

Lost Orders?: Law Enforcement and Alcohol in England and Wales



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Dr Phil Hadfield and Dr Fiona Measham

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About the Authors

Dr Phil Hadfield is Director of www.philhadfield.co.uk, a research consultancy working in the alcohol and drugs field, with special reference to community safety, cultural planning and amenity in the night-time economy. Phil is Visiting Senior Research Fellow at the Centre for Criminal Justice Studies, School of Law, University of Leeds and a Senior Consultant to Alcohol Concern. He has continuously managed and/or worked on central government, local partnership, and private sector-funded research projects in this subject area for over 10 years and is the author, co-author, or editor of some of the leading books, scholarly collections and articles on the night-time economy. Phil has in-depth experience of advising local authorities and businesses on regulatory and enforcement matters and regularly appears as an expert witness in licensing appeals and at Review hearings, as well as directing public consultations, literature reviews and local data collection projects.

www.philhadfield.co.uk

Dr Fiona Measham is Senior Lecturer in Criminology at Lancaster University. She has 20 years' experience in the drug and alcohol field researching and publishing on licensed leisure and the night-time economy; the regulation and policing of intoxication; gender; electronic dance music scenes and club drugs; emergent drug trends and policy developments. Her current projects include an EPSRC-funded study developing social media to address anti social behaviour; a British Academy-funded study of motivations, meanings and consequences of GHB/GBL use; an ISCD-funded study of policing and drug use at music festivals; and an LDAAT-funded study of emergent drug trends in Lancashire. Co-authored works include *Illegal Leisure* (1998), *Dancing on Drugs* (2001), *Swimming with Crocodiles* (2008) and *Illegal Leisure Revisited* (2011). She is a member of the Advisory Council on the Misuse of Drugs and the Independent Scientific Committee on Drugs.

www.clubbingresearch.com

The authors previously worked together as consultants for the Home Office *Review of Social Responsibility Standards in the Alcoholic Drinks Industry* (2008), conducted in association with KPMG. Hadfield and Measham managed the fieldwork, which included observations and informal interviews at over 600 licensed and off-licensed premises across eight locations in England, in order to evaluate the voluntary SRS and existing laws in relation to the sale and consumption of alcohol in 2008.

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This report is solely the work of the two authors.

Executive Summary

In assessing the effectiveness of law enforcement and regulation governing the consumption and supply of alcohol in England and Wales, our research points to the importance of a number of factors:

- In responding to excessive drinking, legal compliance and corporate social responsibility, enforcement activities in England and Wales are directed toward the symptoms of some aspects of drinking culture and retail practice. Enforcement is necessary, but not sufficient, in that it is unable to address the causes of unlawful or excessive demand for alcohol. In order to be effective in reducing alcohol-related harms, law enforcement and regulation works best when embedded within community focused multi-component programmes (MCPs) that encompass broader approaches to harm reduction. National government provides an overarching statutory framework for governing the supply and consumption of alcohol: however, our research underlines the importance of allowing space within this framework for local innovation, with bespoke initiatives, in order to provide 'local solutions to local problems'.
- In practice, effective community focused programmes involve partnership working between agencies, organisations and individuals. These partnerships include, but go beyond, formal statutory partnerships. For example, in addition to local authorities and the police, they might include Primary Care Trusts, Trading Standards, fire authorities, and HM Customs and Excise. At a day-to-day level they would also vitally include representatives of the licensed trade (both on- and off- sales), together with residents' groups and NGOs working in the fields of substance use harm minimisation and outreach work. In urban areas with high concentrations of licensed premises, there is good reason to include representatives of the private security industry (door staff agencies), town/city centre management, and public transport providers. The most effective local programmes are both imaginative and pragmatic. They consider who might have the necessary knowledge, skills and resources to help tackle a particular local problem; these organisations or persons are then invited to participate in the programme and full use is made of their experience and potential contributions.
- In the case of the licensed trade, many interviewees favoured the establishment of an autonomous working group such as a 'Pub and Club Watch' scheme or some local variant of this model. It was acknowledged that contrary to popular and media perceptions, the licensed trade had a clear interest in helping to reduce alcohol-related harms. This was because the side effects of excessive drinking could have a direct effect upon the working environments of their staff, the sustainability of their businesses and relations with regulatory authorities.
- However a local partnership is constituted, our interviewees felt it important that the various partners 'buy in' to the programme by making a sufficient investment of time, personnel and (where necessary and available) financial

resources. This required a clear understanding of the symptoms and underlying causes of alcohol-related harm locally and the necessary division of labour to effectively address these factors in terms of areas of responsibility. Despite being components of a 'partnership' agreement, many agencies continued to work in 'silos' to the extent that they understood their own areas of responsibility very well, but had much less of an insight into how they might draw upon the capacities of their partners in order to approach a problem more holistically. Once questions of 'who does what?' had been answered so as to avoid duplication of effort, it was necessary for each partner to reflect upon the range of powers and/or resources at their disposal and to decide how best to apply them. There also needed to be clear understanding as to the desired outcomes and how these might fit with and benefit the aims and objectives of the partnership as a whole. For example, despite the existence of a 'Cardiff Model' for data sharing between hospital Accident and Emergency Departments and Community Safety Partnerships, interviewees expressed the view that setting up working protocols of this kind were a particular ongoing challenge.

- Although some national multiple retailers bemoaned the variety of local interpretations of the licensing laws which were seen as a drain on their staff training and legal resources, much of our data points to the inevitability and desirability of 'local cultures of regulation'. Our previous research has highlighted the importance of key personnel acting as 'champions' for particular local issues. The negative flip side of this energy for change might be seen where local enforcement and regulatory causes are pursued for personal or political reasons and local regimes could take unpredictable changes of course when key personnel moved on. Yet, change is an inevitable aspect of the regulatory landscape reflected in the experiential knowledge of both regulators and regulated. Our understanding is that as long as enforcement decisions are made primarily upon the grounds of evidence, fluctuations in approach and local divergences are in principle justifiable and beneficial.
- The necessity for regulatory and enforcement decisions to be made on the basis of evidence emerged as one of the strongest lessons from this research. Individual initiatives around alcohol enforcement at the local and also the national level had rarely been subject to formal scientific measurement and evaluation, less still those involving multiple components. Nonetheless, many of our interviewees spoke of their enforcement activities as being based upon a clear theory or hypothesis about 'what works', about there being empirical evidence as to what had happened as a result, and some measure of assessment as to effectiveness of outcomes. As a result, interviewees often felt that their efforts were effectively 'targeted'. Evidence for such targeting was primarily derived from local statistical sources such as crime data, pre- and post-hoc surveys of public perceptions, stakeholder consultation exercises, and other measures such as pedestrian and litter counts. Local qualitative evidence from focus groups, interviews, and structured observational studies of the ways in which areas and facilities were used was also important. Such monitoring and documentation was particularly

crucial where initiatives depended upon time-limited funding streams with opportunities to apply for follow-on funding. National enforcement campaigns, for example from the Home Office, which had ring-fenced funding and centrally-defined objectives were criticised, both for their short-term nature and also for their capacity to ride roughshod over locally devised and approved ways of working.

- In relation to certain offences, notably underage drinking, proxy sales and the serving of alcohol to intoxicated persons, our research found a clear propensity amongst enforcement agencies to target the suppliers of alcohol, rather than the consumers. At the same time it was recognised that servers had a difficult job to do, especially in small off-licensed shops where they could be subject to intimidation by customers. The more progressive agencies had adopted an 'advise and educate' approach in their dealings with licensed outlets, the aim being to establish relationships of trust wherein problems with customers could be reported without the fear of reprisals in terms of incidents being used as ammunition with which to Review their licence. Confusion was expressed as to the divergent guidance governing test purchase operations, as published by LACORS and the Home Office.
- In general, our interviewees regarded the prosecution of members of the public for breaches of the Licensing Act 2003 to be too expensive and time consuming to pursue. There was a perception that the courts would not support such prosecutions, or that the fines imposed would be minimal. Also, the commitment of resources required to obtain the necessary evidence for conviction was seen as disproportionately great, involving authorisation from RIPA. When surveillance techniques were used, these were invariably, in our data, linked to the testing of compliance by licensed outlets. In one instance, however, a local authority licensing enforcement officer described how evidence of proxy sales was obtainable through surveillance operations, together with the use of CCTV footage. In her area, persons observed in RIPA operations purchasing alcohol, which was then passed on to under-18s were issued with Fixed Penalty Notices. Furthermore, local retailers had been recruited to assist in imposing informal bans, excluding from their premises individuals caught making proxy purchases.
- The issue of imposing various forms of 'banishment' from licensed premises on identified consumers of alcohol was one of a number of issues on which opinions varied, often as a result of differences in experience and context when comparing metropolitan, tourist, small town and rural areas. In locations which did not have a large and transient visitor population, Drink Banning Orders and more informal area-specific bans imposed by door staff were reported as being particularly successful, with effectiveness in some cases monitored by ID scanning technologies which were able to show the continued presence within licensed premises of repeat offenders, formerly subject to a ban, who had subsequently changed their behaviour. However, in metropolitan areas and holiday resorts, opportunities to impose such bans through the sharing of intelligence between police and licensed premises were much less apparent due to the large, transient and more anonymous

nature of the customer base which rendered the presence of identifiable 'troublemakers' less predictable.

- Overarching area-based regulations and powers, for example, the ability to designate Dispersal Zones or Cumulative Impact Areas, were notably more important and relevant in large urban areas. In smaller towns, enforcement activity was more often focused around the establishment of personal relationships between regulator and regulated (in the case of licensed premises) and the police and the policed (in the case of alcohol-related offenders).
- In the case of police powers applied to the consumers of alcohol in public places, a number of interviewees expressed concern regarding the possibilities for displacement, the tendency to recidivism and the general inability of area- and person-specific powers to address many of the underlying causes of drink-related crime and disorder. Many of the recent 'anti-social behaviour' powers fell into this category. They offered important advantages for police officers and PCSOs tasked with responding to or preventing imminent alcohol-related disorder, however, the nature of the penalties – which often involved summary fines – did not allow for the identification and monitoring of an offender's possible drink-related problems, nor did the forms of disposal provide for direction toward services which might assist in helping individuals obtain advice or treatment to address their relationship with alcohol. Consequently police in one of the fieldwork sites utilised arrest rather than summary fines as an opportunity to direct offenders with drink-related problems towards health and treatment support services. At a more general level, this contrasted with the disjuncture in most fieldwork sites between the core remit and priorities of the police, and those of public health, with the focus of anti-social behaviour powers being very much upon the behavioural symptoms of excessive drinking as manifested in criminal or uncivil acts. The skewing of alcohol policy toward criminal justice concerns and the 'management of drunkenness' was widely regarded as an institutionalised feature of the current regulatory and enforcement landscape given the omission of any statutory objective relating to public health within the Licensing Act 2003.
- The proposals contained in the Home Office consultation on drafting of the Police Reform and Social Responsibility Bill 2010-11 – headlined by the Coalition Government as an attempt to 'rebalance' the Licensing Act – were regarded by some interviewees as symptomatic of a continued focus upon the most public manifestations of our nations' alcohol-related problems. One interviewee was of the opinion that the document might more accurately be described as a consultation on licensing the urban night-time economy, as the proposed legislation had much less relevance to other contexts. Whilst epidemiological and criminological research reveals how nightlife visitors drink more than average for their age groups (also taking into account regional differences), the focus on the 'bingeing' and 'brawling' of a small minority of this group was regarded by some as symptomatic of a fragmented and individualised approach fostered by nationally-imposed legislative priorities.

Community-based multi-component programmes integrating regulatory and enforcement activity with local efforts to influence drinking culture, social norms, diversity of local facilities and urban design and services, were regarded as more progressive and potentially effective. It was local partnerships, however, that were taking the lead in developing such approaches in the face of daunting centrally imposed budgetary constraints. A key obstacle for partnerships adopting a proactive stance was that of ensuring that their programmes were sustainable and sustained. A lack of continuous funding and political commitment were the two main obstacles to achieving many objectives, yet the fruits of some interventions gathered momentum only over longer periods of time.

- Many interviewees were acutely aware of the need to influence prevailing drinking cultures within local social scenes. However, off-the-shelf promotional materials and brief intervention programmes from national agencies (such as 'Drinkaware') were not always considered to have been designed, or written, in ways which could effectively engage the local target audiences.

