategy for combating the problems associated with alcohol. Licensing law will therefore remain an important part of the Government’s National Alcohol Strategy which addresses, among other things, the need for cultural change, improved social responsibility among retailers and the need for earlier interventions with problem and harmful drinkers.

FACTS and FIGURES

According to the DCMS Statistical Bulletin¹¹, as at 31 March 2007, there were 162,100 premises licences and 15,200 club premises certificates in force. In the year from 1 April 2006 – 31 March 2007, over 100,000 Temporary Event Notices were given. There were over a quarter of a million personal licence holders.

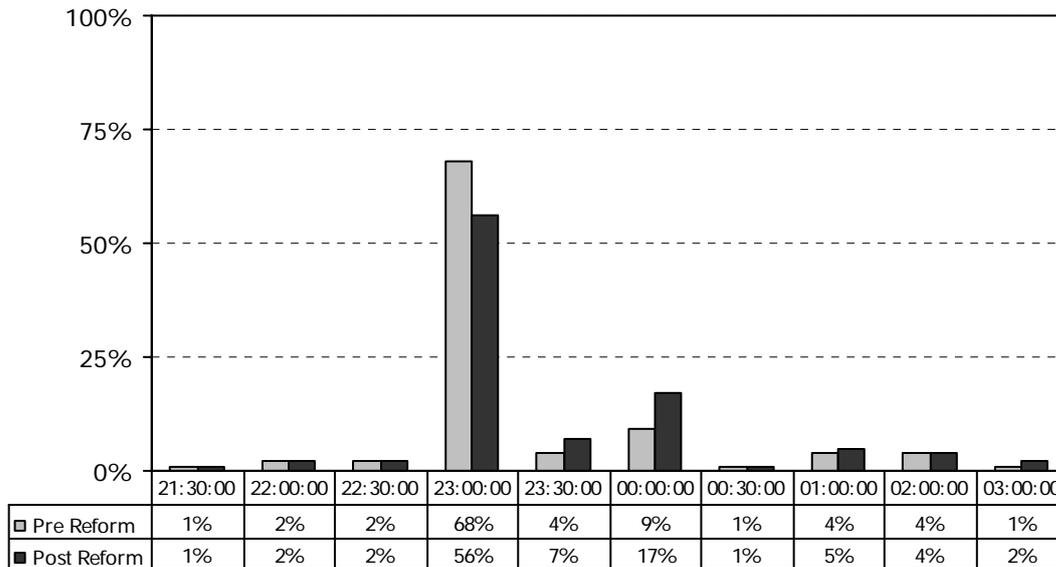
- 123,700 licences and certificates in force were authorised to sell alcohol:
 - 32,900 premises licences were authorised for off-sale of alcohol only.
 - 28,100 licences authorised on-sale of alcohol only, of which 4,900 were club premises certificates (eg political clubs, workingmen's clubs, British Legion etc)
 - 62,700 allowed both on and off sales, of which 7,300 were club premises certificates. [approx. 70% response rate]
- Just over 50,000 premises were licensed for late night refreshment. [72% response]
- 72,600 premises licences and 9,100 club premises certificates were authorised for any form of entertainment. Over 260,000 regulated entertainment activities were authorised; the most common types of which were playing of recorded music and the staging of live music. [This is based on 68% of all LAs]
- 5,100 premises have 24 hour licences.
 - 3,320 of which are hotel bars which have always been able to serve their guests alcohol for 24 hours.
 - 920 are supermarkets and stores. We do not have any data on actual opening times of such premises, although one of the trade bodies representing the off-trade has suggested that one of its largest members reports that 15% of their stores with 24 hour alcohol licences do not actually open their stores for 24 hours. Others choose not to open their alcohol aisles for 24 hours, often following discussions with the police about local issues.
 - 470 pubs, bars and nightclubs have 24 hour licences, but there is no evidence that more than a handful operate on that basis.
- Over 6,600 applications went to a committee hearing in 2006/07. [81% response]

¹¹ http://www.culture.gov.uk/NR/rdonlyres/73BB58AE-AB05-4113-B7AE-0820AB3F4938/0/AlcoholEntertainmentandLateNightRefreshmentLicensingStatisticalBulletin_janupdate.pdf

CGA Strategy Ltd Data (appendix C)

An analysis of closing hours of on-licensed premises

- Database of 44,968 on-licensed premises with data on closing time pre/post-reform (includes pubs, hotels (re. times open to the public), restaurants, nightclubs, social clubs).
- Time recorded by licensee as typical for closure **on Saturday night** - therefore not a dry audit of permitted hours on premises licence but a genuine insight into how new Act being used on ground by operators.
- Overall picture is of evolution not revolution:
 - Average closing times across all on-licensed premises in England and Wales increased by 21 minutes
 - 56% of all premises in survey still closed at 11pm (68% under old regime).
 - 7% closed at 11.30pm (4% under old regime)
 - 17% closed at midnight (9% under old regime)
 - Little change in hours beyond midnight (1% more closing at 1am and 3am)



England & Wales – spread of on-licensed closing times pre & post reform, CGA 2007

This data suggests that there has been a modest change to actual opening hours, with a spreading out of closing times between 11pm and midnight, reducing the 11pm peak.

ENFORCEMENT AND REVIEW POWERS

The licensing objectives are underpinned by the powers to review licences should issues arise that threaten them. This has proven to be one of the strengths of the new system.

Under the old liquor licensing regime, licences were renewed every three years. There was limited scope to intervene in the years in between. At renewal, it was possible for the licensing magistrates to revoke the licence. This was the only option open to them – it was not possible to add conditions to a licence (although non-legally enforceable undertakings could be added).

The 2003 Act brought in a new system under which a responsible authority or an interested party could seek a review at any time a problem occurred. This could then lead to a hearing and, if necessary, the Licensing Authority could take a number of actions. The statistical bulletin¹² suggests that in first full year of monitoring under the Act (April 2006 – March 2007) there were:

- Around 680 reviews
- 91 licences or certificates were suspended
- 92 licences or certificates were revoked or withdrawn
- 110 cases, the operating hours for the licence was modified following the review
- 400 reviews resulted in other conditions were added or modified.

This is based on a 85% response rate from licensing authorities – the number of actual reviews and outcomes is therefore higher.

