

7.2 CONDITIONS AND HOURS

Targeted conditions and ending “permitted” hours

61. The general public will be most affected by the operating conditions attached to a premises licence, and the opening and closing hours for doing business. Under the Government’s proposals, the conditions that could be attached to a premises licence would have to relate to the key purposes of preventing crime and disorder, ensuring public safety, protecting children and preventing undue public nuisance. On this approach licensing authorities should be free to consider opening hours as part of the general licensing conditions attached to premises. Standard “permitted hours” would be removed. For example, it would be open to an applicant for a premises licence to set out an operating plan which might propose normal closing at any specified times on particular days: for example, 12 midnight Sunday to Thursday, 1am Friday to Saturday. It should also be possible for the plan to identify a certain number of additional late openings a year to cover special events – perhaps up to 20. There are likely to be considerable variations as to the operating hours between different types and styles of venue and different areas. Licensed premises in residential areas might well have earlier closing times than those in town or city centre locations to reduce noise and nuisance to residents. These changes should help ensure that people leave venues gradually over a longer period, and so reduce pre-closing binge drinking and public order problems arising from large numbers of people arriving on the streets simultaneously. We do not therefore envisage in any part of the country that the hours of opening will be any less than they are now.
62. It is wrong to assume that only some hierarchy of staggered closing times could deliver the public order advantages described above. The key to improvement is to secure staggered leaving by customers and not staggered closing times. Longer hours generally should promote a more gradual drift from licensed premises as customers make for home, and end the unnaturally early race to drink as much as possible before closing time, when many are not yet ready to go.

Permitted Hours Now 2

Permitted hours refers to the times 2 when alcohol may be sold or supplied. During the hours before 2 or beyond permitted hours, a 2 public house could under the 2 current law open to serve, for 2 example, tea. 2

- ✓ Weekdays (other than Good 2 Friday) 11.00am until 11.00pm 2
- ✓ Good Friday 12 noon until 2 10.30pm 2
- ✓ Sundays (except on Christmas 2 Day) 12 noon until 10.30pm 2
- ✓ Christmas Day 12 noon until 2 3.00pm, and 7.00 pm until 2 10.30pm. 2
- ✓ Special arrangements apply at 2 the Millennium

In Scotland 2

- ✓ Flexible hours – no terminal 2 hour since 1976 (then generally 2 10pm)
- ✓ Licensing boards set own 2 policy on hours
- ✓ Some fixed closing times -often 2 1am for pubs, and 3am for clubs
- ✓ Some zoning to stagger closing 2 (Glasgow has zoning; 2 Edinburgh does not)

63. The potential benefit of varied and later closing times is not a new idea. A recent Home Office study⁵ reviewing the impact of alcohol and crime draws attention to evidence of the benefits of reducing the rate of drinking and the number of drinkers leaving at the same time.
64. In particular, research indicates⁶ that spreading the period during which customers leave should produce five key outcomes:
- ✓ a more gradual, and orderly, pattern of dispersal of peak densities between the hours of 11pm – 12 midnight, and 2am and 3am in urban centres
 - ✓ significant reductions in reports of drink-related offences and in arrests for such offences
 - ✓ reductions in binge drinking and drunkenness on the streets
 - ✓ increased availability of refreshment and transportation facilities due to more evenly spread demand
 - ✓ a decrease in reports of nuisance and noise in direct proportion to the lower densities at any given time.
65. We therefore recognise the strong arguments in favour of a more flexible approach. However, it would be open to the police or local residents to challenge the hours of operation described in the operating plan proposed by the operator. If they upheld the challenge, the licensing authority would be empowered to attach conditions to the premises licence which involve shorter opening hours than the plan proposed when justified on grounds of preventing crime and disorder or public nuisance. The opinion of the police on the public order effects of different operating plans will need to be given due weight by the licensing authority, and the Home Secretary will issue guidance to ensure that this happens.
66. We have also considered the possible case for some form of “permitted hours” based on “zoning”. This would allow for different sets of hours to apply to residential areas and town centres. But there are no sharp lines between areas, and all have residents whose interests need to be protected. The existence of standard hours across a zone would also partly undermine the aim of more gradual customer dispersal over a lengthier period. The better approach is for the licensing authority to use its powers to set conditions to address public order concerns or to prevent undue nuisance on a case by case basis.
67. Licensing authorities would also have to ensure that the other conditions prescribed addressed crime prevention issues, preserved public order and public safety, and minimised public nuisance within licensed hours. In the case of venues providing late-night dancing, for example, this might involve:
- ✓ specified levels of sound-proofing; or doors/windows to be kept shut after a certain time