Part 1: Introduction

Background to the Research

Recent years have seen the introduction of new laws and initiatives around underage drinking, public disorder associated with alcohol, and the responsible sale of alcohol (see Appendix 2). Questions have been raised, however, as to the extent to which central government has focused upon the introduction of new legislation at the expense of ensuring that sufficient attention and funding is directed toward the enforcement of existing laws.ⁱ As the Department of Culture, Media and Sport (DCMS) 'Evaluation of the Impact of the Licensing Act 2003' published in 2008 conceded:

"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."ⁱⁱ

In recent years, enforcement activity has tended to focus on short term high profile campaigns by the Home Office, targeting alcohol sales by licensed premises, such as the Tackling Underage Sales of Alcohol Campaign, during which 2,683 premises were visited by police and trading standards officers between 4 May and 13 July 2007 and the Responsible Alcohol Sales Campaign (RASC) of December 2007. RASC saw police officers from 30 forces visiting '1,741 poorly managed premises known to be associated with alcohol-related violence, crime and disorder to check compliance with the law.'ⁱⁱⁱ

Evidence would suggest that enforcement action in combination with drinks retailers' initiatives such as 'Challenge 21' has had some impact in relation to the offence of sales, or allowing sales of alcohol to a person under 18 (Licensing Act 2003 s146/7). Under the Penalty Notice for Disorder (PND) scheme introduced in November 2004, fixed penalty notices of £80 may be issued by the police for the offence of 'sale of alcohol to those aged under 18'. The number of PNDs issued for the offence in England and Wales was 113 in 2004, 2,058 in 2005, 3,195 in 2006, 3,583 in 2007, falling to 2,824 in 2008.^{iv} The latest available figures from 1997 to 2008 suggest that the number of defendants proceeded against at magistrates courts has fallen year-on-year from a peak of 1,199 in 2006 to 459 in 2008, with the number of convictions falling from 854 in 2006 to 366 in 2008.^v It appears that the sustained nature of the enforcement in this instance, often involving test purchase operations, may have succeeded in bringing about increased levels of compliance.

To knowingly 'sell or attempt to sell alcohol to a person who is drunk' is an offence under s141 of the Licensing Act 2003 - punishable on conviction by a fine of up to £1,000, although more often involving a PND fine of up to £80 imposed on bar staff, whilst 'knowingly...obtaining alcohol for a person who is drunk' is an offence under s142 of the same legislation. This issue was highlighted as a particular concern during the observation of premises under the voluntary regulatory code, with observers witnessing numerous customers who were too intoxicated to pay for their

drinks being assisted with their purse or wallet by bar staff.^{vi} The latest Home Office figures available record only two convictions in 2006 and one conviction in 2007 for s141 offences,^{vii} whilst the Wine and Spirit Trade Association (WSTA) report that since the Licensing Act 2003 came into force no one has been found guilty, or even proceeded against, for an offence under s142.^{viii}

In a follow-up campaign to RASC on underage public drinking, timed to coincide with the school half term holidays 8th-24th February 2008, police in 165 areas across 39 forces in England and Wales reportedly seized 20,945 litres of alcoholic drinks (44,265 pints) from underage drinkers.^{ix} However, whilst pursuing the confiscation of alcohol from young people (the Crime and Policing Act 2009 strengthens powers in this respect), comparatively little attention has been paid to the prosecution of those under-18s who have purchased alcohol and adults who have purchased alcohol on their behalf ('proxy sales') (offence of the 'purchase of alcohol by or on behalf of children - s149 Licensing Act 2003).

In relation to public drinking more generally, in 2007, section 5 Public Order and 'drunk and disorderly' offences accounted for 60 per cent of all PNDs.^x However, although known as 'on-the-spot-fines' and designed to reduce police bureaucracy, official guidance issued to the police states that 'a penalty notice will not be appropriate where the suspect is unable to understand what is being offered to them, for example...where the suspect is drunk or under the influence of drugs'.^{xi}

As a result of these known factors there is an urgent need to understand the range of barriers currently preventing stronger enforcement from being factored into the everyday practices of leisure venues, criminal justice agencies and other regulatory authorities as an integral part of the response to alcohol-related problems. We looked at enforcement across a range of relevant offences and issues, categorised as Person-based, Place-based and Venue-based for the purposes of this study (see Appendix 1). This report explores the opportunities for and barriers against greater enforcement action across these offences.

Sample framework

Drawing upon the two authors' extensive experience and networking in this area of research, a purposive sample of key informants and representatives of major stakeholder groups was drawn together from across England and Wales. Neither representative nor random sampling were possible given the time and cost constraints of the study. The research took the form of in-depth semi-structured interviews based around an interview schedule and a list of current powers which was sent with a letter of invitation to participants in advance of face-to-face meetings (see Appendices 1 and 2). Thirty two interviews were conducted. In some cases the interviews took the form of a discussion between the researcher and more than one interviewee; for example, a number of interviewees requested that a colleague with relevant, closely-linked knowledge and responsibilities be present. In total, forty people were interviewed for this study.

Our sample was drawn from both metropolitan and non-metropolitan districts within the North West, North East/Yorkshire, Midlands and London and the South East

regions of England and from Wales. Interviewees included magistrates and their legal advisors, higher and lower ranking police officers, local authority licensing officers and managers, local residents, HM Revenue and Customs, licensees/on-trade area managers and representatives of the off-licensed trade, including major supermarkets. An approach was made to Home Office officials but no one was available for comment. The split of responsibilities between police licensing (premises' regulation and enforcement issues) and the Safer Neighbourhood Team (street policing) is more defined in some areas than others. In such areas, officers with responsibilities for both issues were consulted. The very different licensing and legislative frameworks for Scotland and Northern Ireland would have required us to adopt an additional set of research objectives. The time and cost restraints of this project therefore prevented our adoption of a UK-wide approach.

Aims and Objectives of the research

The key aim of the interviews was to collect information and views on current trends in enforcement relating to the sale and consumption of alcohol. Emphasis was placed upon the in-depth exploration of any barriers – institutional, organisational, cultural, political or financial – which might prevent the enforcement of existing powers. We were particularly interested to explore how responsibility for enforcement is understood and divided amongst statutory partnerships, multi-agency public sector teams, and the criminal justice system. A further key theme involved gaining insight into relationships between formal law enforcement and more informal means of gaining compliance, which in the case of the licensed trade might revolve around voluntary codes and practices of self-regulation, and in the case of underage drinkers and other alcohol-related offenders may involve the accessing of educative and health interventions by various agencies to promote safer drinking.

The interviews explored the current situation regarding the sale and consumption of alcohol from each stakeholder's perspective, including their assessment of the existing legislative and regulatory regime, alongside their recommendations for future strategies and implementation of existing powers and their opinions on the need for further amendment and improvement of the national enforcement regime. All interviews were digitally recorded and transcribed. In some cases we found evidence of significant emotional investment in the topics raised. These local feelings were often idiosyncratic and sometimes forcefully made. These factors underlined the need to adhere to assurances of confidentiality, thus all references to identifiable persons and places have been removed from this report through the use of pseudonyms. Data was analyzed through a process of coding the following pre-identified and emergent themes:

- Clarification and understanding of the current regulatory regime, its scope and the various contributions of different agencies and groups;
- Collaborations and tensions between stakeholders and their effects upon enforcement;
- The extent to which existing laws and regulations are enforced and regarded as fit for purpose;
- An assessment of needs in relation to improving the efficacy of current

enforcement options and in relation to any future amendments to the enforcement regime;

- The role of the regulated and ways in which regulated groups might be better supported in achieving voluntary compliance (in relation to the consumers and suppliers of alcohol);
- The most efficient and cost-effective means of deploying limited resources for enforcement.

Part 2: Findings

2.1 Standards in Licensed Premises and Licensing Issues

2.1.1 Local authority licensing inspections

“It’s very much going onto a premises for a purpose. We are not going onto premises on a fishing expedition, there has to be a reason” (council licensing inspector, metropolitan)

Since 2007, local authority licensing enforcement has been heavily shaped by the Regulators’ Compliance Code^{xii}, a statutory code of practice intended to encourage regulators to achieve their objectives in ways which minimize the burdens on business as part of a ‘light touch’ approach to enforcement. The purpose of the Code is to embed a risk-based, proportionate, targeted and flexible approach to regulatory inspection and enforcement among the public sector regulators to which it applies. This is intended to promote efficiency and effectiveness in the work of regulators, without imposing unnecessary burdens on those they regulate. The code was drawn up following the Hampton Report (2005)^{xiii} prepared for HM Treasury which recommends that:

- “comprehensive risk assessment should be the foundation of all regulators’ enforcement programmes;
- there should be no inspections without a reason, and data requirements for less risky businesses should be lower than for riskier businesses;
- resources released from unnecessary inspections should be redirected towards advice to improve compliance” (p.1)

Areas differed in the extent to which local authority licensing inspection of premises was conducted ‘unannounced’; that is, without advance warning to the operator. As one inspector put it: “we are wanting to find the business as it operates rather than what it is wanting to portray to agencies” (metropolitan). As noted below in relation to police, enforcement agencies can only draw from a limited pool of trained staff, with visits by police usually made in uniform, and council officers in ‘corporate clothing’. These factors mean that there are limited options for covert operations as part of routine enforcement work. Not only are such operations made difficult by the recognisability of personnel, they also stand in tension with the partnership approach which emphasises relations of trust and cooperation rather than the ability to catch someone off guard. Increased inspection activity was most apparent in relation to the gathering of evidence where a Responsible Authority was seeking to Review a Premises Licence as a result of a history of problems at a particular venue.

Local authority licensing enforcement officers typically work in partnership with other agencies including the police, fire brigade, environmental health (noise) teams, and Trading Standards. The majority of the work involves responding to complaints from

local residents, which may overlap with responsibilities of the environmental health (noise) team who also operate on weekend evenings. In summer, a much higher proportion of the work involves people drinking outside licensed premises. Increased demand for enforcement followed the introduction of the ban on smoking in enclosed spaces in July 2007, which gave rise to greater noise escape from licensed premises, as well as the need for additional supervision of customers occupying outdoor spaces.

The initial approach of the teams was usually one of 'education', with enforcement action taken only as a final sanction. As one officer in a metropolitan area described:

"...sometimes in shops alcohol has to be covered with shutters. We make sure they have made adequate provision. Similarly, putting notices up asking customers to respect residents as they are leaving the area, if there is one of the local restrictions on ABV, that there are no products above 4.5% strength."

In metropolitan areas, many complaints concerned fast food outlets, which held a Late Night Refreshment (LNR) licence permitting them to sell hot food and drinks to takeaway between 11pm and 5am. These premises were often linked to noise, and the fouling and littering of pavements. There have been longstanding concerns that these fast food outlets act as known 'hotspots' for crime and disorder and often lack the now highly developed strategies for safety and security management associated with licensed leisure venues.^{xiv}

2.1.2 Partnership working between local authority licensing and other agencies

In many areas, local authority licensing inspection and police licensing enforcement have some degree of overlap. The police tend to have a greater emphasis on the crime and safety effects of non-compliance, however, whereas the local authority has more of an administrative function in ensuring that the letter of the licence is complied with.

Officers in one metropolitan area described their use of an enforcement protocol between Responsible Authorities concerning the sharing of intelligence on licensed premises. In practice, this involved an email update to partner agencies listing all the premises visited, the findings of these inspections, and any proposed actions. Proposed actions could be anything from advice given at the time, to sending a warning letter, or drawing up an action plan, depending on the individual merits of each case. Police, Environmental Health Officers (EHO), the Fire Authority, and Trading Standards were key partners to this protocol, although additional work was done to link to the UK Border Agency and Her Majesty's Revenue and Customs (HMRC).

Monthly enforcement nights were organised at a partnership level, with joint visits by the fire authority, police, and local authority licensing inspectorate. These visits were announced. Where a complaint came in about underage sales or about people drinking on the street, the inspectors would contact the police and take forward a joint operation on the premises.

A mixture of overt and covert approaches was adopted by the police and EHOs, as one Public Protection Officer explained:

“We will do monitoring and if we see problems arising and deem it safe enough to speak to some member of door staff or something then we will make ourselves known and try and tackle it. At other times we will just make notes and then meet up with the management at a later date. In terms of actually going into premises we don’t do it that often. A lot of the time it’s because of the nuisance side we are looking at the external part of the premises. We have been in with the police to do covert operations... We just witness the problems. It’s more likely that we will go into a complainant’s property and witness the nuisance or the problems from their address than actually going into the premises that’s causing the issue.”

2.1.3 Police Licensing

In ensuring and maintaining standards in licensed premises police make routine visits to advise on security and safety issues and to check compliance with the conditions on the operator’s Premises Licence. More intransigent problems can involve the police calling for a Review of the Premises Licence and, in the case of imminent or occurring disorder, police have powers to order the immediate closure of the premises (which can be extended by the courts to cover a specified period).

Police regarded private ownership/management or leasehold (as opposed to ‘managed houses’) as a protective factor in relation to on-licensed premises. For example, better attendance at Pub Watch meetings was reported amongst independent owner-operators.

Licensees in some areas felt they were under greater scrutiny from the police in contrast to their contemporaries in other areas and regions. On occasion they raised the charge of being subject to the whims of individual regulators and fluctuations in approach if there was a changeover in police or local authority staff. This was said to lead to varying periods of liberal and restrictive stances being adopted that required a response from them that was not related to objective measures of risk, but rather to the political and/or moral stance of particular individuals and their championing of particular causes.

Licensees in one area pointed to the frequency of venue inspection visits by police which they deemed disproportionate given the absence of a visible police presence on the streets late at night. This, it was suggested, seemed at odds with the stance of the regulatory authorities in stressing that the area was a ‘hotspot’ for crime. Moreover, licensed operators felt they were increasingly being asked to “do the police’s job” in controlling activities within an ill-defined ‘vicinity’ of their premises.

