

Rebalancing the Licensing Act

Response by the City of London Corporation

No	Consultation Question	Draft Combined Responses
1	What do you think the impact would be of making relevant Licensing authorities' responsible authorities?	In principle we would welcome this, provided it was clear who would act as the tribunal for, for example, a review brought by the Licensing Authority as a responsible authority. There should be clarity in accompanying guidance as to how this is to be applied with examples given to support this.
2	What impact do you think reducing the burden of proof on Licensing authorities will have?	<p>The removal of 'necessity' as a prerequisite for decisions in general and conditions in particular may be challenging. Some mechanism will be required for ensuring that conditions are both sensible and lawful. The move could simplify the current situation and will enhance LA powers with decisions remaining bound within the scope of the Licensing Objectives.</p> <p>Shifting the onus to applicants to demonstrate impact on the area could, for example, result in more detailed and improved operating schedules and enhance design considerations including management and supervision arrangements again significantly enhancing the powers implied in question 1</p>
3	Do you have any suggestions about how the licence application process could be amended to ensure that applicants consider the impact of their licence application on the local area?	<p>Applicants could be required to include in their operating schedule on their own assessment as to community impact and any consultation they have carried out in advance of their application.</p> <p>We also suggest that impact on the area should be reflected and included in the operating schedule which is reviewable by the premises license holder on request of the LA and/or after a specified time period. This would ensure responsiveness to specific concerns in the area of the premises or changes of circumstance in the local environment. The requirements for this should be reflected in accompanying guidance.</p>
4	What would the effect be of requiring licensing authorities to accept all representations, notices and recommendations from the police unless there is clear evidence that these are not relevant?	<p>We are opposed in principle to the LA being required to take <u>directions</u> from any responsible authority.</p> <p>Comments by the police are one of the factors a licensing committee takes into account. A committee should not be required to follow police "recommendations" any more than recommendations by another responsible authority. We would object to proposals designed to introduce a mandatory element in the way suggested.</p>
5	How can licensing	Dispense with the requirement to advertise in newspapers and

	authorities encourage greater community and local resident involvement?	<p>instead encourage enhanced web capability including the ability for residents and others to request automatic notifications of licence applications.</p> <p>We do not believe that there is any benefit to requiring authorities to notify all local residents as this has technical problems as well as involving potentially significant costs.</p> <p>Whilst it would be helpful for an authority to have wide powers of consultation, any guidance should be as general as possible so as to avoid the danger (often seen in practice) of 'guidance' becoming regarded as mandatory direction on 'the qualitative and quantitative aspects of a consultation.</p>
6	What would be the effect of removing the requirement for interested parties to show vicinity when making relevant representations?	We would be opposed to this change unless it is possible to a person or organisation not in the vicinity can demonstrate a clear interest in the application. It would also be beneficial for the Secretary of State to formally define vicinity.
7	Are there any unintended consequences of designating health bodies as a responsible authority?	<p>We do not believe that the opinions of health bodies are material to the current licensing objectives.</p> <p>In addition, introducing a licensing objective on these lines could lead to a great deal of technical evidence being adduced before a licensing committee with very limited background, training or experience on dealing with these particular issues.</p>
8	What are the implications in including the prevention of health harm as a licensing objective?	We would be opposed to such a change as it will most likely relate to the connection between alcohol and health in general terms and would not refer to the particular characteristics of particular premises.
9	What would be the effect of making community groups interested parties under the Licensing Act, and which groups should be included?	<p>We would be concerned that it would be impossible to find a definition of community groups upon which it would be possible to agree.</p> <p>From our experience this would have limited impact as the individual is given the same weight in the hearing as a group representative as this depends largely on the quality of the evidence/case they can bring relative to the licensing objectives.</p>
10	What would be the effect of making the default position for the magistrates' court	We would strongly welcome this proposal as it would both keep decisions under the control of democratically elected local representatives and may dramatically improve the timescale in which appeals can be heard.

	to remit the appeal back to the licensing authority to hear?	
11	What would be the effect of amending the legislation so that the decision of the licensing authority applies as soon as the premises licence holder receives the determination.	We would strongly welcome this change. Decisions should be effective immediately unless and until overturned at appeal. There are significant delays lasting months whilst the status quo position remains in force undermining reasons for a review in the first place.
12	What is the likely impact of extending the flexibility of Early Morning Restriction Orders to reflect the needs of the local areas?	This appears to give significant powers of restriction to the LA on trading hours dependent on any guidance that accompanies this regarding the definition of 'beneficial' in respect of the licensing objectives and 'needs of local areas' in the consultation document. It may be appropriate to consider this power to be applicable to individual premises as well as for 'local areas' as the area approach could be unnecessary or too draconian to tackle isolated problems. We support the proposed greater flexibility in relation to EMROs.
13	Do you have any concerns about repealing Alcohol Disorder Zones?	These have not been a success and we would welcome their repeal.
14	What are the consequences of removing the evidential requirement for Cumulative Impact Policies?	We believe that it is important to evidence genuine need for establishing cumulative impact zones and would be opposed to such a change.
15	Do you agree that the late night levy should be limited to recovery of these additional costs? Do you think that the local authority should be given some discretion on how much they can charge under the levy?	Yes
16	Do you think it would be advantageous to offer such	Yes, for those establishments that can demonstrate their success in promoting the licensing objectives. This is a sensible approach as it is a potential lever to encourage the