⁵ Alcohol and Crime: Taking Stock (Crime Reduction Research Series Paper 3 Home Office 1999)

⁶ Drinking and Public Disorder: A report of research conducted for the Portman Group by MCM Research by Dr Peter Marsh and Kate Fox Kibby

- ✓ requiring door staff to be registered with the police (in line with the Government’s proposals for the Private Security Industry)
- ✓ good coverage of the premises by CCTV to combat crime and allow early intervention where trouble arises
- ✓ requiring all licensees to hold a text pager connected to the local police to ensure rapid action and the exchange of information when public order problems arise
- ✓ adequate fire exits
- ✓ safe capacities
- ✓ preventing under 18s from entering, where appropriate.

Door staff registration 2 schemes 2

These schemes are run on a 2 voluntary basis in several parts of 2 the country, and are compulsory in 2 parts of London. To control entry to 2 the premises and to keep order 2 within them, pubs and clubs agree 2 to employ only door staff registered 2 and approved by the local police. 2 The police can, for example, refuse 2 to register individuals with criminal 2 records for serious violence or 2 involving drugs. Door staff are 2 normally expected to attend training 2 courses to ensure they have a proper 2 understanding of the law, their 2 responsibilities and powers, and 2 what the police expect of them. 2 These schemes are important for 2 crime prevention and counter drugs 2 penetration of premises popular 2 with young people. 2

68. In all cases, it would be a basic statutory requirement that all conditions were necessary and proportionate to the business envisaged in the operating plan. For small country pubs – let alone late night refreshment outlets not serving alcohol – some of the above conditions might be wholly out of place. The starting point for conditions should always be the operating plan itself; indeed licence applicants should normally discuss the plan with the authority and the local police before submitting it and themselves propose conditions which the authority could incorporate in the licence or modify if necessary. The process need not be adversarial; it should normally be co-operative.

69. In the case of premises which had opted-out of the sale of alcohol, the premises licence would not have to be matched by the personal licence. Personal licences constitute specific permission to sell or serve alcohol because of the unique problems associated with that trade. Only a premises licence would therefore be required for venues staging events not involving alcohol.

70. In this context, we also need to consider what conditions should normally be attached to premises licences in respect of outlets providing late night refreshment. As explained earlier, in future, these will be premises providing meals and other refreshment for consumption on or off the premises between 11 p.m. and 5 a.m. In many parts of the country, there may be no need to attach any conditions whatsoever to the premises licence. It is our view, for example, that health and safety conditions which are not specifically relevant to night hours should not be imposed; and many premises will not give rise to crime and disorder or nuisance issues. Such licences should be issued with the minimum of fuss and for a low fee reflecting the small administrative cost. In other areas, particularly metropolitan areas, conditions imposed may need to address disorder (because such premises can attract drunks) and the potential for unreasonable public nuisance (because people can gather outside in the early hours creating unreasonable disturbance).

71. The licensing laws concerning cinemas are also the source of the local authorities' powers to restrict the public showing of certain films. In order to maintain these powers to regulate the showing of films by content, they should retain this power as an additional ground for attaching conditions to premises licences in relevant circumstances.

Shopping Hours

72. In the case of shops, stores and supermarkets, the premises licence should normally permit sales of alcohol during lawful shopping hours. If licensed, a supermarket open for 24 hours per day would be free to sell alcohol during that period. After the initial issue of personal licences, this change should therefore significantly reduce the burden on the licensing authorities and on the retail industry.

73. In view of representations we have received, we feel it necessary to emphasise that 24 hour opening would not of course be compulsory. As now, a retailer does not have to open at all hours permitted by law, and can decide not to open late at night. It will be for any personal licence holder, in consultation with the local police as necessary, to judge the commercial advantage and security implications of opening at any time.