Applications for variations to a Premises Licence allow police to impose “pages and pages of conditions”. Enforcement around these conditions then places power in the hands of the authorities, to the extent that:

“There is not one venue in this city that isn’t breaching its licence every day because of the conditions; you can’t follow every single condition on the licence!” (bar operator, metropolitan)

A major concern of licensees is to feel there is a level playing field in terms of regulation, both in terms of the attention paid to standards in smaller venues as well as the larger, more ‘obvious’ targets; in relation to off-trade outlets as much as for on-trade ones; and for policing of street drinking as well as venues themselves. A concern here was that the conditions imposed may not always be proportionate or necessary yet they create an imbalance of power in increasing the range of obligations for which non-compliance can lead to enforcement action.

On-trade interviewees pointed to the accessibility of lower priced alcohol in the off-trade. Supermarkets were said to be selling alcohol to the public at prices sometimes lower than independent on-trade operators could buy it. This was seen to encourage pre-loading, with one bar owner reporting refusing admission to 200-300 “drunken” people every Saturday night. Nightlife visitors can often be seen approaching bars and pubs with cans of beer, or bottles of water containing vodka. They either consume these drinks before approaching the door, or try to smuggle them in. In one city it was claimed that this occurred despite the existence of a DPPO to govern public drinking, which was little enforced at night. On-trade premises should not allow customers to exit with bottles, cans and glasses, thus litter in the vicinity of on-trade premises is more likely to derive from off-trade sources than on-trade. Licensees maintain that in their premises people drink in a more controlled and supervised environment, with less impact in terms of litter and noise. In relation to this factor it is of note that both the City of Westminster and Cardiff City Council are considering a re-drafting of their licensing policies to bring off-licensed premises within the scope of their cumulative impact zones.

2.1 4 Breaching of Conditions

A person commits an offence under Section 136 of the Licensing Act if (s)he conducts, attempts to conduct, or knowingly allows a licensable activity on or from any premises, otherwise than under and in accordance with a Premises Licence, Club Premises Certificate or Temporary Event Notice. The regulations governing the conduct of licensable activities on premises are primarily applied by means of a list of conditions attached to such licences. The majority of enforcement activity therefore focuses upon the breaching of such conditions. Interviewees were asked which types of conditions they found to be most frequently breached:

“We don’t find a lot of trading over capacity...it’s often CCTV breaches where the system is not working, or monitors are out ...the other one is door supervisors - the times and the numbers they should have on at certain times - also the number of people outside smoking and the times at which they are using their outdoor areas, that’s one that we regularly find that they breach. Then we have got the smaller ones...notices and things like that that they are not displaying.” (police licensing officer, metropolitan)

In relation to door supervisors the reasons given for non-compliance often revolve around cost. However, these issues can relate to later hours of trading which were only granted subject to certain conditions around door supervision. This can be as true of Late Night Refreshment Premises as it is of premises licensed to sell alcohol. Trading beyond 12.30-1am is considered by police to involve a higher degree of risk due to the greater levels of alcohol consumption and potential unruliness in the late-night environment.

“With breaching of conditions we go down the line of verbally warning them or advising them, first a hand delivered warning letter, then a final warning letter and action plan and then a Closure Order or Review if they are not complying or there are serious problems at the premises.” (police licensing officer, metropolitan).

One interesting legal question upon which opinion is divided surrounds the ability of the licensing authority to impose and enforce conditions on a licence that do not directly refer to a licensable activity (e.g. the sale of alcohol), but which can be said to flow from that activity. For example, in one area the licensing authority had sought to impose a condition on city centre on-licence holders requiring them to attend Pub Watch meetings. Whilst Pub Watch participation was not, in and of itself, a licensable activity, it could be seen to flow from such an activity. One metropolitan licensing enforcement officer described how his licensing authority had taken legal advice on the matter of whether a publican could be prosecuted for breach of this condition. Whilst the QC in question was of the opinion that the council were within their rights to apply such a condition: *“...‘to take a prosecution in its own right would be deemed to be highly unattractive’ and that’s to quote”*.

Similar concerns arose regarding outdoor smoking areas. Conditions on the Premises Licence for example, might state that such an area must not be used beyond 11pm, or that open vessels must not be taken into the area. If noise complaints are then received regarding the behaviour of pub customers remaining in these areas beyond these times, is a prosecution possible for breach of conditions? Smoking itself is not a licensable activity, though it could be argued that it flows from a licensable activity to the extent that the people generating the nuisance would not be there were it not for such activity. Moreover, it could be argued that there is a direct link to the promotion of one of the four licensing objectives: the prevention of public nuisance.

Mandatory conditions

General feedback suggested that the Phase 1 conditions (free tap water and responsible drinks promotions in on-licensed premises) were not regularly flouted and could be checked alongside premises-specific conditions and risk assessments. Some licensees expressed concern, however, at the possibility of customers simply drinking free tap water and not spending money at the bar.

In some areas, particularly affluent areas, drinks promotions were not seen by police as a major issue in on-trade premises, although advice was sometimes given to premises showing live sporting events that they should not link drinks promotions to

the scoring of goals, for example, and in relation to student events. A police officer with responsibility for licensing in a seaside town felt that prosecutions were unlikely under the mandatory code because the legislation was too vague:

“To actually prosecute somebody it's just too complicated, 'cos they've left it so wide, you know, 'no irresponsible drinks promotions', what does that mean? So there's always going to be a get-out clause if they hire a barrister or a solicitor... who look at one specific word. It becomes a minefield.”

Although this discretionary element in defining irresponsible promotions was criticised by both police and licensees, opinion diverged. Some police officers and local authority licensing officers endorsed the discretionary element and appreciated its flexibility to consider each case on its merits. Local minimum pricing—as has been proposed in Manchester—was regarded by off-trade interviewees as anti-competitive and unworkable; potentially encouraging ‘booze cruising’ across local authority, regional or national boundaries.

Further concerns were voiced regarding the way in which the mandatory conditions had been applied only to on-trade promotions. This was seen by some to have occurred against a backdrop of greater accessibility to alcohol through general and convenience stores and declining trade through ‘specialist’ off-licences.

Double measure spirits served as ‘standard’ were of concern to police licensing officers in some areas who felt that customers may not realise the extra strength of the drinks that they had ordered. Offers to ‘double up’ for extra payment were not considered irresponsible, however, because although they offer an incentive to drink more, the customer is offered a choice. Several licensees admitted to us that they were not aware of what the national mandatory conditions were. Police officers expressed their intention to speak to licensees on their visits to make sure they were aware that Phase 2 had come into force in October 2010 such that they should now be offering the smaller measures.

In relation to how the age verification component of the mandatory conditions might be enforced, police were not of the view that young people should be encouraged to carry their driving licences or passports on a night out due to the risk of theft and resultant identity theft. Our interviewees favoured the PASS Scheme with cards that can be checked by door and bar staff. In addition, Clubscan ID checks increasingly featured in licensed premises.

2.1 5 Late-Hours Trading

There were mixed views on how the Licensing Act 2003 had impacted upon the licensing landscape and on enforcement issues as a result of the extended hours permitted following the Act’s implementation in November 2005. Licensees believed that the night out had extended *later*, rather than *longer* as a result of the removal of licensing restrictions and therefore resulted in them getting to bed much later without an associated increase in overall profits. They felt unable to close earlier than their competitors and therefore pressurised into later closing times. The police also noted a similar development: whereas before 2005 the main weekend drinking times were

approximately 8pm-12am, a police inspector in a small town noted that most licensed premises now opened until 2am or later in the town centre and consequently the main drinking period was now 10pm-2am.

Both licensees and EHOs expressed doubt that the LA2003 could ever have achieved staggered closing because of the natural competition between licensed premises in an area to be one of the last venues to close. Interviewees also noted that city centre venues tended to have extended hours before 2005 and therefore that the biggest difference had been to opening hours for venues located in residential and suburban areas. However, licensing conditions could, it was suggested, with careful use, be applied to identify and address any related concerns at the application stage. Therefore the legislation facilitated proactive police and EH intervention, using local knowledge to reduce potential problems. The Public Protection Manager of one metropolitan area thought there was considerable regional variation in trading hours. In his city they had successfully opposed 24-hour off-licences, unlike many other areas of the UK.

Associated with this shift to drinking later in the evening in the NTE was a marked increase in home drinking associated with an increase in the number of off-licence premises and also supermarket alcohol sales. As a metropolitan police officer noted, part of the appeal of home drinking may be the lower controls over a drinker's behaviour (including drinking, smoking, drug use and boisterous behaviour) whereas the police, at least in this area, had achieved a good working relationship with the on-trade to reduce alcohol-related disorder in and around licensed premises.

Several police (and licensees) felt that they would like the 'night out' to shift back to earlier in the evening. The police also felt that the extended trading hours had reduced the previous peaks of alcohol-related problems at around an hour after 'last orders' in pubs and clubs. However, in hindsight, those peaks now seemed preferable from a planning and resource perspective, to the demands on services now stretching across the night and into early morning.

In some areas the proliferation of venues with standardised late (as opposed to staggered) opening hours had been accompanied by a massive growth in fast food outlets which were seen to encourage people to stay in the streets into the early hours of the morning. Trading beyond 1am was seen by police interviewees as incurring an additional level of risk for which some managers of off-licences, fast food outlets, and pub and bar chain companies were unprepared, through lack of experience or training. The increase in the proportion of premises trading in these 'nightclub' hours therefore posed additional concerns. One police view was that some operators might be (usefully) deterred from entering the late-night market due to the cost implications of the extra conditions placed upon their licence.

Whether or not the overall impact of the LA2003 was seen as generally negative or not, stakeholders from all sides echoed the view that national fixed terminal hour restrictions could not now be reintroduced because "the genie was out of the bottle".

2.1 6 Temporary Events Notices (TENs)

TENs allow premises to operate independently of the conditions which usually apply to their Premises Licence. Initially intended as a streamlined and cost effective option for smaller community events and small venues offering live music, TENs applications must be granted unless there are police objections on the grounds of crime and disorder. If an application comes in late on a Friday, for example, the police may not have time to respond. TENs can be used on up to 12 occasions per annum. Once granted, licensed premises that are permitted to operate until 2am under their usual Premises Licence, for example, may be operated until 4am with a TEN. In this case, during the two hour extension, the conditions on the Premises Licence are not carried over. As a local authority licensing inspector put it: *“the majority of responsible venues will carry on operating within their conditions, they’re not going to say, ‘oh, it’s 2.01am; we won’t be doing that anymore!’”*. There can be ‘temptations’, however, and the fear is that relatively unregulated TENs events can have disproportionate impacts, pushing stress on the environment into the early hours. For example, the police licensing officer for a seaside town discussed the negative impact of both the extended licensing hours and the TENs:

“They’ll be still open and serving ‘til five o’clock in the morning. And then if a bank holiday comes along or they apply for a Temporary Event Notice they’re asking to stay open ‘til eight o’clock in the morning, so then you’ve got people running around drunk at nine o’clock in the morning that we’re locking up. So for us it’s been a bit of a disaster and those TENs are a disaster. Because it’s a holiday resort.”

2.1 7 Closure powers

In general, it was felt that premises closure, whether for the remainder of an evening or for an agreed time period, needed to be tackled firmly but sensitively, particularly for busy venues. However, this was considered a last resort and a breakdown of partnership working:

“I know we could close premises for breaches of conditions... but mostly it would be if a large scale fight was found or if we needed to preserve the scene of a serious crime within the premises.” (police licensing officer, metropolitan)

“Most closures are done voluntary. If we go there and there has been disorder we would advise the licensee to close and obviously it’s a lot easier for them to do it voluntary than for us to seek power of closure.” (police licensing officer, metropolitan)

“We wouldn’t just say ‘close’ and walk off. We would assist them to empty that crowd out and obviously make sure, if the customers are rowdy, they don’t go to a pub fifty yards down the road; we would actually try and escort them away from the area.” (police officer, Safer Neighbourhood Team, metropolitan)

A major reason for the encouragement of voluntary closure is that, for both parties, it avoids setting in motion the time consuming bureaucratic process of Review.

However, this must be offset against missed opportunities to impose enforceable conditions on the licence that may help to prevent future occurrences.

A magistrate in one metropolitan area felt that the authorities mistakenly maintained a dialogue with problematic premises because they were unnecessarily pessimistic about their chances of closing venues given that they did not have the resources to collect large amounts of evidence:

“I think they go overboard with these things. You just need one incident really to shut them but they go in and try and get so much evidence that it's absolutely bullet proof and they can't afford to do it. So they'd prefer to try and persuade and cajole people to behave, set up door registration schemes and so on.”

2.1 8 Reviews

“I can say hand on heart that there is definitely reluctance by Responsible Authorities to call for a Review.” (local authority licensing enforcement officer, metropolitan)

Responsible authorities tend to use Reviews sparingly, in one major city our interviewee reported that Reviews had been completed on less than ten occasions in the past two years. Whilst Local Ward Councillors representing local residents or businesses and EHOs sometimes put forward representations, our interviewees were unanimous in identifying police as the main instigators of Reviews, mainly in response to crime and disorder.