At the last three year renewal under the old regime in 2004¹³, 354 alcohol licences were revoked, although it is important to note that many of those revocations were simply businesses which had stopped trading. These related only to alcohol licences while the figures under the new regime may also relate to licences for public entertainment and late night refreshment. It is therefore not possible to make direct comparisons between the old and new regimes. However, the data does suggest that review powers are being used and provide a more immediate response to problems in licensed premises and a variety of outcomes. There is also evidence that the review power is acting as a useful deterrent.

While the review process appears more responsive than the old liquor licensing regime, only a small proportion of the 200,000 licences and certificates in force have been reviewed. This may point to the success of the legislation and the ability of enforcement agencies to rectify problems through

¹² http://www.culture.gov.uk/NR/rdonlyres/73BB58AE-AB05-4113-B7AE-0820AB3F4938/0/AlcoholEntertainmentandLateNightRefreshmentLicensingStatisticalBulletin_janupdate.pdf

¹³ DCMS Statistical Bulletin - Liquor Licensing 2004 page 11:
<http://www.culture.gov.uk/NR/rdonlyres/F96FD9EF-C817-4E07-B1A4-6F4D4EA9F2A3/0/7138BLiquorReport.pdf>

discussion and agreement and the preventative nature of the licensing regime.

While this is positive, during the summer 2006 Alcohol Misuse Enforcement Campaign¹⁴ alone, there were over 1,500 test purchase failures. This showed that, while the majority of premises were trading responsibly, there are a considerable minority that are not and that this might be better reflected in the number of reviews and subsequent action taken. In addition, while test purchases appear to be a major driver of identifying premises which need to be reviewed, there may be a need for licensing authorities to be more proactive in identifying problem and high risk premises.

The Rogers Review¹⁵ identified alcohol, entertainment and late night refreshment licensing as a national enforcement priority. Rogers also noted the use of licensing conditions to enforce licensing in order to create safe and stronger communities. Local authorities were asked to incorporate the national enforcement priorities into their service plans and the Local Better Regulation Office would work with national regulators to help local authorities focus on these national priorities.

The Scrutiny Council initiative suggested that joint enforcement initiatives were able to deliver real improvements in the management of the night time economy, particularly in busy town and city centres.

Manchester City Council has established a Licensing Enforcement Project to undertake proactive night-time monitoring and enforcement action against licensed premises. The project contributes to several strategic targets in the Council's Crime and Disorder strategy by ensuring that licensed premises are responsibly managed, and educating managers and staff about the dangers of selling excessive amounts of alcohol to people. It has helped to reduce the levels of extreme drunkenness. It has also carried out undercover surveillance and joint police operations to help prevent young people obtaining alcohol from off licences. The project has managed to resolve 84% of complaints at first visit and licence reviews have been instigated by Trading Standards, Police and Environmental Health usually resulting in hours and conditions being amended on the licence, or licences being revoked.

Bristol City Council is pleased with the partnership working it has developed with the police, particularly outside of the main central Bristol areas where they have always had good relationships. A number of well run trade groups have been established, for example Bristol Harbourside Forum, which has in conjunction with the new laws, helped to reduce crime and disorder in certain hot spots.

¹⁴ <http://press.homeoffice.gov.uk/press-releases/alcohol-industry-underage-sales>

¹⁵ Rogers Review – national enforcement priorities for local authority regulatory services: http://bre.berr.gov.uk/regulation/documents/rogers_review/review2007.pdf

And in Taunton Deane, the Borough Council is working with other agencies to tackle alcohol related crime and disorder through the Somerset Tackling Alcohol Related Crime (STARC) partnership. This joined up approach, which involves the Council, Police, Trading Standards, Community Safety and Crime and Disorder teams, is working well and, for example, promotes local proof of age schemes by providing posters and other support to licensed premises.

LICENSING OBJECTIVES

THE PREVENTION OF CRIME AND DISORDER

Prior to the Licensing Act 2003 coming into force, the Home Office put into place a multi-strand evaluation, focussing largely on the Act's impact on crime and disorder. The main findings are set out in 'The impact of the Licensing Act 2003 on levels of crime and disorder: an evaluation' (appendix A). In relation to crime and disorder these are:

- There are no clear signs yet that the abolition of a standard closing time has significantly reduced problems of crime and disorder and, overall, the volume of incidents of crime and disorder appears unchanged.
- There are signs that crimes involving serious violence may have reduced. but there is also evidence of temporal displacement, in that the small proportion of violent crime occurring in the small hours of the morning has grown.
- Alcohol-related demands on Accident and Emergency (A&E) services appear to have been stable in aggregate, though some individual hospitals have seen increased demand, others a fall.
- Police, local authorities and licensees generally welcomed the changes, the new powers it gave them, and the Act's partnership philosophy. They did not report significant problems with implementation – once teething problems were solved – and did not think generally that alcohol-related problems of crime and disorder had worsened .
- In surveys, local residents were less likely to say that drunk and rowdy behaviour was a problem after the change than before it, and majorities thought that alcohol-related crime was stable or declining.
- The main conclusion to be drawn from the evaluation is that licensing regimes may be one factor in effecting change to the country's drinking culture – and its impact on crime – but they do not appear to be the critical factor. The key issue is how they interact with other factors.

The last point is supported by work by the University of Westminster¹⁶ which looked at the views of national operators and representatives from the police and licensed industry. They found that many operators thought longer hours had allowed customers to leave when they were ready and reduced the rush for late-night transport, others disputed this and felt drinking hours had merely shifted to one or two hours later. The authors thought that the variation in opinion may have reflected local circumstances and that the impact of 'staggered' hours was complex and depended on other measures which had

¹⁶ Expecting 'Great Things'? The Impact of the Licensing Act 2003 on Democratic Involvement, Dispersal and Drinking Cultures – University of Westminster for the Institute of Alcohol Studies: <http://www.ias.org.uk/cci/cci-0707.pdf>

been put in place, as well as issues such as transport and traffic management.

The main findings from the Home Office's national evaluation are also supported by findings from two smaller scale assessments which were conducted by Home Office researchers in the East of England and Yorkshire and Humber regions¹⁷

The majority of respondents to the Home Office survey in five case study areas who had visited the city or town centre in the last 12 months and been into pubs, bars and clubs agreed that rapid drinking close to last orders had decreased since the introduction of the Licensing Act.