74. As with all premises licences there will be a statutory duty on the licensing authority to consult the police. Under the system proposed, if the police raise specific objections on grounds of crime prevention or concerns about public order, the licensing authority could restrict hours of sale of alcohol at the shop, store or supermarket exceptionally. This might apply where a particular off-licence has in the past been a focus for underage drinkers or disorderly behaviour. If opposed by the retailer, this restriction should be for a specified period – up to 3 months at a time – and subject to both renewal and review. This would require the police to regularly review their assessment associated with the premises in question.

75. We therefore propose that:

- ✓ sales from such outlets normally be permitted during legal shopping hours (24 hours per day, 7 days a week, except on Sundays when special hours apply to larger shops) for the general convenience of the public
- ✓ any restriction on hours should only be imposed following the registering of a specific objection with the licensing authority by the police on public order or crime prevention grounds.

Access of children to on-licensed premises

76. Appendix 2 explains our reasons for wanting to keep the minimum age for the legal purchase of alcohol at 18. However, the case for providing easier access for children below that age to premises where alcohol may be sold for consumption raises different issues. Across the United Kingdom for many years thousands of children have regularly and lawfully gone into sports and social clubs where alcohol is drunk, and it has become an accepted part of family life. But restrictions on child access, which do not apply to registered clubs, have been applied to public houses in the past, even though the atmosphere in some of them may be little different. Many believe that the presence of families on licensed premises encourages more sensible drinking, and would encourage pubs that wish to create more child-friendly environments. There are also gains to be made for tourism. Families with younger

children now have their choice of places to eat and drink together severely restricted by the law.

77. Children under 14 may already be present in the gardens, family rooms and restaurant areas of pubs which have these facilities. Children's Certificates, which were introduced in 1994 with the aim of making greater access possible, have not been a success. The tendency of well-meaning licensing justices to attach arduous conditions to the grant of such certificates has made many pubs reluctant to apply. We also need to recognise that in some parts of the country, the current law is not consistently enforced by the police for whom it is a matter of low priority and effectively discredited in the eyes of the public.

78. The better approach, in the light of this experience, is for the law to carry a presumption that youngsters under 18 should normally be free to enter any licensed premises where alcohol is sold for consumption on those premises, unless the licence holder has opted out of this facility with the result that the premises licence excludes access by children, or a condition has been imposed by the licensing authority with the result that the children on the premises are required to be supervised by an accompanying adult. Many operators will not want children in their premises because they are providing an ambience or entertainment geared exclusively for an adult clientele. Where such an opt-out has not been taken up the admission of children would be possible at the licence holder's discretion, and the licensing authority would need to bear this in mind when considering premises licence conditions.



Where an opt-out is not sought there will be some premises that the licensing authority believe are not suitable for children without the guidance and protection of an accompanying adult. On the other hand there are already many licensed restaurants and cafes, cinemas with bars and hotels which under 18s can use on their own and should continue to be able to do so. The licensing authority should consider the issues on their individual merits.

79. Easier access by children to licensed premises requires that we address the laws governing consumption as well as purchase. It is currently lawful for children of 5 years or more to consume alcohol in, for example, a pub garden or a family room. These laws do not make good sense. The problem lies in the fact of children being allowed to drink alcohol at all on licensed premises; not in how far away they are from the bar when they do so. Our proposal that children should normally be allowed to enter licensed premises at the discretion of the personal licence holder will therefore be balanced with a clear prohibition on the consumption of alcohol by those under 18 anywhere on licensed premises or in the immediate vicinity, including the garden of licensed premises – subject to one exception.

80. Children aged 16 and 17 may currently buy and drink “beer, porter, or cider” with a table meal. This concession may be little-known and so little-used; but that is not a sufficient reason to remove it in the cause of legislative neatness. It offers opportunities for younger age groups to learn about moderate and sensible consumption in the context of family meals; for this reason the concession should be

extended to include wine, but not spirits. This change would reflect modern lifestyles and attitudes. However, the concession should apply only to 16 and 17 year olds accompanied by a supervising adult. The current law requires no supervision. Supervision is appropriate here because the issue is consumption. The definition of a “table meal” should be clear to avoid abuse. It should not, for example, include bar snacks.