Some areas made use of Closure Notices under Section 19 of the Criminal Justice and Police Act 2001 (as amended by s126 and s127 of the Premises Licence) for 'alleged unauthorised use of the premises and sale of alcohol' in the case of breaches of conditions on the Premises Licence. In practice, these Notices are used more as a 'closure warning' in that they do not have the effect of immediately closing premises but rather of stating the intention of the police (or local authority) to put the matter before a court to decide on closure in cases where the breaching of the conditions is not resolved:

“We find that it engages and focuses the minds of operators and that it then precludes the need to escalate formal actions. Quite often I think it has negated the need to go for Reviews.” (local authority licensing enforcement officer, metropolitan)

As with Reviews, there is significant variation between areas as to the extent to which such powers are applied (one council licensing officer working in a large city reported Closure Notices being issued in his area on only one occasion). Nonetheless, the threat or setting in motion of a Review or Closure Notice, whereupon an agency instigates relevant representations to a court, can be an effective tool bringing 'offending premises' back into compliance. During a Review process the operators of the premises may agree to additional conditions on their licence of their own volition, or as suggested by the police or other Responsible Authority. This can create major incentives for improvement of operating standards:

“The major threat to our business is a Review and we do everything we can to avoid that.” (nightclub operator, metropolitan)

In our interviews, the power to Review a licence was seen by interviewees from regulatory authorities and the magistracy as perhaps *the* major key improvement brought about by the Licensing Act 2003 in comparison with the Licensing Act 1964 (as amended). The strength of the Review process was seen to lie in its opportunity for ongoing monitoring of compliance, its ability to match regulatory requirements closely to the particular circumstances of the business’s Operating Schedule, and in relation to its power as a bargaining tool in regulatory negotiations. On the contrary, concerns were raised as to the degree of paperwork, bureaucracy and cost involved in a Review. These issues lay behind some of the reticence to take forward Review procedures discussed above.

Local residents are named as ‘interested parties’ under the Licensing Act 2003 and have the right to make representations to the licensing authority in order to instigate a Review. However, as one metropolitan licensing enforcement officer explained:

“An interested party living in the vicinity of premises could in their own right apply for a Review but what we strongly suggest to people in those circumstances is that they liaise with the Responsible Authorities in the first instance. It would be a daunting, if not an impossible task, for them to take forward a Review on their own.”

This view chimed with that of one of the residents we interviewed:

“Once a licence is granted it’s an almost impossible task (for residents) to get that licence Reviewed, as the basis for a Review is compiling evidence about specific venues. The disturbances local residents experience are very real but how do we pinpoint them to a particular venue when we are in bed, in the middle of the night?!”

Local residents expressed a degree of disengagement from the Review process. A magistrates’ clerk working in one metropolitan area reported how his court regularly received enquiries from members of the public regarding their rights to challenge decisions made by the licensing authority at Review. Residents expressed concern that they had little access to the courts and were deterred from challenging local authority judgments by the issue of costs. Thus, despite having formal rights they perceived access to licensing matters as denied to them by professional parties keen to protect their own interests in the regulatory status quo.

The Public Protection Officer of a city put forward the view that residents might not only be afraid of the financial risks and inconvenience of becoming embroiled in their own Review proceedings, they may also be reluctant to support the representations of the Responsible Authorities, even where these were instigated by their own complaints:

“When we have got a few complaints and we are taking the Review and they just don’t want to add in any evidence to it whatsoever because they are just afraid of the premises finding out who they are and so you are sort of presenting evidence to the licensing committee which is fine because you are just saying I have had X number of complaints from people in the vicinity. But it would be helpful for us if we did have that backing of the residents being able to come on board but you can understand why they wouldn’t want to.”

2.1.9 Cumulative Impact Zones

“If more and more premises come up, the competition becomes a lot more fierce, prices go down, standards go down, and all of a sudden they start serving everybody and anybody. So the issues of large numbers of premises within a small area is a major issue for the police and the local authority.”(magistrate, metropolitan)

Three concerns were raised during interviews about implementation and enforcement of CIZs:

(i) Firstly, that licences attach to premises rather than individuals. It was suggested that Premises Licences should expire following closure of a business in order for the suitability of any new venture and its compatibility with the licensing objectives to be assessed.

(ii) Secondly, there was an assumption that CIZs targeted the on-trade, although some areas had broadened this to restrict the off-trade as well. CIZs do not provide for the number of premises to be reduced, only for further growth in numbers to be restricted. Several interviewees felt that the CIZs in their area had been introduced ‘too late’, to the extent that over-saturation had already occurred and thus remained a chronic issue for police and other emergency resources.

(iii) A third concern was that new premises would, in fact, be permitted to open in CIZs, particularly if strong trade legal representation argued that the premises would not be detrimental to the area. Too many exceptions to a CIZ policy meant, in effect, that the restriction lacked regulatory teeth. In part this related to the challenge of predicting future impact of proposed premises:

“It is difficult to present evidence of the impact of premises that are yet to open, particularly as we like to provide evidence that is premises-specific. Applicants and their lawyers will come up with loads of conditions and extra things they will do, but there is a stage where there can simply be too many premises in an area.” (police licensing officer, metropolitan)

In metropolitan locations, police, licensees and local residents all remarked on the way nightlife areas could develop and shift geographically over time as new premises opened and existing ones fell out of fashion. In one area, whilst increases in anti-social behaviour and petty crime were acknowledged by licensees, their view was that the new legitimate businesses and their customers more than offset the old problems of serious and organised crime associated with what had formerly been a

salubrious location. This said, some in the licensed trade were quite receptive to the concept of CIZs. Firstly, the rapid night-time high street expansions characteristic of the early-noughties had largely come to an end as a result of new economic conditions. Secondly, the limiting of new entrants to existing social scenes was often helpful for maintaining profitability within a finite market, whilst limiting recourse to local alcohol price wars which could have a range of detrimental effects on businesses, not least in driving a wedge between themselves and the police.

Interviewees from smaller towns and rural areas saw Cumulative Impact Policies (CIPs) as less relevant to enforcement activities in their locality. Here matters tended to be resolved through personal relationships between key individuals within regulatory agencies and a small group of managers or business owners. Moreover, it was felt that nightlife (over-)development had not occurred such as to warrant an area-based designation.

Areas in which the local authority saw the NTE as integral to the local economy were less likely to impose a CIP, or to enforce it robustly where it was in place. Some metropolitan areas, by contrast, reported seeking to extend the reach of their CIPs to encompass off-sales. This regulatory activity was linked to expansion by some of the major supermarkets into the smaller city centre convenience store market, for which late-night off-sales licences were being sought. In an interview with a senior licensed business manager of one of the supermarket chains we were told that when stores are opened in nightlife areas:

“We have to have a different level of reasonable precaution and due diligence that recognises the fact that the opening hours are later and the area in which these stores operate.”

The interviewee would not be drawn on what these precautions might be, referring to their being dictated by the particular circumstances of the licence application. One of his colleagues, the Public Relations Manager, made the point that urban centre locations provided access to particular markets and facilities for specific groups of consumers such as shift workers.

Late-Night Refreshment Premises (LNRs), that is, premises licensed to sell hot food and drink between the hours of 11pm and 5am were also being considered in some of our areas as premises to be brought within the remit of CIZ restrictions. These premises were said to have an impact in delaying dispersal, whilst police noted that they sometimes operated beyond the hours stated on their licence, or without the required number of door staff. One area reported its plans to encompass all LNRs irrespective of whether food and drink was served for consumption on or off the premises. Another area reported revisions to the wording of their CIP which had applied the policy only to licensed premises ambiguously identified as ‘vertical drinking’ establishments. Experience had shown that the somewhat woolly concept of a ‘vertical drinking’ establishment and legal arguments over its definition had rendered the policy ineffective in that the flow of new premises had not been stemmed to the detriment of the licensing objectives.

One point raised on several occasions in relation to CIPs was that in some areas they were little invoked:

“There have only been two licences refused in five years so really the rebuttable presumption is very rebuttable and it shouldn't be. It should be much more strictly policed by the councillors before they grant the licences.”
(resident, metropolitan)

2.1.10 Serving alcohol to intoxicated persons

There were strong differences in opinion on this. The police felt that law enforcement in this regard was extremely challenging, with three reasons mentioned: firstly, definitions of 'drunk' were disputed; secondly, there was the issue of proving 'beyond reasonable doubt' and finally, of particular concern was the inclusion in the legislation of the term 'knowingly'. One city Licensing Officer noted the particular challenges of securing a conviction in a nightclub with very loud music in which conversations between customers and servers could not be overheard. The resource implications of attempting to obtain each conviction were also noted.

The police saw difficulties surrounding the issue of proof regarding offences by the server and the requirement in the Licensing Act for the sale of alcohol to be made 'knowingly' as the following quote illustrates:

“... on the face of it, it looks like a great piece of legislation, let's tackle it right from the start by prosecuting people who are serving people who are drunk, but because of that word it makes it almost prohibitive... We've done one successful recently but they were that drunk, really the guy couldn't dispute it because they were so drunk they were falling down, they couldn't get their money out of their wallet, they were having to be held up, so it's having to be almost that drunk... And then nothing happens to them when you get them to court anyway. So you put in an awful lot of resources to something that isn't gonna solve long term problems, isn't gonna change the culture and nothing much happens to the company either.”

During the centrally-funded Responsible Alcohol Service Campaign (RASC), the Home Office stipulated that police operations be conducted in the early evening from 7-10pm:

“We covertly watched drunken people go up to the bar. If they were served we would then call a uniformed officer in to point out the offence and issue an on-the-spot Fixed Penalty Notice.” (police licensing officer, metropolitan)

“The last operation around serving alcohol to people who are drunk was over Christmas 2008 as part of the Home Office operation; we went to 15 premises. ... 3 were found serving to drunken people. We have not done any similar operations since due to lack of funding.” (police licensing officer, metropolitan)

During the RASC it was found that young and inexperienced bar staff sometimes lacked the confidence to deny service to a person who was drunk. Customers may

be physically intimidating or threatening and it may be the case that the manager/DPS is not available at the time, that door staff are not employed at the premises, or the request for service may occur during a period when door staff are not employed.

One problem experienced was that only officers who had completed a 'covert licensing officer' course could be assigned to these tasks. In one area this was reported as amounting to a pool of six officers, all of whom had previously visited licensed premises in uniform. The necessarily covert nature of the exercise was thereby undermined to the extent that bar staff and shop assistants may have been aware they were under observation. Police in this area are now establishing a staff-swap arrangement with other forces to improve the effectiveness of their covert licensing operations.

For the police, restricting irresponsible drinks promotions was seen as a more effective use of resources than focusing on the actions of individual servers, as this had a more wide reaching effect in instilling control.

The magistrate in a large city reported never having a licensee charged with serving someone who was drunk brought before him in nearly 25 years. Unlike the police and magistrates, EH by contrast felt that a 'common sense' approach could be taken to the legislation and that the obstacles to a successful prosecution were not as insurmountable as implied by police:

"No one should be drunk in the first place unless they were drinking at home and that's a different thing. And I do think there is also a bizarre misconception about pre-loading... somebody could preload and then if you go out and you buy soft drinks fine, no one has committed an offence. If the next person sells them a drink I don't care where they have drunk the rest, it doesn't matter whether it is at home, on a park bench somewhere or another pub, you have still sold to somebody who is drunk... I think it is a very powerful tool... part of it is letting the licensed trade know we are prepared to do this... rather than trying to give reasons for not doing it you should try and do it."(Public Protection Manager, metropolitan)

Another concern raised by both EHOs and licensees was that partial enforcement could be as problematic as non-enforcement. More responsible premises that refuse to serve drunken customers could be financially penalised for their actions if those customers then purchase alcohol from rival, less responsible businesses. As noted in relation to the question of closing times, this notion of a 'level regulatory playing field' was of particular concern to licensees competing for the same customers within geographically confined social scenes.

Problems of enforcing the law concerning sales to persons 'in drink' and the absence of resources applied to this activity on a routine basis contrasted sharply with the extent of test purchasing in LNR premises. Here the focus was very much upon the relatively straightforward establishment of whether or not food or drink had been served that was above 'ambient temperature' outside of times permitted on the licence.

At a more global level we found major struggles over the definition of drunkenness and the practical means by which it should be identified, particularly in the context of British drinking culture in which some degree of intoxication is an accepted norm amongst many nightlife users^{xvxi}. This creates understandable tensions between public and private sector:

“...at meetings with the police we have wink wink, nudge nudge conversations about drunkenness because it is slightly absurd you can't have drunk people in your venue versus the reality that almost everyone goes out to get drunk, so we are into this very weird word 'drunk' and what people think it means.” (bar operator, metropolitan)

Police in one of our regions pointed to the specialist knowledge required by the police in seeking to enforce what, at first glance, might appear quite simple legislation restricting the 'knowing' sale of alcohol to intoxicated persons:

“... for most officers' day-to-day business it doesn't register particularly in what they're required to do. Usually it's slow time, appeals in court, dealing with the premises that are becoming a problem, removal through the layers of risk and sit down with licensees and it's the domain of specialists in the constabulary who are more experienced in dealing with these areas of the law. And I think one of the reasons for that is because we're dealing with quite complex legislation in many regards, and we're dealing with a very commercially driven activity where the people who we're trying to prosecute or trying to change the behaviour of are usually quite intelligent, quite business savvy and they have some significant resources in terms of legal support.”