The Home Office evaluation also indicated that, while the impact on crime and disorder has so far been broadly neutral, 13 out of 27 police licensing officers felt that the Act had improved crime and disorder, a similar number felt it had been mixed or made no difference, and only one felt it had got worse.

This is consistent with the findings of the recent National Audit Office report on the effectiveness of violent crime reduction at local level found that 46 per cent of Crime and Disorder Reduction Partnerships found the Licensing Act either effective or very effective in reducing violent crime, whereas 41 per cent reported that it was neither effective nor ineffective, and 13 per cent considered it to be either ineffective or very ineffective.

The NAO report suggested that:

'The Licensing Act 2003 could be used more effectively'

*'The extent to which Crime and Disorder Reduction Partnerships were using the Licensing Act to assert more control over their drinking establishments varied between our different case study areas..... some were taking a more systematic approach than others to collecting data on incidents of violent crime in and around licensed properties and using this to review the conditions of the licences'*¹⁸

The Scrutiny Councils, which DCMS set up to look at the initial impact of the Act, found early evidence that the new closure and review powers were being used to turn around problem premises and tackle serious problems of crime and disorder.

The latest evidence from Scrutiny Councils confirmed that licensing officers were continuing to use a range of approaches based on the new licensing laws and better partnership working to address alcohol related violence and disorder and prevent the sale of alcohol to children:

¹⁷ Pike, S., O'Shea, J., Tyrrell, P. and Lovbakke, J. (2008) Early experiences of the Licensing Act 2003 in the East of England and Yorkshire and Humber regions. Home Office Research Report 05. London: Home Office

¹⁸ http://www.nao.org.uk/publications/nao_reports/07-08/0708241.pdf

The London Borough of Havering successfully used the review process to impose numerous conditions on a problem premises. As a result the premises was turned around and subsequently won the 'best night club venue' local night time award, with a judging panel including the police and a licensing officer.

In Cardiff serious problems of rogue premises are being resolved through active risk assessment and management by South Wales Police. For example, one premises had failed to work with the police to resolve serious issues of crime and disorder which were causing local residents serious problems. The police used their powers to review the licence and the Council's licensing committee took account of representations from local residents and ward councillors in deciding to suspend the licence and remove the designated premises supervisor, who was also the licence holder. The licence holder subsequently gave up the lease of the premises and the new licensee worked with the local community and volunteered conditions requested by local residents. The re-opened premises has now become an asset to the community.

The Scrutiny Council initiative¹⁹ also noted the benefit of the new licensing regime applying to premises selling hot food after 11pm:

'In Blackpool town centre, for instance, takeaways with licences to operate in the early hours have had conditions attached which require them to have door supervisors and, in some cases, to have CCTV fitted. This would not have been possible previously because takeaways outside London only became licensable when the 2003 Act came into force. The introduction of door supervisors at these premises is having a beneficial effect on the town centre.'

The evidence suggests that the predictions of increases in crime and disorder that accompanied the Act's implementation have not been borne out. There are some signs of positive benefits from the new legislation, with those who are involved in its operation generally positive about the new regime.

However, despite some positive reports from some areas, there is no consistent evidence of a positive impact. While there are signs that crimes involving serious violence may have reduced, there is also evidence of a shift in the small proportion of violent crime occurring in the small hours of the morning. This is not entirely out of step with the predictions made prior to the Act coming into effect. The Regulatory Impact Assessment which accompanied the Licensing Bill suggested in relation to public order incidents that:

*'Although the number of such incidents should be fewer, they could be expected to occur later and be more evenly spread throughout the night.'*²⁰

In both the Home Office survey of police licensing officers and the NAO study, nearly half of respondents were positive about the effectiveness of the

¹⁹ <http://www.culture.gov.uk/NR/rdonlyres/7B38C8E6-53D3-42BA-A5B9-7DEF07CB7492/0/ScrutinyCouncilFinalreport0706.pdf>

²⁰ http://www.culture.gov.uk/Reference_library/Publications/archive_2003/licensing_bill.htm

Licensing Act in tackling crime and disorder and a much smaller minority were negative. Several areas have also reported significant improvements in alcohol related disorder in their town and city centres. This suggests there is currently no evidence for fundamental change to the Licensing Act in relation to crime and disorder. However, it seems clear that the Act has had much less impact in some areas and there may be scope to better use the legislation, alongside other interventions, as part of a strategic approach. There may also be lessons to be learnt about how best to use the powers under the Act.

It will also be necessary to continue to monitor the impact of the 2003 Act, alongside other interventions, in addressing the continuing problems of alcohol related crime and disorder.

THE PROTECTION OF CHILDREN FROM HARM

Most activity around licensing in relation to the protection of children from harm relates to preventing the illegal sale of alcohol to under 18s; regulating the access to licensed premises by children; and preventing the consumption of alcohol by children on licensed premises.

The 2003 Act substantially changed the access to alcohol by children under 18 previously permitted under the Licensing Act 1964. Since 24 November 2005, it has been for the first time illegal for the following to sell or supply alcohol to under 18 year olds:

- over 16,000 members' clubs;
- some 700 boats operating on rivers and along the coast;
- trains.

In addition, since 24 November 2005, it has also been illegal for the following to permit consumption of alcohol by children as young as five years old on their premises:²¹

- around 24,000 restaurants; and
- more than 50,000 public houses in areas away from the "bar" area, such as pub gardens and family rooms.

Since the 2003 Act came into force, it has also been possible for the first time for licences to contain conditions to restrict or exclude the presence of children from licensed premises where it is considered necessary to protect them from harm. The presence of children as young as 14 in bar areas or in nightclubs at 2am can now be effectively guarded against.

The various enforcement campaigns undertaken by police and trading standards officers since 2005 have utilised new powers and offences in the Act, particularly through test purchasing campaigns and the review of licences of premises found selling to children.

Home Office data indicates improvements in test purchase failure rates. The results of the most recent campaign²² show that the test purchase rate had fallen to 14.7 per cent – an improvement from the overall 20 per cent failure rate in the pilot campaign in autumn 2006. It should be noted that these figures are not directly comparable as they relate to different campaigns in different areas. In particular, the last campaign was specifically aimed at utilising the new powers against those found persistently selling to children and therefore the tests cover a number of repeat visits.

²¹ There is one exception to these legal constraints. Children aged 16/17 may consume beer, cider or wine bought for them by an accompanying adult when taking a table meal.