81. We therefore propose that:

- ✓ the Children’s Certificate should be abolished, and under 18s should normally be able to enter licensed premises, unless the licence conditions rule this out (whether as a result of an opt-out by the premises or a decision by the licensing authority). The licensing authority should, however, have discretion to require youngsters to be accompanied by an adult, but only where there are good reasons to insist on this
- ✓ children aged 16 and 17, accompanied by an adult, should be free to drink alcohol below spirit strength for consumption with a table meal
- ✓ with this exception, it should be unlawful to permit the consumption of alcohol by a child under 18 anywhere on licensed premises or in the immediate vicinity (for example, pub gardens, and adjacent verges and highways)
- ✓ licence holders should be free to exclude children from their premises if they choose to do so, just as they are free to exclude anyone on grounds which do not involve racial or other unlawful discrimination.

The new regime

82. With regard to the premises licence, we therefore propose that:

- ✓ standardised permitted hours should be ended
- ✓ the ability of a licensing authority to impose conditions, including limits on operating hours, should be confined to considerations of preventing crime and disorder, undue nuisance or threats to public safety
- ✓ in the case of premises selling alcohol for consumption off those premises, hours of trade in alcohol should only be restricted on the basis of specific conditions requested by the police on the grounds of preventing crime and disorder.

83. This should therefore produce arrangements whereby:

- ✓ main operating conditions should emerge from the operator's plan submitted with the application, and should be included in the licence

- ✓ a basic licence will determine the conditions under which the sale of alcohol, music and dancing and other forms of public entertainment and the provision late night refreshment after 11 p.m., and the presence of children of any age (unless opt outs have been taken in respect of alcohol, children or public entertainment) may take place



- ✓ the current exemption from public entertainment licensing which allows two musicians to perform in on-licensed premises should end (because discos or one or two musicians with powerful amplifiers can make more noise and so generate more nuisance than three without), and be subsumed into the broad permission granted under the basic licence



- ✓ to alleviate the need for large numbers of pubs to seek variations of their conditions simultaneously following the announcement of special national celebrations, the Secretary of State would take powers

to establish by Order, for a temporary period, fixed national hours for exceptional national celebrations: for example, events such as the recent Millennium, VE day commemorations, or special anniversaries of the monarch's accession to the throne.

Credit sales

84. Many people do not realise that the existing law requires alcoholic drinks for immediate consumption on the premises (except with a meal) to be paid for in cash at the time of the sale or supply. These laws apply to registered clubs as they do to pubs. The use of credit was apparently restricted in the days of the "slate" because it was thought to be an encouragement to drinking beyond an individual's means. Today, these laws are widely ignored, do not apply to off-sales and are rarely enforced. As part of the process of modernisation, in the interests of tourism and as a reflection of modern purchasing arrangements, we intend to change the law to permit purchases using credit cards.

Sundays in Wales

85. Welsh districts are entitled under the existing law to vote every seven years on whether to allow alcohol sales on Sundays. The last vote was held in 1996; the next will take place in 2003. Successive governments have expressed commitments to

abolish these arrangements. We consider that the uncertainty created by such a polling system is a significant deterrent to investment by the hospitality and leisure in these districts, and therefore damages economic growth, employment prospects and tourism. Subject to the views of the Welsh Assembly, we therefore propose to modernise the arrangements by:

- ✓ bringing the Welsh Districts into line with the arrangements described in this White Paper.

Sunday generally

86. We have addressed the issue of whether any special arrangements should apply on Sundays. While we recognise that many still consider that there is a special nature to Sunday, our view is that we live in a multi-cultural and diverse society in which a great range of days are held by certain groups to be sacred or special. The only sensible approach is to treat each day equally for the purpose of licensing law.

The process

87. The chart at Appendix 6 illustrates in simple terms how the proposed system would work.

Exceptions and Exemptions

88. We are seeking to reduce the number of exceptions and exemptions as part of the streamlining and modernising process. The existing statutes provide a range of exemptions from certain licensing requirements. The justification for some is lost in history and has little relevance in today's society. We have set out in Appendix 3 some of the changes we intend to make, and our reasons for retaining special arrangements in a small number of cases.