2.1.11 Under-age sales

The sale of alcohol to under-18s was widely perceived in our sample as being more of an issue in relation to off-sales outlets, particularly smaller community-based grocery and convenience stores. One senior manager from a national supermarket chain suggested that this might be because:

“There's somebody working on their own in a small shop; a group of young people come into the store. They are intimidated by that and they feel that it's less hassle to sell to them than it is to try and refuse them and risk, risk violence and the grief. Whereas in a supermarket, of course, you've got lots of colleagues around you; a whole bank of check out operators and a manager to support you.”

Trading Standards and police were usually the lead agencies involved in checking compliance through 'test purchasing' by teenage volunteers:

“All our test purchases are done in off-licences. We have to look at the risk assessment of sending under-18s into on-licence premises: the risk is too high. We send a chaperone in as well to ensure the safety of the young person and

to be a witness. Most of the time they refuse the sale if the person hasn't got ID." (police licensing officer, metropolitan)

A senior manager from one of the larger supermarket chains told us that his company did their own internal test purchases. Whilst the company was not allowed by law to send in people who are under 18, people were being used who clearly looked under the age of 25. By this method the stores were able to check the performance of cashier staff against their own criteria, known as TASK 25. The TASK 25 scheme, adopted by several of the larger supermarkets, is designed to ensure that alcohol is not sold to persons who are under 18 years of age by training cashiers to challenge all customers who appear to be under 25 and to ask them for proof of age. TASK 25 has further elements surrounding the training of staff to look for circumstances in which they might reasonably suspect that an adult is purchasing alcohol for and on behalf of an under 18 year old (proxy sales). Under the scheme, cashiers are also instructed to deny the sale to any person who appears to be under the influence of alcohol.

The impression given was that supermarkets and other off-trade retailers were at the forefront of proxy sales and attempts to enforce the law in this respect. In terms of prosecuting persons who have bought alcohol for an under 18 year old, evidence from across the areas studied was found to suggest that this was a law that was infrequently enforced. When questioned as to how more convictions might be brought in this respect, the supermarket manager quoted above placed emphasis firmly upon additional police action:

"More can be done in terms of watching for this happening. Being present in supermarkets, watching from car parks; seeing groups of young people going around and where they're trying to buy from."

Similarly, prosecution of the young people themselves for purchasing alcohol is rare. Law enforcement here tends to focus on any offence committed in association with the alcohol consumption (typically in the case of underage drinkers, anti-social behaviour legislation) rather than offences against the licensing laws. Much more likely was the issuing of a Fixed Penalty Notice to the person in the licensed premises who had sold the alcohol.

A magistrate felt that the police chose containment over enforcement, both to conserve resources and due to the fear of problems associated with underage drinking being displaced to other areas:

"The police know where things are happening (but) they're unwilling to do anything about it as long as it's reasonably contained. If they know all the under age drinkers are in [pub X] then as long as they're not going to cause trouble they're reasonably happy. 'Cos they know they'll do it somewhere else and they're probably better in controlled premises than they are drinking on the streets... I think the police are very reluctant to use their powers because it just exhausts all of their resources if they do that." (metropolitan)

2.1.12 Drink Banning Orders (DBOs)

Much police work around licensed premises involves keeping up to date with intelligence on high-risk music and sporting events and also a knowledge of violent persons and criminals who frequent particular licensed premises at particular times and may act upon their inter- or intra-group animosities. The power to implement DBOs on conviction came into force on 1st April 2010 in 25 Local Justice Areas and from April 2011 took effect throughout England and Wales. DBOs are civil orders applied on criminal convictions in magistrates' court and in addition to any other sentence or conditional discharge imposed. A DBO can be made against persons aged 16 or over where (s)he has engaged in criminal or disorderly conduct while under the influence of alcohol.

A DBO may impose any prohibition on the individual that the court considers necessary to protect others from alcohol-related crime or disorderly conduct. The Orders can last from two months up to two years and are intended as a 'short, sharp shock' in relation to offending conducted under the influence of alcohol. This draws comparison to the recently repealed Anti-Social Behaviour Order designed to have a minimum duration of two years and aimed at covering the whole spectrum of anti-social behaviour. DBO prohibitions may include preventing an individual from entering licensed premises. At the court's discretion, recipients of a DBO may be referred to an approved course aimed at addressing their drink problems and a reduction in the duration of the ban may be offered where the course is successfully completed. Offenders who breach a DBO will be liable to a fine not exceeding level 4 (£2,500). There is no custodial penalty for breach of a DBO.

Our research was conducted during the DBO pilot and included areas both within and outside of the Home Office list of initial locations. Responses to the powers were mixed. Smaller towns and rural areas containing discrete Local Justice and licensing authority areas generally welcomed the scheme. In such areas it was seen as potentially effective in removing key troublemakers from the locations of their offences, thus providing public protection through the incapacitation of the offender. In London, however, the view was expressed that such a scheme:

"...won't work because the city is too big and people can walk across the street into a different Borough. How will it be policed?" (Police Officer, SNT, metropolitan)

Other areas saw DBOs as prohibitive on cost grounds or in terms of policing priorities.

2.1.13 Self-regulatory activity

Pub Watch schemes run by licensees are a popular and longstanding example of self-regulatory activity. There are variations in attendance and enthusiasm for such schemes in some areas, however, whilst in others the schemes remain absent. The police and local authority play an advisory role.

Independent operators were regarded by police as “*more hands-on and much easier to deal with*” as lines of responsibility are clearer, as well as the bearing of costs associated with ‘getting things wrong’. A related issue of concern to local authorities and police was the physical absence of Designated Premises Supervisors (DPSs). In many cases DPSs do not work in premises on a day-to-day basis in a primary supervisory capacity. It may be that they rarely visit the premises (one local authority gave the example of a DPS who lived in Turkey). At present the Licensing Act makes no stipulation that DPSs must be present ‘on site’ as long as their duties have been delegated to a member of staff through a process of authorisation. This practice was regarded as not in the interests of promoting the licensing objectives as the staff member may not have the relevant accreditation, training and experience to hold a Personal Licence in their own right. Here the two stage licensing system allowed for Premises Licences, in conjunction with delegation, to be used in such a way as to sidestep the need for fully qualified managers.

Furthermore, Section 153 of the Licensing Act permits persons under the age of 18 to sell or supply alcohol as long as each sale is authorised. Those giving this authority are not restricted to the DPS but can include another responsible person authorised by the DPS or the Premises Licence holder. Given that the legal age to purchase alcohol is 18, counter legislation requires that 16-17 year old customers must be accompanied by an adult when visiting licensed premises, and the highly responsible nature of the task, our regulatory agency interviewees regarded this as an unhelpful legal loophole in current legislation.

From one licensee’s perspective the laws on alcohol already allowed the licensed trade to assist in dealing with most alcohol problems through the law allowing servers to deny alcohol to whomever they saw fit. This responsible trading, combined with educating consumers in relation to ‘sensible’ drinking, was regarded as being the best deterrent. This self-reliant approach also stretched to the control of alcohol-related disorder:

“We police the vicinity ourselves, we feel it is our responsibility. The police have got enough on their plate without dealing with our stuff, so we try to not involve the police as much as possible because we handle it ourselves.”(independent nightclub operator, metropolitan).

Pub Watch members provide intelligence to the police which can help detect and prosecute otherwise unrecorded crime through, for example, the sharing of in-house CCTV footage. However, this partnership working may be undermined if offences are then registered against the premises for licensing purposes, discouraging a culture of openness:

“If I am assaulted, first thing I say is ‘don’t fucking call the police!’ because I don’t want to get on the crime stats and a lot of venues now if something happens to the management they are like ‘no, no, no we don’t want the police!’ and we will deal with it with our staff now, you know, And our customers if they have a fight we go ‘No. You alright? You both happy? OK, then fuck off!’ I don’t want them calling the police because this [licensing] regime is now telling me, if I report it I have a crime stat against me and I’ll get walloped.” (bar operator, metropolitan)

One of our interviewees, a Legal Advisor sitting in a metropolitan Magistrates’ Court, had grave concerns regarding the notion of licensed premises being left to self-regulate:

“Self regulation will never work; it would put public safety at greater risk. I sit in the criminal courts and see this on a daily basis. There was a case last week where four door supervisors were jailed by this court for assaulting a customer, and the CCTV footage ‘disappeared’. Quite often where there has been a very violent or serious sexual offence at a venue there is a problem obtaining the CCTV evidence, even when CCTV retrieval is a Condition of the licence! There is corruption and drug dealing taking place at some venues. The police and local authorities must have strong powers to deal with such incidents.”

However, on a more routine basis, there are clear benefits of applying policing and regulatory responses sensitively. One licensee gave the example of a racist assault by a member of the public on a member of his door team. This incident was subsequently counted against him in police records, creating disincentives to report. Police licensing enforcement is often heavily targeted, with premises that have received a warning letter as a result of incidents then getting more visits. In order to counteract this breakdown of trust and help maintain the flow of information, police in Cardiff operate a ‘traffic light system’(red indicating high risk, green low risk etc) wherein each incident recorded against a venue is carefully scrutinised to establish whether the chain of responsibility does, in fact, lie with the venue. Furthermore, licensed premises are able to earn credit points for working with the police which are subtracted from the points allocated for incidents for which they were judged to be responsible (thus, a venue could get its rating reduced from, say, red to amber by demonstrating good practice in helping the police in their detection of crime).

In one of our areas, both police and licensees were keenly aware of the longer term financial advantages of polycarbonate drinking vessels which could produce a win-win situation in terms of preventing crime and protecting the public from glass-related accidents, whilst at the same offering financial benefits for businesses. However, an opposing police view was that the introduction of polycarbonate had to occur on an individual premises basis following careful risk assessment.

Self-regulation and its close relationship to partnership working and transparency between alcohol retailers and regulators also emerged as an important theme in relation to the off-trade. As one senior manager from a national supermarket chain commented in relation to checks for compliance with the law around under-age sales:

“It would be a much better relationship between us and the test purchasers if they would come in and say ‘look, well done, you’ve passed the test purchasing’. Not just get in touch if we fail.”

As discussed above, the TASK 25 scheme adopted by some of the supermarkets focuses on requiring proof of identity from all customers who appear under 25, training of cashiers in how to spot and deny proxy sales, and denial of service to persons under the influence of alcohol. In addition, our interviewees mentioned additional measures such as having four Personal Licence holders in every larger store, not stacking large quantities of beer in the shop foyer, and removing certain products, such as white cider, that is seen to be associated with anti-social behaviour, from all stores.

Participation in industry self-regulation schemes such as Drinkaware was also mentioned. Larger supermarkets with hundreds of outlets nationwide, it was suggested, offered considerable opportunities for alcohol awareness campaigns to reach the public through in-store publicity, as one senior supermarket manager noted: *“10 million people go through the doors each week. You know, so we’re not a bad vehicle for education on alcohol.”*

One of the major challenges facing self-regulation concerned the divergence of interest between the various trade groups involved in alcohol retailing. Positions are sometimes oppositional: The Publican newspaper, for example, supported national minimum pricing, which has been resisted by much of the off-trade. This theme of ‘blame allocation’ across the licensed retail trade emerged in our interview with a senior licensing manager with one of the major supermarkets. In relation to the issue of ‘pre-loading’—that is, the consumption of large amounts of alcohol at home or friends’ houses before a night out—which has been linked to unruly behaviour by customers in licensed premises:

“If people have pre-loaded and are going into a pub and are drunk, then they shouldn’t be getting served. It’s illegal! I think you have to appreciate that they are suffering in the current economic climate and that there’s a fundamental tension between their business model and ours. The idea that the majority of our customers and families are buying three packs of beer, taking them home and consuming them all at once is just ridiculous.”

2.1.14 Economic issues: should the ‘polluter’ pay?

Many respondents across the range of stakeholder groups recognised the balance to be drawn between seeing the NTE as a drain on resources and acknowledging its importance as a local/regional economic asset. The opportunities arising from a further levy or duty on licensed premises were regarded as needing to be weighed against the narrow profit margins experienced by some venues in the current economic climate. In this context it was seen as more appropriate for monies derived from any late-night levy to be ring fenced to improve the NTE rather than being a further generalised tax on businesses. This was contrasted with the (now defunct and

never implemented) Alcohol Disorder Zone (ADZ) scheme. As the Public Protection Manager of a large city explained:

“I think it would be easier if you did it like, ‘right, if you want a licence past 2am, this is what it going to cost you’, rather than we have got this number of premises in this area and we are going to declare this an ADZ. ... there is a reluctance to say we have got an area of the city that is almost like a war zone...who wants to say that?... So I think it’s just like there’s a late-night levy, if you want a licence past this time you pay that and everybody does past that time, we are not saying you are a badly managed premises or anything like that. Whereas there are negative connotations [with ADZs]... I think yes if there is a potential to get money to manage the NTE then I think it would be something that people would look at.” (metropolitan)

EHOs saw successful partnership working as pre-empting the need to charge for extra policing. However, an alternative view, expressed by the Public Protection Manager of a large city, was that the current budgetary constraints could encourage police to look for new funding streams to pay for late-night policing, which might principally include additional charges to licensed premises.