²² Summer 2007 Tackling Underage Sales Campaign (TUSAC) results
<http://press.homeoffice.gov.uk/press-releases/underage-sales-down>

The initial failure rate was a disappointing 40%, reducing to 8% for second failures, although it has to be borne in mind that this was a highly targeted campaign aimed at those who were considered to be the worst offenders.

The campaigns have been used to identify those premises whose licences should be reviewed. While review may happen for several reasons, including a test purchase failure, there are many good examples of how the review process under the Act is being used to tackle underage sales and these have been publicised in local and national media. For example:

In November 2007, a Supermarket in Bexley was banned from selling alcohol for three months following the sale of alcohol to a 16-year-old test purchaser, and reports from the mother of a 13-year-old girl who had been found drunk in the nearby town centre.

The Chairman of the Council's Licensing Committee said:

"The Licensing Act has firmly placed responsibility for enforcement with local councils and has given them the tools to make a difference in their local communities. I urge all local authorities to make full use of the powers available to them, and not to hesitate to impose tough restrictions to promote the licensing objectives."

The Borough Commander for Bexley Police commented:

"This is another in a long line of successes for the collaborative working that has been such a key feature of the work here in Bexley, especially since November 2005, when the new licensing regime came into effect"²³.

Within months of the Licensing Act coming into force, a hotel with a public bar in Waterfoot, Lancashire, was banned by Rossendale Borough Council from holding functions for under-25s (such as 21st and 18th birthdays) for three months following instances of disorder and under age drinking. The pub has also had its opening hours reduced by about two hours; litter must be cleared from the outside every morning and the beer garden must be empty by 9.30pm. The package of conditions, which follow a police request for a review, were referred to as 'a last chance saloon attempt'.²⁴

Following a test purchase failure, a supermarket in Worthing was banned from selling any alcohol for 28 days. Worthing Magistrates in June 2007 upheld the previous decision of the Borough Council's Licensing Committee, which the supermarket's owners had challenged at appeal and lost.²⁵

²³ London Borough of Bexley press release: Tesco Express Counts The Cost
<http://www.bexley.gov.uk/news/2007/11/1501.html>

²⁴ *Morning Advertiser* report March 2006:

http://www.morningadvertiser.co.uk/news_detail.aspx?articleid=15076

²⁵ <http://news.bbc.co.uk/1/hi/england/sussex/6248722.stm>

A grocery store in Peterborough had its off-licence suspended for three months in summer 2007 by Peterborough City Council's licensing sub-committee after the owner failed to introduce a training programme to prevent sales of alcohol to under-age youngsters after previously failing a test purchase. The store owner also had his 'designated premises supervisor' authority removed. This means a new designated premises supervisor will need to be appointed before the store can recommence selling alcohol²⁶.

A Coventry supermarket was been banned from selling alcohol after complaints from local residents about the trouble it generated. A total of 58 incidents of antisocial behaviour had been reported to West Midlands Police in connection with a small format supermarket. They were also told the store had been caught selling alcohol to 15-year-olds on three separate occasions. Magistrates upheld a decision by Coventry City Council to revoke the supermarket's licence to sell alcohol and ordered it to pay £1,000 costs. Magistrates said they had taken into account the prevention of crime and disorder and protecting children from harm before making their decision.

The Government set out new ambitions on young people and alcohol in Safe Sensible Social, which was published last year. In particular to:

- delay the onset of regular drinking, primarily by changing the attitudes of 11-15 year-olds and their parents about alcohol;
- reduce harm to young people who have already started drinking; and
- create a culture in which young people feel that they can have fun without needing to drink.

We will build on this through the Youth Alcohol Action Plan (YAAP), which will be published later this year. The YAAP will look specifically at what more might be done to reduce young people's drinking, by:

- exploring how we can place alcohol further from the reach of young people by tackling low price sales of alcohol;
- exploring what more we could do to deter young people from attempting to buy alcohol and, if they do, how we can intensify confiscation efforts;
- in the context of the existing review of alcohol price, promotion and harm, considering the case for further action to protect children and young people from alcohol advertising;
- exploring how we might prevent young people drinking alcohol in public places where they are unsupervised, as we know that the risk of harm increases in these circumstances;
- working with our partners to strengthen our evidence base on young people and alcohol.

Other protection of children from harm issues in relation to licensing include restriction on the presence of children during adult entertainment or gambling

²⁶ <http://www.peterborough.gov.uk/page-11702>

on a premises, or the need for additional attendants for safety reasons at a theatre or cinema where the audience has a large proportion of children. The 2003 Act also requires cinemas to apply an appropriate film classification system. Protection issues are also covered by other legislation and restrictions, such as that relating to performances by children in plays and in films, or the employment of school age children working in the hospitality industry. Licensing under the 2003 Act should not duplicate other legislation, but the Secretary of State's guidance gives examples of where licensing arrangements might complement other regulations.

The review of the Secretary of State's Guidance to Licensing Authorities included proposed changes to clarify the sections relating to the protection of children from harm. No significant issues were reported in relation to this licensing objective as part of the Guidance consultation.

A concern at implementation stage was about the appropriate body for licensing authorities to identify as the responsible authority for protection of children from harm issues. In many authority areas, the local authority children's services team or the independent Local Safeguarding Children Board (LSCB) were identified as possible appropriate authorities, but concerns were expressed about the expectations this would place on such bodies, given their particular remits and roles.

Whilst LSCBs are not, in general, operational bodies, or ones which deliver services direct to children, young people and their families, they may if it is agreed locally be the 'Responsible Authority' for matters relating to the protection of children from harm under the Licensing Act 2003. In those circumstances, they should be notified of all licence variations and new applications for the sale and supply of alcohol and public entertainment. (*Working Together to Safeguard Children*, 2006, para 3.37)²⁷

LACORs recently conducted an informal consultation with licensing officers about their engagement with protection of children agencies in relation to licensing. Around 70% of those who responded suggested they have had no or minimal contact with these agencies while 30% are interacting well with their child protection organisations which submit representations, attend meetings and support review applications. This was not to say that such agencies did not have a role, particularly in relation to licensing policies and possibly in relation to reviews.

In some areas, it was felt that the police and trading standards were more appropriate to take the initial lead in relation to the protection of children licensing issues. In addition, outside of unitary local areas, child protection tends to be organised at a county level, which means having to liaise with several districts.

