

6 Hours of Trading

- 6.1 This Chapter provides guidance on good practice in respect of any condition imposed on a premises licence or club premises certificate in respect of hours of trading or supply.

Shops, stores and supermarkets

- 6.2 It is recommended that shops, stores and supermarkets selling alcohol should generally be permitted to match the hours during which they may sell alcohol with their normal trading hours during which other sales take place, unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance. Accordingly, if the law permits the shop to open for 24 hours or limits such opening, for example, on Sundays, the licensing authority should generally permit the sale of alcohol during those hours unless there are very good reasons as to why it is necessary not to do so.
- 6.3 Some shops may however be known to be a focus for disturbance because youths congregate there and engage in nuisance and anti-social behaviour, including trying to pressurise shop staff to make unlawful sales of alcohol. Where relevant representations are made by an interested party or a responsible authority (particularly, the police) concerning applications for premises licences for such places, or in connection with existing licences, licensing authorities should consider a restriction on opening hours as one mechanism of combating such problems if this would be necessary.

Workers' rights

- 6.4 In determining an application for a premises licence or club premises certificate and the hours at which the premises might provide licensable activities to the public, it is not for the licensing authority to consider such matters as the rights of the workers employed on the premises who may be asked to work longer hours. There are existing protections under the Working Time Regulations 1998, (SI 1998/1833), the Employment Rights Act 1996 (as amended) and under the general employment law and laws of contract (which make it unlawful for one party to a contract of employment to vary its terms and conditions without the other's consent). Those existing protections are available to provide adequate protection against abuse. Against this background, the impact on workers of any extended hours permitted by a premises licence or a club premises certificate is a contractual matter to be resolved between the employer and the employees, and licensing authorities should not seek to intervene in these matters.

Principle of flexibility

- 6.5 The Government strongly believes that fixed and artificially early closing times promote, in the case of the sale or supply of alcohol for consumption on the premises, rapid binge drinking close to closing times; and are a key cause of disorder and disturbance when large numbers of customers

are required to leave premises simultaneously. This creates excessive pressures at places where fast food is sold or public or private transport is provided. This in turn produces friction and gives rise to disorder and peaks of noise and other nuisance behaviour. It is therefore important that licensing authorities recognise these problems when addressing issues such as the hours at which premises should be used to carry on the provision of licensable activities to the public.

- 6.6 The aim through the promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through longer opening times. Arbitrary restrictions that would undermine the principle of flexibility should therefore be avoided. We will monitor the impact of the 2003 Act on crime and disorder and the other licensing objectives. If necessary in the light of these findings, we will introduce further legislation with the consent of Parliament to strengthen or alter any provisions.

Zoning

- 6.7 Zoning is used in this Guidance to refer to the setting of fixed trading hours within a designated area. Experience in Scotland has demonstrated that zoning leads to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town and city centres than is necessary. Zoning was attempted in Edinburgh for a period of eighteen months in the early 1990s when five zones were created. This had to be abandoned in 1993 because of the problems created for the police and significant improvements in terms of the reduction of disorder and disturbance were noted following its removal. The Government also considers that zoning risks treating residents and persons involved in business in one area preferentially over others simply because they have chosen to live in busy central areas of towns and cities. Under the 2003 Act any person involved in a business in the vicinity or any residents in the vicinity of licensed premises have the same rights to make representations concerning applications for and reviews of premises licences and club premises certificates, including hours of trading and to have those representations considered by the same standards regardless of where they live or conduct their business.
- 6.8 In relation to the prevention of public nuisance, in each individual case that arises following representations, the licensing authority should consider the potential for nuisance associated with the style, characteristics and activities of the business to be carried on at the premises in order to examine the potential steps which could be taken to reduce the risk of nuisance occurring. This will particularly apply in areas of residential accommodation. The licensing authority should consider restricting the hours of trading only where this is necessary because of the potential impact on the promotion of the licensing objectives from fixed and artificially-early closing times.
- 6.9 Above all, licensing authorities should not fix predetermined closing times for particular areas.

Staggered closing times

- 6.10 Licensing authorities should also not seek to engineer “staggered closing times” by setting quotas for particular closing times, for example, by allocating closing times of 11.00pm, 12 midnight, 1.00am, 2.00am, 3.00am etc. to specific premises. In the Government’s view, this would only serve to replace the current peaks of disorder and disturbance after 11.00pm and

after 2.00am with a series of smaller peaks, minimising any potential improvement in the prevention of crime and disorder or public nuisance and would not be necessary to promote the licensing objectives. The general principle should be to support later opening so that customers leave for natural reasons slowly over a longer period. This prevents any artificial concentrations. At present, permitted hours for ordinary public houses are set at times that research evidence suggests are artificially early, causing a high proportion of customers to remain until the fixed closing time. The benefit of later closing times, even if many are similar, is that customers will leave for a variety of reasons at a variety of times. For example, if all the public houses in a single street could open until 3.00am, this would allow customers a far longer period than now to leave and disperse from that area.

Relaxation of opening hours for local, national and international occasions

- 6.11 It should normally be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year – such as bank holidays – and to incorporate appropriate opening hours for these occasions in their operating schedules. Similarly, temporary event notices – in respect of which a personal licence holder may give fifty each year – should be sufficient to cover events like Golden Wedding Anniversaries or 21st Birthday parties which take place at premises which do not have a premises licence or club premises certificate. However, with the passage of time exceptional events of local, national or international significance will arise which could not or have not been anticipated. Such events can give rise to the need to vary the conditions of large numbers of premises licences and club premises certificates. In such circumstances, it will be open to the Secretary of State to make a licensing hours order to provide for premises with a premises licence or club premises certificate to open for specified, generally extended, hours on these special occasions. Examples might include a one-off local festival, a Royal Jubilee, a World Cup or an Olympic Games.
- 6.12 Such events should be genuinely exceptional and the Secretary of State will not consider making such an order lightly. Licensing authorities (or any other persons) approaching the Secretary of State about the making of such an order are advised that they should give **at least** six months notice before the celebration in question. Before making such an order, the Secretary of State is required to consult such persons as she considers appropriate, and this would generally enable a wide-range of bodies to make representations to her for consideration. In addition, such an order will require the approval of both Houses of Parliament. Six months would be the minimum period in which such a process could be satisfactorily completed.

“Drinking up time”

- 6.13 It is important to note that “opening hours”, the times when premises are open to the public, are not necessarily identical to the hours during which licensable activities may take place. In the case of the sale by retail of alcohol (or supply of alcohol by or on behalf of a club to, or to the order of, a member of a club) for consumption on the premises, it must also be noted that

“consumption” of alcohol is not a licensable activity. Accordingly, the authorised period specified in the premises licence, club premises certificate or temporary event notice relates to the period during which alcohol may be sold or supplied. It is therefore permissible for premises to allow the consumption of previously purchased alcohol, within the authorisation, outside the hours authorised for the sale or supply of alcohol.

Closing early

- 6.14 Just as under the Licensing Act 1964 there is no requirement obliging a justices’ licence holder to remain open during the period of permitted hours if he or she wishes to close earlier, there is no obligation under the 2003 Act requiring the holder of a premises licence or club premises certificate to remain open for the entire period permitted by his licence or certificate. If, for example, a public house has no trade on a particular evening, the licence holder is entitled to close the premises.