The ‘polluter pays’ principle was particularly popular amongst residential interviewees, but perhaps unsurprisingly, most licensed operators were opposed to additional charges feeling that their sector was being unfairly singled out. A point raised forcefully was that other types of business are not generally held to account financially for the uses to which their products are put by the end consumer. A car manufacturer, for example, would not foot the hospital bill that might result from their vehicles being driven dangerously. Moreover, the Excise Duty derived from premises with high alcohol sales was said to be proportionately higher.

Metropolitan licensees mentioned the important contribution of their businesses to the local area, particularly in terms of being significant creators of jobs and in enhancing the reputation of cultural attractions in their city. These benefits could, it was argued, be stifled by over-zealous regulation.

In this context, licensees asked, should the views of a small number of local residents who raise complaints to the council be taken so seriously that they might potentially result in the closure of a major cultural attraction? This, they maintain, is particularly so when one considers that the residential housing market takes account of factors such as being located adjacent to entertainment zones and priority routes for traffic in property valuations, with houses and flats in close proximity to noise being less expensive than those in more tranquil streets. The analogy here is that one cannot expect to move into a house next door to a factory and then seek to close down the factory in the interests of a quieter life. Obvious rebuttal cases include the occupants of social housing and the position of long-term residents who have seen conditions change around them.

2.2 Street Policing

2.2.1 Team Structures and Performance of Duties

Police Safer Neighbourhood Teams (SNTs) concentrate their action on priorities set by a panel of community members. In one of our metropolitan areas, on-street drug dealing, cycle theft and volume crimes had been identified as priorities but alcohol-related disorder had not been, despite the area containing significant nightlife facilities and the establishment of a ClZ. Central shopping and nightlife areas were comprehensively covered by CCTV and general calls for response made to all police teams in the area to attend incidents captured on the monitors. Unlike some areas, there were no proactive police patrols specifically tasked to deal with alcohol-related problems. This reactive approach, fostered by SNT priorities and lack of additional allocated resources above and beyond those priorities, had the effect of stifling the flow of intelligence and police visibility; factors noted with concern by residents, licensees and some visitors to the area:

“I would say sometimes, being a police officer, you don’t always get the true picture of what’s happening out here because you might go out on patrol, nick someone and that might be you for the shift. If we were on a 6pm till 6am shift it’s not uncommon for us all to be in with prisoners by 11pm. By the time kicking-out time comes in the early hours of a Friday and Saturday we might all be in the station dealing with arrests and things to report, guarding prisoners in hospital. Come two in the morning, you might be scratching around a little bit for officers: there’s no one to send.” (police officer, Safer Neighbourhood Team, metropolitan area)

Police officers regularly encounter persons on the street who are incapacitated through drink:

“...if they are there on the street and they are vulnerable then someone will get sent, but sometimes again, there is not enough officers to go around and you might have several people in a similar condition and you have got to sort of say, ‘well, are they bad enough?’ There are plenty of people out there that are drunk and can make their way home, but then there are the people that actually are in trouble and need to go to hospital.” (police officer, Safer Neighbourhood Team, metropolitan area)

Persons arrested for violent offences who are themselves injured are taken to hospital and have two officers on ‘hospital guard’ with them at all times and overnight. This is a significant commitment of resources. As the officer quoted above noted:

“You can go to A and E on a Friday and Saturday night and see ten police officers there for five different prisoners”.

As a result of these pressures, proposals were being drawn up to amend shift patterns on the Response Team in an attempt to redress the tendency for a high

proportion of officers to take leave at weekends, leaving staffing levels at a minimum. The new shift is to be more heavily weighted towards people working 'lates' and weekends to coincide with the peak times for offending.

Increasing the number of Police Community Support Officers (PCSOs) may be thought of as one cost effective solution, however in the case of:

"...proper disorder like affrays and fights that kind of thing they will call for back up from police officers, but then it can even go down if they are trying to issue a ticket or something and they can't confirm a name and address." (police officer, Safer Neighbourhood Team, metropolitan area)

Such factors have a big influence on street policing to the extent that they inform police discretion, encouraging an emphasis on 'crime fighting' and 'public protection' above 'quality of life' offences:

"When I was on the Response Teams there would be occasions when you were the only car in town, because everyone was busy so should you be giving people a ticket for weeing down an alleyway?, or do you wait for the person that gets robbed or stabbed!? You know, you have just got to put it into perspective, be more selective." (police officer, SNT, metropolitan)

The issue of police resources and prioritisation of work also structured the relationship between police and on-licensed venues, placing greater emphasis on self-regulation and security management by door supervisors:

"If I was to call the police because I have caught six girls with fake identification the police aren't going to do anything about that and they are not interested in doing anything about that. Small quantities of drugs, the police actively tell you not to call them and to keep the drugs and again it's something that they are not interested in. They are interested in the shooting that's happened over the street, a knifing that's happened down in wherever." (nightclub operator, metropolitan)

Conversely, some licensees expressed disappointment that they were largely left alone to deal with persons denied entry to licensed premises because they were drunk who then remained in the vicinity abusing staff. This issue illustrates the common and to some extent unavoidable distinction between private and public policing priorities that continue to structure the security management of nightlife areas despite the existence of well developed partnership working arrangements.

2.2.2 Designated Public Place Orders (DPPOs)

Designated Public Place Orders (DPPOs) – otherwise known as a 'Controlled Drinking Zones' – allow police to confiscate alcohol from members of the public, with an offence committed if the alcohol is not handed over and/or drinking continues following instructions to cease from a police officer. A number of local authorities in London have adopted a borough-wide approach in order to avoid displacement of street drinking from neighbouring areas also operating a DPPO. The most prominent

reported use of DPPOs was as a tool to control outdoor unsupervised drinking by groups of teenagers in public places such as parks, canal tow paths, outside shops and in city squares.

Alcohol is seized and poured away and particular persons ('ringleaders') who are troublesome may be issued with Dispersal Orders (see below). Although there is much anecdotal evidence of recidivism, one notable effect has been to discourage the purchasing of multi-packs of alcohol – for example, cans are purchased one-at-a-time rather than in fours to avoid police confiscation/pouring away. No formal evaluations of the schemes were reported, with the number of confiscations/pourings away remaining unrecorded. Informal indicators include reductions in the frequency of gatherings and reductions in litter in popular public drinking spots.

Senior police views about the effectiveness of DPPOs were mixed. There were concerns about the resource implications of introducing DPPOs on a town-by-town basis and also the issue of displacement if not introduced across the region at the same time. Yet, a police licensing officer emphasised the relative success of such low-level enforcement powers: "*The sticking plaster stuff that cops use day-in-day-out is pretty good now, that's got tighter and tighter, better and better and the powers are there...*" However, this was contrasted with more strategic general initiatives around alcohol supply and availability. A frequently-cited limitation of such spatially-directed powers is that, as standalone tools, they often involve dealing with repeat offenders without offering anything by way of assisting persons to come to terms with their drinking. Thus, a key consideration was to ensure that street policing teams assisted police licensing units by passing on information as to where young people were obtaining their alcohol. Alcohol Arrest Referral Schemes had succeeded in ensuring that arrestees received brief interventions, although such services were less likely for the recipients of more low-level police directives, summary fines and so forth.

In relation to leisure drinkers there was some ambiguity concerning the use of DPPOs to police crowds of people standing and drinking on the pavement outside on-licensed premises. Whilst it could be said that these persons are the responsibility of the licensed premises and a matter to be dealt with by means of conditions on a Premises Licence, customers' occupation of public places can be extensive such that public nuisance (e.g. noise and glass litter) impacts upon the public realm and therefore arguably into the realm of the DPPO. One police opinion is that officers should be able to use the DPPO to require drinkers to go back inside the licensed premises or have their drinks poured away. Current practice involved police asking the licensee to perform this function. This was not always effective as licensees and staff may not be sufficiently capable or assertive, nor do they necessarily acknowledge responsibility for disorder and nuisance on a public highway.

Approaches to controlling customers outside premises include limiting the number of smokers within a designated licensed space, preventing drinking after a certain time and the employment of security staff. These, however, can only be formally enforced when included as conditions on the Premises Licence instigated through the process of licence variation or Review.

In terms of the police, the key issue relates to prioritisation of resources, with the police sandwiched between the expectations and requirements of not only the legislation but also the general public, the local authority and the trade. As one police officer in a seaside town explained:

“The DPPOs raise the expectations of the community... that they can just phone us and instantly a police officer will rush to where somebody's having a drink in one of these places and confiscate it off them. We just haven't got the resources to do exactly what they want us to do... You have to prioritise... Are we going to be in the town centre where people are drinking and fighting, or are we gonna rush to that park where somebody's quietly having a drink and perhaps not doing anything else?”

The Public Protection Manager of a large city with a number of DPPOs reported that some police officers seemed unaware of the designated area boundaries, or remained unconcerned if no offence had occurred apart from the alcohol consumption itself: *“there may as well be a sign up saying it is a DPPO but nobody enforces it, so what! ... I think that in particular areas of the city it should be enforced more strongly.”*

Although designated by local authorities, in practice DPPOs are regarded as a ‘police tool’ and are therefore not always fully acknowledged as an element of the control apparatus, for example, in the drafting of Statements of Licensing Policy:

“There is no balance between the effort devoted to writing policies and the scant resources devoted to monitoring and enforcing them. This is not assisted by the way the Council grants licences which then have severely detrimental effects on services such as the police and the ambulance service.” (resident, metropolitan)

2.2.3 Dispersal Powers

Further spatially-directed powers frequently used by police include designated areas for the Dispersal of Groups (Anti-Social Behaviour Act, 2003-Part 4) and Directions to Leave a Locality (Section 27(3) of the Violent Crime Reduction Act 2006). The boundaries of these areas often map closely onto the licensing authority’s CIZ and therefore the main concentrations of licensed premises. Dispersal orders do not create a crime report on the Police National Computer and this can lead to oversights in relation to detecting persons who are in breach of the orders even if they do come to the attention of the police.

In one area, police officers from the SNT had access to a spreadsheet showing names, dates of birth, where the person was dispersed from, the issuing officer and sometimes photographic evidence to identify persons still within the duration of their Order. SNT teams will often have a close working knowledge of their area and so are aware of the identities of the street drinkers and suspected and convicted drug suppliers against whom the powers are often used. The time-based element of the dispersal powers is important and those subject to them may wait and return almost

immediately following the termination of the allotted time. Our SNT interviewees reported a relatively small 'hardcore' of persons who are repeatedly subject to the Orders. In the case of street drinkers these are often homeless people who sleep at local hostels. A metropolitan magistrate interviewed for this research reported wide scale use of Dispersal Orders, DPPOs and Directions to Leave Powers in his Local Justice Area, with 20-30 persons appearing before the Magistrates' court on a monthly basis charged under one or other of these provisions.

Unlike other place-based powers the Anti-social Behaviour Order (ASBO) created opportunities for the offender to access services which may have helped them to address their drinking problems at the same time as physically removing them from localities in which they may be tempted to offend. ASBO warning letters typically contained a list of local drug and alcohol services and the recipients of the Orders received further advice. Interviewees stressed that this support component needed to be taken forward in relation to the newly introduced DBOs (see above).

For some police (taking a more strategic view), crime prevention, public safety and community reassurance through developing infrastructure and services for the NTE were the main priorities rather than making arrests, or using formal dispersal powers:

"My aspiration is for [X city] Council to really get its act together in respect to traffic management and signage for taxi marshalling and bus loading areas... The issue is also to reduce the private transportation, the private cars... So I try to kind of work within the transportation and traffic management systems and get them unified to work together, and also the road network to make sure that we can have some sort of prohibition to private cars and allow the taxis... to come into that system to take people away from that location in the early hours of the morning. Because we have around about 4-5,000 people who come out between three and four o'clock and that's when the pinch point is. Most of the issues we find are on the streets, they're not necessarily in the venues now. We do feel that the venues are pretty well managed." (Police Inspector, metropolitan)

2.2.4 Prosecution of under-18s for purchasing alcohol

The prosecution of under-18s for purchasing alcohol and investigations as to the sources of the alcohol consumed by groups subject to DPPO and Dispersal Orders were reported as not regularly pursued by the police teams dealing with anti-social behaviour. Thus, the charge that little action was taken against young people – beyond seizing their alcohol – was acknowledged by interviewees:

"We don't take action against those kids that are drinking the alcohol. It's always the seller that's going to come up for it. Fair dos if that seller's being blatantly out of order ... but ... it's the same kids that we're stopping every weekend... We should be taking some sort of punitive action against the children." (police officer, town)

Under-18s drinking on the streets were not necessarily purchasing their own alcohol illegally. Rather, adults, including their parents, sometimes purchased drinks for

them. Furthermore, police saw a trend towards open air drinking and away from pubs amongst 18-19 year olds, fuelled by the price differential between off- and on-sales, the opportunity to smoke and to engage in other 'deviant' behaviour such as drug use with less scrutiny.