²⁷ http://www.everychildmatters.gov.uk/_files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf

The LACORS consultation results do not imply the current position represents a risk to the protection of children objective but, as one responded to the LACORS invitation for views suggested:

'Whilst this would indicate that there haven't been major issues requiring a strong input from the Safeguarding Children Board, protecting children from harm remains an important consideration for licensing. Therefore there is a strong argument for the Safeguarding Children Board to retain the ability to influence policy, to make representations or to review licences if required. However, there could be scope to revise the requirements for copies of all applications to be sent by the applicant, and for further guidance to be issued focusing on the relationship and responsibilities between licensing, child protection agency, police and trading standards.'

This suggests that further work may be needed to look at the different approaches to the protection of children objective and responsible authority role.

THE PREVENTION OF PUBLIC NUISANCE

Research conducted for DCMS by Ipsos-MORI into the experience of smaller establishments in applying for live music authorisation (December 2006)²⁸ found that 68% of representations relating to live music applications related to noise levels of live music while 33% mentioned noise from customers. The Live Music Forum questioned whether live music really is a source of noise problems and considered that conditions imposed to promote the prevention of public nuisance objective were at times disproportionate and unnecessary, particularly in the light of the existence of other legislation to tackle noise nuisance.

In the Department's engagement with local authorities and residents' groups, concern has been expressed about the possible impact on public nuisance from customers gathering outside of premises because of smoke free legislation, although no firm evidence has yet been produced. In responding to issues raised during consultation, the recent revision of the statutory guidance to licensing authorities clarified how licensing can be used in relation to areas directly outside a licensed premises.

The Home Office study on the impact of the new legislation on levels of crime and disorder suggested that, in surveys, local residents were less likely to say that drunk and rowdy behaviour was a problem after the change than before it, and a majority thought that alcohol-related crime was stable or declining.

The issue of noise continues to generate concerns for both licence holders and interested parties, and is controlled by a variety of regulatory mechanisms. The Live Music Forum (LMF) was concerned about the dynamic between the various pieces of legislation and the possibly that contradictory aims and approaches were being taken by different agencies (LMF report page 58 & 59)²⁹

'Ministers should give further consideration as to how best to ensure that all relevant Government Departments and other agencies are fully participating in key policy objectives, and that all internal and external communications and guidance share any common priorities.' (LMF recommendation xii, page 59 LMF report)

The Government's proposals for the Local Better Regulation Office (LBRO)³⁰ may provide an opportunity to look at this issue and DCMS will have early discussions with the LBRO about its role in relation to licensing issues.

²⁸ http://www.culture.gov.uk/Reference_library/rands/research/lmf_inew_licensingact03.htm

²⁹ http://www.culture.gov.uk/Reference_library/Publications/archive_2007/lmf_findings_recommendations.htm

³⁰ <http://www.berr.gov.uk/bre/inspection-enforcement/implementing-principles/sanctions-bills/page44047.html>

More generally, a national survey of licensing authorities by Middlesex University³¹ (for the AERC) suggested that those surveyed thought that the effect of the Licensing Act 2003 had been largely neutral. There had been little change in noise levels, alcohol related violence/fights, drink driving, alcohol-related crime and under-age drinking.

The evidence collected by the University of Westminster for its July 2007 report on the impact of the Licensing Act³² found that:

“ ‘democratisation’ has been a success. Whether it was minimising obtrusive music, cutting irresponsible promotions, or forging better relations with the police or council, the majority of those interviewed felt the Act had generated a more accountable industry. Particularly in terms of residents, the operators felt that neighbours now had a greater role to play in the entire licensing process, be that in terms of the initial applications, to ensuring compliance with licensing conditions.”

³¹ http://www.aerc.org.uk/documents/pdf/finalReports/054_LARG_Survey.pdf

³² <http://www.ias.org.uk/cci/cci-0707.pdf>

PUBLIC SAFETY

An important change occurred with the introduction of the Regulatory Reform (Fire Safety) Order 2005 which³³ came into effect in October 2006. This stated firmly that requirements which could be required under the Order should not be replicated in licence conditions. There was initially some confusion about what this meant for licence applications, particularly as fire authority concerns had often been a significant driver of the public safety considerations in relation to licence applications.

DCMS and CLG considered this point in the review of statutory guidance and have sought to clarify the matter. Nevertheless, queries still arise and the Live Music Forum was particularly concerned that there was still duplication between the regimes. DCMS is committed to keeping this issue under review, not only to ensure that unnecessary requirements are not imposed on licensees, but also to ensure that there is clarity about these important responsibilities.

Drink driving

There is no evidence linking the Licensing Act 2003 with incidences of road traffic accidents involving drunk drivers. Provisional figures from Road Casualties Great Britain 2006 suggest that there was a decrease of around 1,000 casualties from drink drive accidents in the first full year following the implementation of the Act³⁴

The Home Office evaluation into the impact of the Licensing Act on level of crime and disorder report also referred to provisional Road Casualties Great Britain 2006 figures which showed a 4% fall from 2005 in the number of people killed or seriously injured in personal injury road accidents involving drink-driving. The number of deaths resulting from such accidents fell from 550 to 540 – a fall of 2%. The number of slight injuries arising from drink-drive accidents fell by 7%. It concluded that, while it was impossible to say whether these reductions can be attributed in any way to the Licensing Act, the statistics constituted *prima facie* evidence that the changes have not caused a significant increase in such accidents.

³³ <http://www.opsi.gov.uk/si/si2005/20051541.htm>

³⁴ <http://www.dft.gov.uk/162259/162469/221412/221549/227755/rcgb2006v1.pdf>

OTHER AIMS

PUBLIC HEALTH

Public Health is not a licensing objective under the 2003 Act. However, it is a priority for Government to tackle alcohol related public health harms and it is addressing these issues through action under the Alcohol Harm Reduction Strategy, which was developed in parallel with licensing reform policies and was published in March 2004. The Strategy has since been further developed and a renewed strategy, *Safe. Sensible. Social. – the next steps in the National Alcohol Strategy* which was published on 5 June 2007.

This is a comprehensive strategy to tackle the harms from excessive alcohol consumption. Its aims are:

- to focus future action on reducing the types of harm that are of most concern to the public
- to reduce both crime and ill health caused by alcohol
- to increase the public's awareness of the risks associated with excessive consumption and how to get help

and, overall, to:

- increase the number of people drinking within the Government's sensible drinking guidelines
- reduce the number of men who are drinking more than 50 units a week and the number of women who are drinking more than 35 units i.e. more than twice the sensible daily drinking guidelines - on a regular basis
- reduce the number of under-18s who drink and the amount of alcohol they consume
- ensure the laws and licensing powers we have introduced to tackle alcohol-fuelled crime and disorder, to protect young people and bear down on irresponsibly managed premises, are being used effectively
- shape an environment which actively encourages sensible drinking. This will be delivered:
 - through partnership working,
 - by ensuring existing laws and powers are being used effectively, and
 - by reviewing the effectiveness of existing powers in areas such as promotion and pricing

The Government undertook in *Safe. Sensible. Social.* to commission an independent review of the relationship between alcohol price, promotion and harm. The review will cover advertising, price discounting and its promotion, and links between these and harms to young drinkers and other groups. It will take account of the study recently published by Ofcom and the Advertising Standards Authority on the impact of the stricter controls on alcohol advertising introduced in 2005. The independent review is expected to report findings in August 2008.

While public health is not a formal objective of the Act, Ministers recognised concerns about how licensing reform might impact on public health and committed to monitoring any emerging health impacts of the 2003 Act.

Ministers do wish to see licensing laws as contributing to the overall strategy to reduce of harm from alcohol. The revised guidance to licensing authorities suggests that they should ensure their licensing policies complement the relevant national alcohol strategies for England or for Wales and subsequent measures, where these may help to promote one or more of the licensing objectives.³⁵

The emerging evidence to date suggests that licensing reform has not been accompanied by an increase in alcohol consumption. The General Household Survey (GHS), which includes self-report data on alcohol consumption, indicates a fall of 6% in the average number of units of alcohol consumed per week between 2005 and 2006. It also suggests that the proportions of men and women drinking (respectively) more than 21 and 14 units a week on average have continued to fall. The report notes that recent extensive publicity about the dangers of drinking, and in particular binge drinking, may have led some people to moderate their behaviour, but might equally have made others less inclined to admit to how much they have drunk.

Data from Her Majesty's Revenue and Customs (HMRC), based on actual excise duty returns, suggests that, while the GHS may be overestimating the fall in consumption, there is nevertheless evidence of a decrease. Indications from HMRC data are of a 2% fall in 2005 and 3.3% fall in 2006.

As with the fall in alcohol consumption in the years following the liberalisation of daytime licensing hours in the late 1980s, it would be wrong to suggest that such falls were simply due to the removal of fixed opening hours - or to yet draw conclusions about the long term trend, regardless of changes in licensing laws. The factors driving consumption are complex and will vary for different groups, hence the Government's focus on targeted action through the alcohol strategy to tackle harmful consumption.

In relation to admissions to accident and emergency departments, the Violence and Society Research Group at the University of Cardiff collected data on violence-related attendances at 33 Accident and Emergency departments in 2006. This used the time of the incident as a proxy indicator of alcohol related crime. The Group has used the same approach over time which allows an analysis of trends since 2000. It found that in 2006, 6,000 fewer people sought treatment in A&E departments for violence related injury – a fall of 2% since 2005. This continues a downward trend observed over previous years but at a slower rate since 2000. The researchers concluded that: 'These findings are not consistent with the hypothesis that implementation

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http://www.culture.gov.uk/what_we_do/Alcohol_entertainment/advice_and_guidance/licensing_authorities_and_police.htm

of the 2003 Licensing Act in November 2005 would increase violence in England and Wales.³⁶

As the Cardiff work covers 33 A&E Departments, it arguably provides more robust data than evidence from smaller studies from individual areas. Nevertheless, smaller studies are useful and serve to show that A&E attendance for assault and/or alcohol related issues do vary at a regional and local level. The variation may be due to a number of factors, including the design of the research, seasonality, recording policies and practices and different local night time economy policies and practices.

A study by the United Bristol Healthcare Trust for the Alcohol Education and Research Council looked at the experience of the Emergency Departments covering the city centre and waterfront areas of Bristol from Sept 2005 for an initial period of four months (spanning the change in licensing laws). This observed:

'no increase in incidents after the change was enacted, and similarly the police have recorded no increase in crime or disorder. Although it is still early days, and drinking habits may take time to change, it is encouraging to note that the widely predicted catastrophe has not yet come to pass. In the ED we have observed a gradual extension of the time period during which the most heavily intoxicated persons present, now reaching as far as the middle morning, but no increase in overall numbers. It seems likely that the legislative intention, to avoid a concentration of intoxicated individuals spilling onto the streets and competing for limited services (principally taxis and fast food outlets) at a specific closing time may have been realised, however it will be important to look at the year-round figures and long-term health effects.'

A one-off study relating to one local area, St Thomas' hospital in central London found an increase in overnight alcohol-related attendances at their A&E department. In March 2005, just under 3% (79) of overnight A&E visits were alcohol-related – this had risen to 8% in March 2006. The number of alcohol-related assaults increased from 27 to 62, and alcohol-related hospital admission via A&E increased from 24 to 61.

The London Ambulance Service reported a 2% increase in alcohol-related call-outs in the first ten months following licensing reform, but with a larger increase of 10% in the subsequent ten months.

Studies undertaken by John Moore's University Liverpool found that A&E attendances in relation to assault cases presenting at Arrowe Park A&E on the Wirral had fallen by 15% and attributed this fall to a combination of licensing changes and better policing and enforcement.

³⁶ Sivarajasingam et al (2007)

http://www.cf.ac.uk/dentl/resources/Trends_violence_England_Wales_2006.pdf

Alcohol-related illness or injury accounts for 221,325 hospital admissions per year (2006/7 data). While this figure has risen consistently over recent years, the increases predate the change in licensing laws (November 2005) by several years. It is too early to detect any changes in longer term health trends and alcohol related deaths.

THE NECESSARY PROTECTION OF LOCAL RESIDENTS

A key aim of licensing legislation was to improve local accountability for licensing decisions and make the licensing system more accessible to local residents. This was a key reason for transferring alcohol licensing from the courts to local government.

“It is also difficult to find in the present arrangements for licensing the sale of alcohol any real accountability to local residents whose lives are fundamentally affected by the decisions taken. The time has come to develop a better system”.

Foreword to ‘Time for Reform: Proposals for the Modernisation of our Licensing Laws’ by Rt Hon Jack Straw MP, then Home Secretary, April 2000.