One city magistrate was mystified by the lack of enforcement – he had never seen anyone prosecuted for underage drinking:

“There are plenty of things there which we don't use which we could do. And if we did that, if we prosecuted people for under age drinking they'd know we meant something by it, and it doesn't happen. I've not seen anybody in court at all ever for under age drinking. Now why's that!? I don't know. The police mostly have got better things to do than that and they probably think 'well they'll do it anyway, what's the point?'”

2.2.5 Penalty Notices for Disorder (PNDs) and Public Order Offences

Penalty Notices for Disorder (PNDs) are mostly used by the police as a deterrent early in the evening before visitors become too intoxicated to understand their 'rights'. These forms of 'robust intervention' are used to send a message regarding expected standards of behaviour, especially in the case of large public events which can encourage the pushing of boundaries.

Some police thought that there were judicial and ethical problems with issuing PNDs to drunk individuals in the street (as anticipated when they were originally introduced) and used PO charges instead. PNDs relating to offences committed late at night were more often issued the following morning after the offender had spent a night in the cells to sober up. Their usefulness was seen to lie in their being an alternative to court therefore saving the expense of criminal proceedings. However, a city magistrate also raised objections to this rationale:

“... it should not be the police who actually decide on people's guilt and make them pay the fine...if people are doing something which results in a criminal offence they should be brought to court.”

One officer mentioned a recent memo from the Crown Prosecution Service (CPS) advising that were a PND to be contested in the courts following a Section 5 Public Order offence it would be necessary for the police to produce the name and address of someone who was, or may have been, 'harassed, alarmed or distressed' by the actions of the accused. This may be difficult in the case of street urination, especially where this is done discretely and after dark. This interpretation differs from what, in one police view, is the intention of the legislation – to protect against the likelihood that someone 'may be' so affected. This dictum has had a greater influence upon the work of PCSOs as it has been they, rather than Police Officers, who have been primarily involved in dealing with street fouling.

The distinctions between Section 4 (Public Order Act, 1986) offences which involve 'threatening violence' and Section 5 offences which involve the lesser offence of

'intentionally causing alarm or distress' can be slippery and one police officer was of the view that the CPS were overly lenient in applying Section 5 charges to drink-related offences which might more accurately be brought under Section 4.

Overall, our police interviewees expressed the view that PNDs and the power to confiscate alcohol were *"bread and butter for operational bobbies ... they enjoy using them"*. However, frustration was also aired that, like much of the work of frontline officers around alcohol, their use was both reactive and repetitious; it did nothing to change the underlying causes of the UK's binge drinking culture.

2.3 Licensing Law Reforms

One strongly critical view which repeatedly arose in our interviews concerned the licensing laws and plans for their reform, specifically regarding the opportunities that arose for licensing decisions to be made on political grounds, rather than evidence-based policy or the processes of natural justice offered by the existing appeals system. In one fieldwork site, police accorded some of their success in Licensing Reviews to being able to pitch representations in such a way as to chime with the current priorities and biases of a particular licensing committee.

In drawing up a CIP licensing authorities are heavily reliant on evidence provided by Responsible Authorities and in particular, the police. One proposal in the 2010 Home Office consultation on revising the Licensing Act 2003 and accompanying guidance (now amended) was to remove this evidential requirement. Again, these proposals seem to leave licensing authorities open to the charge of making arbitrary or politically-biased decisions which run counter to natural justice and to the body of case law that has grown up around licensing appeal cases under administrative law. For some interviewees, the magistrates were considered to have a better understanding of alcohol and crime issues than the licensing committees, as well as being less affected by political infighting.

Several interviewees identified the issue of legal costs as a concern for councils. The licensing authority might be more willing to strike a compromise with a licensee in a controversial or unclear case, or one where an appeal looked possible, because they did not want to risk losing an appeal and having to pay legal costs.

The proposal to make the Conditions imposed in Review decisions apply with immediate effect – but subject to removal at any appeal – was supported by both the police and EHOs. Current practice, it was argued, was stacked in favour of the premises rather than the prosecuting authorities:

"You can delay the court hearing, so basically you can operate for four or five months under the old conditions. And then by the time it gets to court you can say, 'well we have not caused a problem since and our management's changed' to the magistrates' bench."(Public Protection Manager, metropolitan)

Here the Home Office proposals for immediate implementation of any Conditions imposed on Review (now rescinded) would have had the effect of reversing the

burden of proof. The appellant would have needed to prove that the Conditions imposed upon the licence were inappropriate, or disproportionate rather than the licensing authority needing to defend its stance.

Proposals (now shelved) to ban sales of alcohol below cost price were the subject of much discussion amongst our interviewees. In particular, the question was raised as to how such a regulation might be enforced and the potential cost implications of professional input from accountants. Whilst our interviewees from multiple retailers confirmed that their businesses used economies of scale in negotiating price agreements with their suppliers, the fact that the public were buying large quantities of alcohol from the outlets which sold it more cheaply—often supermarkets—did not, in the view of our interviewees from that sector, mean that supermarkets were selling alcohol irresponsibly. The problem with using the concept of no sales ‘below cost’ as a benchmark was that what is ‘below cost’ to *Sainsburys*, *Tesco* and *Asda*, for example, would differ according to the different negotiations and deals they were able to strike with their separate suppliers. This information is sensitive and confidential to individual businesses and would require scrutiny of the financial accounts of all alcohol retailers, both by the retailers themselves and by regulators. Furthermore, the largest businesses, such as *Tesco*, would always be able to sell at a lower price than their competitors because they would have the largest buying power. Thus banning alcohol sales below cost price could skew the market in such a way as to ossify the competitive advantage of larger retailers.

An alternative proposal suggested by some in the multiple retail sector was that of banning the sale of alcohol for less than the cost of the Excise Duty, plus Value Added Tax. This proposal has since been adopted by the Coalition government in an announcement made in January 2011. The new regime effectively sets the floor price for different drinks, these being 38p for a can of lager, £2.03 for a bottle of wine and £8.00 for a 700ml bottle of spirits at current rates. It was argued that this approach has the advantage of retaining the revenue benefits for the exchequer whilst not punishing the responsible majority of consumers, and especially low income groups, for the actions of an ‘irresponsible minority’.

This measure alone would still not deliver a level playing field given that the duty on alcohol is applied differently according to product type (being higher on beer than cider, for example) rather than by the comparative strength of the product in terms of its alcohol content. The problem would remain therefore that the ‘problem drinker’ would still be likely to focus on cheaper products such as ‘White Cider’ because price differentials would still not accurately reflect relative alcoholic strength differentials. Any move toward awarding local licensing authorities the power to set their own levels of minimum pricing – such as that proposed for Greater Manchester - was also cited by the multiple retailers as perverse as it would simply encourage people to travel to buy their alcohol, or to order it as a home delivery from an out-of-area supplier.

A third alternative, that of minimum pricing per unit of alcohol (which has strong support amongst health professionals), was favoured by some of our regulatory agency interviewees as a more simple approach that could be more readily enforced, whilst being easily understood by the consumer. The government has,

however, so far rejected the unit pricing of alcohol option in favour of the duty-plus-VAT minimum.

One concern expressed by larger multiple retailers in both the on- and the off-trade related to the extent of local and regional divergence in interpretation of the licensing laws by local regulators and the extent to which enforcement action was applied and could be anticipated by the regulated. A supermarket or pub chain with several hundred outlets, for example, was faced with having to organise its operations and train its staff so as to meet the often very different requests and requirements of regulators in different areas. One of the main sources of local variation concerned the placing of what trade interviewees considered to be idiosyncratic Conditions on Premises Licences. These might include, for example, stipulations concerning: having a security guard in the alcohol aisle at all times, the times at which alcohol might be sold, the particular products on sale and the minimum price of alcohol.

Our off-trade interviewees regarded some of these requirements to be of dubious legality, potentially leading to the regulators and the regulated becoming embroiled in litigation around differences of opinion in interpretation of the law. As a consequence, Home Office plans to further devolve power to licensing authorities were considered by senior management of multiple retailers to be unhelpful.

Part 3: Conclusions and recommendations

3.1 Conclusions

Following expansion of the NTE in the mid-1990s to mid-noughties and implementation of the Licensing Act 2003 in 2005, licensing and alcohol-related issues have become a greater priority for policing. In one of our metropolitan areas, police crime figures for 2008/09 show that 69% of all serious violent crime occurs between the hours of 11pm and 4am with the peak time for serious violent offences being 1am-2am. Such statistics are likely to be borne in mind by partnerships considering the use of forthcoming tools such as the Early Morning Restriction Orders applicable between midnight and 6am¹.

The interviews underlined the extent of progressive partnership working in many areas, including that between the licensing authority, its partner agencies and the licensed trade. Some interviewees mentioned the variations in enforcement regime within metropolitan areas and between larger cities and other areas of England and Wales. There is a need to build in a greater degree of flexibility for local partnerships in order for them to apply the powers as best befits the issues that arise in their areas.

Successful regulation and enforcement often involves the establishment of good working relationships. In the case of repeated non-compliance it remains important, however, to ensure that powers such as Licence Review and Cumulative Impact Zone restrictions are used. Most enforcement targets the illegal supply of alcohol rather than unlawful demand,^{xvii} with sufficient Government funding for police forces in England and Wales earmarked for enforcement provided only on short-term bases (with the exception of sales to underage drinkers) as part of high profile campaigns.

Yet, a key message of this research is that successfully balancing the sale, supply, use and demand for alcohol requires an integrated multi-component approach. Enforcement powers alone can only operate as 'sticking plasters' to bigger challenges regarding the role of alcohol in British society, which individual agencies cannot be expected to address. Shifting the legislative balance away from the current focus on crime and disorder and towards greater inclusion of health priorities was regarded as having clear benefits for partnership working. Given the present emphasis on crime and disorder, perhaps a key role of Community Safety Partnerships is to act as a conduit for information and initiating change by lobbying outside agencies such as the transport and roads authorities for their assistance and in educating members of the public, communicating risk assessments and so forth.

¹ Now included in the Police Reform and Social Responsibility Bill 2010-11 these powers allow for restriction of the sales and supply of alcohol between midnight and 6am (previously proposed to be for the 3am-6am period only) regardless of the trading hours stated on a Premises Licence, Club Premises Certificate, or Temporary Event Notice.

Various stakeholders expressed the view that there were 'enough tools in the box' in terms of enforcement powers and that the current focus should be on allowing the existing complex legislation to 'bed down' and become more effective rather than embarking on another major legislative overhaul. Whilst some sort of late-night levy was welcomed if the resources would then be used to invest in infrastructure for the NTE, partners across the board saw licensed leisure as a vital part of local economies, struggling in the current economic climate, and therefore were resistant to the imposition of further financial penalties. In general, interviewees felt that the removal of licensing restrictions had led to customers drinking later into the night rather than extending their night out, with resultant problems of dispersal, disorder and litter spreading into the early morning yet without a resultant increase in customer expenditure in the NTE. Linked to this extension of the 'night out' were concerns about the availability and price of alcohol, with cheap off-trade alcohol and the growth in off-trade sales from non-specialist corner shops and supermarkets, as well as the negative impact of the smoking ban on the licensed leisure trade, together encouraging home drinking and pre-loading. On the other hand, representatives of the major supermarkets pointed to the extent of their self-regulatory activity and their pivotal position in ensuring that the laws preventing sales to under-18s and of selling to adults who were purchasing on behalf of under-18s, were upheld. Whilst many stakeholders would welcome attempts to shift the pattern of on-trade consumption back to earlier in the evening, it was thought by most interviewees that the 'genie was out of the bottle' and that we are currently in a transition phase in terms of leisure time trends.

Local residents, whilst sometimes highly vocal, articulate and informed in expressing their opinions on licensed premises and alcohol-related issues, often saw themselves as 'voices in the wilderness' whose concerns were not acted upon. There were considerable obstacles to individual residents making and being identified in formal decision-making, both for those living near their local community pub and for the growing numbers of city centre residents within mixed business and residential areas. Conversely, licensed operators expressed the view that unrepresentative residents' views exerted a disproportionate influence upon the decisions of councillors on the licensing committee.

A key issue is that of enforcement priorities and resources. Some powers, particularly those relating to the licensing laws, are used much more than others^{xviii}. In relation to offences against the Licensing Act the onus is placed more heavily on the suppliers (particularly on-trade suppliers) rather than the consumers of alcohol. This is comparable with other countries where enforcement is more focused on the consumer, for example, on penalties for underage drinkers^{xix}. On the other hand, the core police priorities for the NTE remained the maintenance of public order requiring a heavy emphasis on the activities of consumers occupying public spaces, rather than the responsibility standards of licensed premises. Different areas of England and Wales varied greatly in the extent to which alcohol-related crime was a key priority for police Safer Neighbourhood Teams and this was strongly linked to community sentiment and the general level and seriousness of other types of crime.

Larger multiple retailers expressed concerns regarding Home Office plans to empower licensing authorities to set their own agendas in relation to licensing. This

was seen to create the risk of a 'post code lottery' in terms of regulation and enforcement which would have perverse consequences for consumers, place unnecessary restrictions on businesses and undermine partnership-working by promoting a culture of litigation wherein local test cases would occur over interpretation of the law. Local residents and their representatives held the opposing view in supporting the principle of localism, with local solutions to local problems being devised by local people, including members of the community whose lives are affected by alcohol policy. In this, the fundamental problem remained that of the regulatory agenda being captured by professional bodies with access to the types of evidence required by law to be presented in order to justify regulatory action. In removing the requirement to provide extensive evidence in order to justify local strategies – thereby to some extent, de-professionalizing licensing – the Home Office would, however, run the risk of sacrificing the natural justice rights of licence applicants and licence holders in pursuit of increasing the democratic element of licensing decision-making.

3.2 Recommendations

Across a range of agencies and stakeholders, the view was that the current regulatory framework is complex; experience is growing in how best to apply the current powers; and the priority is to provide time for the existing framework to 'bed in' and best practice to develop. Therefore no urgent change is recommended. However, some minor recommendations emerge from this study. The current regulatory emphasis upon the most public manifestations of alcohol problems – primarily crime and anti-social behaviour in public places – reflects a failure to fully integrate public health approaches into the statutory objectives of the Licensing Act 2003. In the absence of better public health integration current approaches are primarily directed towards finding more effective ways of managing public drunkenness. Public health input into partnership working currently lacks both the requisite integration and the statutory 'teeth' to help address either the public manifestations or more hidden and long-term consequences of excessive drinking and other alcohol-related problems.

- i Alcohol partnership working needs to more effectively include a broader range of interests including balancing criminal justice concerns with public health;
- ii Local partnerships require flexibility in order to best respond to local priorities and local needs;
- iii Community Safety Partnerships could be used more productively by acting as a conduit for multi-agency collaborations which stretch beyond statutory partners;
- iv Disparities between the on-trade and off-trade in terms of both regulation and enforcement need to be addressed according to identified local needs;
- v Further moves towards increasing the democratic influence over licensing decision-making need to be balanced against the natural justice rights of licence applicants and licence holders;
- vi Greater efforts should be applied to ensuring that offenders subject to fines related to their drinking behaviours are offered opportunities and information concerning the availability of support from alcohol services in their local area;

- vii Whilst many stakeholders would welcome attempts to shift drinking hours back to earlier in the evening, balancing the competitive trading pressures to remain open with changing leisure trends more generally means that broad-based legislative change in trading hours would be unhelpful in this area;
- viii There is a need for more robust evidence-gathering and evaluation of regulatory and enforcement initiatives, alongside robust models for data and intelligence sharing. However, this study identified some excellent local approaches and these could form the basis of transferable models of benefit to other areas.^{xx}
- ix The existence of important evidence gaps for alcohol strategy in many areas revealed the risks involved in any de-professionalisation of licensing;
- x Given the growing expertise and experience in dealing with the existing regulatory framework, further changes should now be minimal and fully justified.

Appendix 1: Interview Schedule

Alcohol Law Enforcement: An Investigation of the Effectiveness of Current Controls as Applied to the Consumers and Suppliers of Alcohol

Aims, Objectives and Background to the Research

The purpose of this research is to explore the views of professionals working in local regulatory agencies across England and Wales concerning enforcement of the current laws around alcohol, both in relation to responding to alcohol-related offences/offenders and in relation to licensing issues. The research is being conducted by Dr Fiona Measham (Lancaster University) and Dr Phil Hadfield (University of Leeds) who are both leading researchers in the field. The research has been funded by The Portman Group who are a corporate social responsibility organisation working on behalf of drinks manufacturers. The results of the research will be published as a widely available report (free to download on-line) which will be presented to the Home Office and Ministers of the Coalition government in order to inform their thinking on relevant law reform. The research team comprises only of the two senior experienced researchers who will conduct interviews face-to-face. The subsequent recordings will be securely stored and used only for the purposes of the research. The views and opinions expressed by interviewees will be anonymised in the report and the research team will take great care to ensure the confidentiality of those they interview such that their names and the geographical areas and issues discussed are in no way identifiable to readers of the final report.

The Interviews

The interviews will be semi-structured, taking the form of a guided conversation around a set of prepared themes.

The attached Table lists the main powers currently on the statute book and divides them into three categories: person-based, place-based and venue/premises-based. The interviews will be structured around the following questions concerning the powers listed under these three categories:

Questions

What are your experiences of these powers being applied in your local area?

Are some powers applied more than others? If so, what are the reasons for this and how do they relate to the particular circumstances surrounding alcohol problems in your area?

What is the balance in your local area between the application of person-based, place-based and venue/premises-based powers (as listed in the Table)? Do you think that current practices strike a good balance and apply effective targeting of resources, or should more emphasis be placed on one or other of these approaches?

Do you think that the current laws and regulations concerning the supply and consumption of alcohol are effective, adequate and/or necessary? Are current powers 'fit for purpose' and do they fit with best practice in your experience?

In relation to the above do you have a view on which powers and regulations are most effective and which are least effective and why?

Are you aware of evaluation exercises in your area which have sought to measure the effects of applying certain powers in relation to alcohol sales and consumption over a trial period? If so, what were the results of these exercises and what lessons can we learn?

Are there powers or sanctions which currently exist and which you feel are likely to be effective but which are not often applied in your area? Can you identify any barriers that may exist to better enforcement of the current laws in your area?

Do you have any comments on partnership working and the ways in which different agencies might work together to ensure better enforcement?

In relation to the drinks industry and alcohol retailers do you have a view on their ability to self-regulate, thereby avoiding the need to apply enforcement powers? Are there specific examples of how this has worked well, or not so well?

In relation to underage drinkers specifically, what enforcement powers are applied in your local area and what measures do you feel to be most effective? Do these measures mainly target the supply or the demand for alcohol?

If you were able to recommend to Government Ministers ways to introduce or improve law enforcement around alcohol issues what would you say?

If you were able to recommend to Ministers ways in which existing laws around alcohol might be modified or repealed what would be your recommendations and why?

Thank you for your time. We will provide all participants with access to the Final Report(due to be published inSummer 2011).

Appendix 2: List of Powers

Legislative powers and sanctions applied to the consumers and suppliers of alcohol (October 2010)

Nature	Type	Enabling legislation	Power / Sanction
Person-based	Anti-Social Behaviour Orders	Crime and Disorder Act 1998, s.1	Civil orders widely used to exclude persons from public space, including night-time drinking areas
	Penalty Notices for Disorder	Criminal Justice and Police Act 2001 s.1	Summary fines which police and accredited persons can issue for a range of low-level disorder offences, often associated with the offence of causing 'harassment, alarm or distress' (Section 5 of the Public Order Act 1986)
	Drinking Banning Orders	Violent Crime Reduction Act 2006 s.1-14	A civil order excluding 'risky' individuals from licensed premises within a defined geographical area
	Police confiscation of alcohol from under 18s	Policing and Crime Act 2009	From 29 January 2010 police no longer need to prove that an individual 'intended' to consume the alcohol being confiscated.
	Illegal alcohol purchases	Licensing Act 2003	To 'knowingly...obtain alcohol for a person who is drunk' is an offence under s142 of the LA2003. Prosecution of under-18s who have purchased alcohol and adults who have purchased alcohol on their behalf ('proxy sales') (offence of the 'purchase

			of alcohol by or on behalf of children' - s149 Licensing Act 2003.
Place-based	Directions to Leave a Locality	Violent Crime Reduction Act 2006 s.27 Policing and Crime Act 2009	Police can require persons to leave a specified locality if that person is judged likely to contribute to alcohol-related crime and disorder. Directions can now be issued to people aged 10-15 years
	Underage Drinking in public	Policing and Crime Act 2009	Creates an offence of persistently possessing alcohol in a public place by under-18s. Strengthens police powers in relation to the confiscation of alcohol.
	Dispersal Orders	Anti-Social Behaviour Act 2003 s.30-36	Police can exclude groups of two or more persons from a designated area, where their behaviour or presence is likely to be perceived by others as anti-social
	Designated Public Places Orders	Criminal Justice and Police Act 2001 s.13	Allows councils to identify public places in which the consumption of alcohol is prohibited and alcohol can be confiscated by the police
	Cumulative Impact Policies	Guidance to the Licensing Act 2003	Allows for a rebuttable presumption against the granting of new Premises Licences, or variations to licences, eg. so as to extend opening hours, within a given area

	Alcohol-Disorder Zones	Violent Crime Reduction Act 2006 s.15-20	Allows licensing authorities to design an action plan to remedy alcohol-related problems within a specified area with the potential for mandatory financial levies to be imposed upon licensed premises
Venue-based	Licensing Conditions	Licensing Act 2003	Allows licensing authorities to specify how premises will be run, including the required introduction of various crime prevention measures
	National Mandatory Licensing Conditions	Policing and Crime Act 2009	Phase 1 (from 6 April 2010) bans certain types of drinks promotion Licensed premises must offer free tap water Phase 2 (from 1 October 2010) licensed premises must offer small measures (125ml of wine, 25ml or 35ml spirits) and have an age-check system in place.
	Licence Review	Licensing Act 2003 s.51 Policing and Crime Act 2009 s33	Allows a responsible authority or an 'interested party' to request a review of the licence conditions Amends the definition of "interested parties". s13(3) Licensing Act 2003 to include all members of local authorities that are also licensing authorities, so that elected councillors of the licensing authority can now make representations or seek a review in their own right.
	Licensing Enforcement Powers	Licensing Act 2003 Pt. 7	Section 147A restates the offences of supplying alcohol to an under-18. To 'knowingly sell or attempt to sell alcohol to a person who is drunk' is an offence under s141 of the Licensing Act 2003.

		Policing and Crime Act 2009	<p>Part 7 of the LA2003 allows authorities to check compliance by test-purchases.</p> <p>A premises licence holder is guilty of an offence if on 2 or more different occasions within a period of 3 consecutive months alcohol is unlawfully sold on the same licensed premises to an individual aged under-18.</p>
	Closure Powers	Licensing Act 2003 Pt 8	Allows police to close temporarily certain premises, or all premises in a specific area, where there is actual or anticipated disorder, or to abate noise-related nuisance.

¹Wine and Spirit Trade Association (WSTA) (2008), *White Paper on Enforcement*. London: WSTA.
<http://www.wsta.co.uk/images/stories/nationalconsultationannex2.pdf>

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- ⁱⁱDCMS (2008), *Evaluation of the Impact of the Licensing Act 2003*. London: DCMS. p.7.
- ⁱⁱⁱHome Office (2007), *The Responsible Alcohol Sales Campaign* www.crimereduction.homeoffice.gov.uk/tvcp/tvcp02rasc.doc
- ^{iv}*Parliamentary Written Answer*, 313097. 2 Feb 2010.
- ^v*ibid.*
- ^{vi}Home Office/KPMG with Lancaster University (2008), *Review of the Social Responsibility Standards for the Production and Sale of Alcoholic Drinks*, Birmingham: KPMG LLP.
- ^{vii}*Parliamentary Written Answer*, 313622. 27 January 2010.
- ^{viii}WSTA, *ibid.* p.16.
- ^{ix}<http://press.homeoffice.gov.uk/press-releases/44,000-Pints-Seized>
- ^xMinistry of Justice (2008), *Criminal Statistics: England and Wales 2007*, London: Ministry of Justice.
- ^{xi}Home Office (2005), *Criminal Justice and Police Act 2001 (s1-11): Penalty Notices for Disorder, Police Operational Guidance*, London: Home Office Communication Directorate. p.19, para 7.3
- ^{xii}BERR (Department for Business, Enterprise and Regulatory Reform) (2007) *Regulators' Compliance Code: Statutory Code of Practice for Regulators*. London: BERR.
- ^{xiii}Hampton, P. (2005), *Reducing Administrative Burdens: Effective Inspection and Enforcement*. London: HM Treasury.
- ^{xiv}Tuck, M. (1989) *Drinking and Disorder: A Study of Non-Metropolitan Violence*, HORPU Research Report 108, London: HMSO.
- ^{xv}Measham, F. (2004) 'The decline of ecstasy, the rise of 'binge' drinking and the persistence of pleasure', *Probation Journal*, 51 (4): 309-26.
- ^{xvi}Measham, F. (2006) 'The New Policy Mix: Alcohol, harm minimisation and determined drunkenness in contemporary society', *International Journal of Drug Policy*, 17(4): 258-68.
- ^{xvii}WSTA, *ibid.* p.12.
- ^{xviii}Hadfield, P., Lister, S., and Traynor, P. (2009) 'This Town's A Different Town Today: Policing and Regulating the Night-time Economy', *Criminology and Criminal Justice*. 9/4: 465-85 (with open access). <http://crj.sagepub.com/cgi/reprint/9/4/465>
- ^{xix}Hadfield. P. (editor) (2009) *Nightlife and Crime: Social Order and Governance in International Perspective*. Oxford: Oxford University Press.
- ^{xx}Hadfield, P. and Newton, A.(2010) *Alcohol, Crime and Disorder in the Night-time Economy*. Factsheet. London: Alcohol Concern. <http://www.alcoholconcern.org.uk/publications/factsheets-and-booklets/nte-factsheet>