The Scrutiny Councils’ report found that an early benefit of the regime was better engagement of residents in the licensing process:

‘Residents are much more aware of what they can do to resolve problems at a premises and licensees are much more aware of their responsibilities’.

The recent update of the Scrutiny Council’s report suggests that this trend is continuing. It included some examples of the licensing regime being used to tackle residents’ concerns:

In Manchester, Trading Standards officers applied for reviews of two off-licences situated a few doors apart from each other on a busy road in a residential area, following a high number of complaints from local residents, the police and local councillors about sales of alcohol to children. Some local residents said they were too frightened to go near these shops at night due to the large groups of young people congregating outside them. Following a hearing, the licensing sub-committee decided that the licences for each shop should be revoked. Feedback from residents is that the problems they were experiencing previously have been much reduced and the Trading Standards Service is no longer receiving complaints.

Residents in Nottingham were concerned about the level of crime and disorder and public nuisance caused by customers of a premises with a 24 hour off-licence. They submitted an application for review via a local ward councillor and as a result, the licence was amended to reduce the hours that alcohol could be supplied from 24 hours to 6am – 11pm.

A report by the Central Cities Institute of the University of Westminster³⁷ found that, ‘while the impacts of the Licensing Act 2003 on diversity of venues and dispersal has been limited, it has provided benefits in terms of local accountability’

³⁷ <http://www.ias.org.uk/cci/cci-0707.pdf>

The researchers also suggested that: 'the changes in licensing had had a generally positive effect on community relations in the areas examined, with residents and local councillors alike feeling that they had more of a say in the process of granting and challenging licensing decisions.'

The Home Office report on the impact of the Act on levels of crime and disorder found that in three of the five case study areas there was a statistically significant fall since the introduction of the new regime in the proportion of residents who felt drunk and rowdy behaviour was a fairly or very big problem.

THE FURTHER DEVELOPMENT WITHIN COMMUNITIES OF OUR RICH CULTURE OF LIVE MUSIC, DANCING AND THEATRE, BOTH IN RURAL AREAS AND IN OUR TOWNS AND CITIES

The Live Music Forum was set up by the Government in January 2004 and tasked to ensure as many venues as possible took advantage of the opportunities presented by the 2003 Licensing Act, to monitor the Act's impact on live music, to promote live music generally, and make recommendations to Government on how it might further bolster live music provision. The Forum's findings and recommendations were published on 4 July 2007³⁸. The Forum found that:

- Some of the predicted benefits of Licensing reform, such as abolishing the need for annual renewal and consistency over fee levels, have been delivered .
- There was no evidence of a serious detrimental effect on overall live music provision, as some had predicted, but neither has the legislation led to the increase in live music provision Ministers had hoped.
- The majority of local authorities had been fair and reasonable in their licensing decisions and most of the scare stories investigated by the Forum had proved unfounded.
- However, a minority of authorities had been acting unreasonably and against the spirit of the legislation and the Secretary of State's guidance.
- The Forum believed licensing was not appropriate, proportionate or necessary for non-amplified performances of live music or those with audiences under 100 people.

Ministers responded on 17 December 2007³⁹. The work of the Forum was supported by research into the provision of live music in 'secondary' venues (i.e. those that do not put on live music as their core activity, such as pubs, restaurants and nightclubs) before and after the Act came into force and the experience of small venues in dealing with the legislation.

The research into the provision of live music suggested that such provision had declined by 5%. However, the report stated that the Act was not a main reason for the decline, but that decisions on staging live music were driven primarily by commercial considerations, such as customer demand, cost-efficiency and fit with the nature of the business, as well as by practical

³⁸ Live Music Forum – Findings and Recommendations
http://www.culture.gov.uk/Reference_library/Publications/archive_2007/lmf_findings_recommendations.htm

³⁹
http://www.culture.gov.uk/Reference_library/Publications/archive_2007/govtresponse_lmffindings.htm

considerations, in particular the suitability of the venue for staging live music. These reasons had not changed since before the 2003 Act came into force.

In relation to rural areas, there have been particular concerns expressed by village and community halls about the new regime. Many are reluctant to secure premises licences which allow the sale of alcohol and instead try to accommodate activities through use of Temporary Event Notices (TENs). However, the limitations on the duration and number of such Notices at a premises (because of their light touch regime) means that some halls are unable to allow all the events demanded.

The Government has responded by proposing the removal of the requirement for a village hall to have an individual named as DPS or personal licence holder, provided the police are happy there is not a threat of crime and disorder (and the requirement can be re-imposed on review). The final option to be adopted by Ministers is being drawn up following a public consultation exercise.

It is worth noting that the live music survey found that village halls were one of the venues types that experienced the largest falls in live music provision between the two surveys: from 68% holding live music events to 44%. There is little evidence that this fall was due to licensing changes. Over half of the church and community halls which had not put on live music in the last 12 months, but had done so previously, said that they had not taken a decision to stop providing live music. 43% of church and community halls that did not put on live music nevertheless possessed a licence to do so. The most common reason cited by 35% of church and community premises for not putting on live music in the previous 12 months, was because there was no demand for it. It is nonetheless of concern that live music and cultural provision may be declining in rural and community venues.

As well as the proposals to encourage more village and community halls to secure full premises licences, Ministers have also agreed to look at whether it is possible to identify low risk activities which might be made exempt from the requirement to obtain a licence. Otherwise no significant rural issues have arisen. The Commission for Rural Communities cited the implementation of the Licensing Act as an example of how 'an assessment can consider rural areas'⁴⁰.

Circuses continue to have concerns about the impact of the Act. DCMS has surveyed circuses to find out their experience of the first year of the new legislation. While there was no evidence that the number of circuses performing had fallen because of the Act, there had been additional expense and some impact on performances - for example affecting the length of stay at a site, the choice of location and flexibility when a site became unavailable at short notice.

⁴⁰ Monitoring Rural Proofing 2007

<http://www.ruralcommunities.gov.uk/files/RP%20Monitoring%20Report%2028pp%20TAGGED%20corrected.pdf>

Ministers have agreed to look at options to help relieve the burden on mobile forms of licensable activity, including circuses, as part of its simplification plan⁴¹. This will include measures to reduce the burden of the regime more generally (e.g. the time and cost involved with making an application) but also whether a separate scheme is necessary and possible for activities such as circuses that operate in many different locations each year.

Amateur and travelling theatres have reported some difficulties, in part because of the reliance of village halls on a limited number of TENs. Problems also exist where a production goes on for more than 4 days and is therefore not eligible for a TEN. The village hall DPS proposals, together with other simplification measures, may bring more flexibility to the system to address these concerns.

The Secretary of State's guidance to licensing authorities encouraged local authorities to seek their own premises licences for public spaces within the community. This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas. Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give a performance in these places. There has been real progress in this area. For example, the survey of circuses carried out by DCMS suggests that 20% of their performances were on publicly licensed land.

To raise awareness of these licensed areas to events organisers and to encourage more authorities to secure licences, DCMS set up a register of licensed public land.⁴² This now has details of over 1500 sites across over 150 local authorities. The Live Music Forum considered that 'the Register of Public Spaces, an idea developed by the DCMS Licensing Team, has been very successful' (page 17) and that it 'has led to a number of local authorities using their public spaces imaginatively and creatively for a wide range of music events.' (page 81). The report cited Fenland District Council as a case study:

Fenland District Council in Cambridgeshire covers the market towns of Chatteris, March, Whittlesey and Wisbech. It has licensed many public spaces including parks, fields and market places, as well as encouraging and supporting people who are planning licensable events in the area.

The licensed public spaces are used regularly throughout the year for a wide range of live music events. These include an amateur talent day, continental markets, which involve entertainers and live music as well as food stalls, and the Rose Fair and Straw Bear Day, which is a large, traditional folk festival held over several days. The Council has also licensed further areas to accommodate the very popular entertainment areas of the Christmas Market. This has led to retailers also licensing areas themselves so they can take part in the festivities.

⁴¹ http://www.culture.gov.uk/Reference_library/Publications/archive_2007/dcmssp2007.htm

⁴² <http://www.culture.gov.uk/NR/rdonlyres/E7B87381-12FC-4FDF-877F-1B073CA4FE03/0/PublicLandRegisterDec07.pdf>

BETTER AND MORE PROPORTIONATE REGULATION TO GIVE BUSINESS GREATER FREEDOM AND FLEXIBILITY TO MEET CUSTOMERS' EXPECTATIONS:

The Act has also allowed businesses to offer extended hours, either through longer licensing hours or a limited number of temporary event notices. Data suggests that the average increase in actual weekend closing times across all on-licensed premises is around 20 minutes. Within this, there are differentials between the opening hours of different types of premises. For example, most pubs continue to close at 11pm whereas bars and nightclubs have typically extended their closing hours. This suggests that the pattern of closing is becoming more varied in response to customer demand.

Work as part of the DCMS Better Regulation Simplification plan in 2007 estimated that the new regime resulted in an ongoing total administrative burden to licensees of costs of £83.9 million a year (i.e. not including the costs of transition, fees or licence conditions). The administrative burden of the old licensing regime was £183.2 million a year, so the Licensing Act 2003 has delivered a saving of £99.2 million a year.

Despite these benefits, some businesses and other organisations report problems with the legislation and argue for further reductions in red tape. In response, DCMS has set out a programme of measures as part of its simplification plan under the Government's Better Regulation initiative.

These include possible measures to allow a lighter touch process for minor changes to licences where these do not impact on the licensing objectives and possible exemptions for low risk activities.⁴³

Some licensees have expressed concern about the fee levels associated with the new legislation. In response, Ministers appointed an independent panel to look at the level of fees, but also to take evidence from a range of stakeholders and identify any issue which the Government should look at.

The panel, Chaired by Sir Les Elton, took evidence from over 100 stakeholders and produced a report in January 2006. Ministers have signalled that they expect to publish their response to the report shortly.

⁴³ http://www.culture.gov.uk/Reference_library/Publications/archive_2007/dcmssp2007.htm

DIVERSITY OF VENUES AND CHOICE FOR CONSUMERS

Several of the aims of reform which were set out in the White Paper relate to changes in the type and diversity of licensed premises:

- the encouragement of more family friendly premises where younger children can be free to go with the family;
- greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
- the regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring.

There is limited evidence to point to such a difference and it may simply be too early for such changes to have fed through.

There do appear to have been some changes in actual opening times to respond to customer demand. The data collected from CGA Strategy Ltd (appendix C) shows a slightly different pattern of longer opening, but that this change has been generally moderate. There is also some anecdotal evidence that some customers are choosing to stay local rather than travel into town and city centres as the new legislation has given those premises greater opportunity to respond to customer demands.

The report by the University of Westminster⁴⁴ felt that, while there had been some changes in the diversity of premises, this was not due to the Licensing Act. It also reported that the smoking ban was considered by operators and others potentially as having a greater impact in relation to a shift to food and families. There had been a shift to suburban and regional venues, but it was not clear whether a trend towards local pubs has occurred at the expense of city centres.

Information supplied by one of the Scrutiny Councils, Birmingham, suggested that the new legislation had played a part in increasing diversity, building on improvements that begun with the Business Improvement District designation for the Broad Street area⁴⁵:

'In some areas, such as the Broad Street area of Birmingham, good partnership working and the introduction of a cumulative impact policy combined with many of the measures listed above, has delivered real results. Broad Street was traditionally a 'no go' area for people aged over 24, but as a result of the council's licensing strategy, is now attracting older people with a consequent reduction of 53% in reported violent crime during December 05 compared with the same period in the previous year. Some of the licensed

⁴⁴ <http://www.ias.org.uk/cci/cci-0707.pdf>

⁴⁵ <http://www.culture.gov.uk/NR/rdonlyres/7B38C8E6-53D3-42BA-A5B9-7DEF07CB7492/0/ScrutinyCouncilFinalreport0706.pdf>

premises that previously attracted under age drinkers etc. have converted to cafes and restaurants and the Broad Street Pubwatch scheme has been re-launched as 'Leisurewatch' to reflect the more diverse night time economy.'

There are positive signs that the 2003 Act has encouraged more effective local partnerships to tackle issues. The Scrutiny Councils found that improved partnership working between licensing officers and other enforcement bodies was starting to have a real impact. The latest case studies from Scrutiny Councils suggest that joint enforcement initiatives are continuing to deliver real improvements in the management of the night time economy, particularly in busy town and city centres.

It is too early to identify any pattern of change of types of venues and the diversity of the sector.