	reductions for the late night levy?	take up of local best practice.
17	Do you agree that the additional costs of these services should be funded by the late night levy?	Yes. Policing should be seen in terms of all the LA agencies that participate in regulating the night time economy.
18	Do you believe that giving more autonomy to local authorities regarding closing times would be advantageous to cutting alcohol-related crime?	Yes. However premises that do not cause any problems should not be unfairly discriminated against by a blanket closure time.
19	What would be the consequences of amending the legislation relating to TENs so that:	
	a. All the responsible authorities can object to a TEN on all of the licensing objectives?	This would be a positive change removing an anomaly particularly in respect of the public nuisance licensing objective not currently considered for temporary events
	b. The police (and other responsible authorities) have five working days to object to a TEN?	This would be further beneficial to the current expected change (to 2 working days from 48 hours notice) in relieving administrative burden on authorities
	c. The notification period for a TEN is increased, and is longer for those venues already holding a premises licence?	We see no requirement for a longer period for premises holding an existing licence. This would help LA resources whilst imposing less burden on those planning events but not necessarily already or routinely aware of the Licensing Act requirements.
	d. Licensing authorities have the discretion to apply existing licence conditions to a TEN?	This would be strongly welcomed. It is a positive step in removing a current loophole, especially as a discretionary power. It is an anomaly that temporary events do not have to abide by extant conditions because they are normally relevant to achieving the licensing objectives
20	What would be the consequences of:	
	a. Reducing the number of TENs that can be applied for by a personal licence holder	We see no advantage in this approach although it provides greater clarity.

	to 12 per year?	
	b. Restricting the number of TENs that could be applied for in the same vicinity (e.g. a field)?	It would be helpful for the Secretary of State to define vicinity, but in general terms, this would be welcomed (see our response to question 6).
21	Do you think 168 hours (7 days) is a suitable minimum for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?	Yes. As long as the expected sanction is clear, consistent and transparent then the period specified should be equivalent to the financial penalty with some relief for the voluntary nature of it. As a civil sanction it is to be commended. There may also be a parallel reference for review by a responsible authority
22	What do you think would be an appropriate upper limit for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?	We suggest 28 days but in such cases, as in question 21, there may also be a parallel reference for review by a responsible authority
23	What do you think the impact will be of making licence reviews automatic for those found to be persistently selling alcohol to children?	This seems appropriate and would be welcomed. The impact of the proposal is not likely to be significant in the City at present
24	For the purpose of this consultation we are interested in expert views on the following.	
	a. Simple and effective ways to define the 'cost' of alcohol	The wholesale cost (per unit: bottle, glass, pint etc.) paid by the seller to his supplier appears the most sensible approach. LA's, licensing committees/ responsible authorities or interested parties should not be burdened with a requirement to undertake technical assessments over the price of consumer goods
	b. Effective ways to enforce a ban on below cost selling and their costs	No comment
	c. The feasibility of using the Mandatory	We would welcome the Code of Practice but are opposed to not setting a definition of cost. We consider that a cost must

	Code of Practice to set a licence condition that no sale can be below cost, without defining cost.	<p>be defined to make this enforceable.</p> <p>Any condition prohibiting alcohol sales below cost price must contain a definition of "cost" and "price". Failure to so define will cause great uncertainty for all parties and raise the likelihood of extensive litigation</p>
25	Would you be in favour of increasing licence fees based on full cost recovery, and what impact would this have?	<p>We would strongly welcome this, provided that cost recovery included the costs of monitoring and enforcement. We believe this would have no adverse impact on the trade but would be welcomed by residents.</p> <p>If Government decide that there is any adverse impact there could be a phased approach so as to mitigate any new pressures on the system?</p>
26	Are you in favour of automatically revoking the premises licence if the annual fees have not been paid?	<p>We strongly support this measure as a significant efficiency in controlling bad debts and following the precedent of the Gambling Act therefore we would welcome the power to automatically suspend a licence but not necessarily to revoke it.</p>
27	Have the first set of mandatory conditions that came into force in April 2010 had a positive impact on preventing alcohol-related crime?	<p>We have seen no evidence to indicate they have been successful or unsuccessful. .</p>
28	Would you support the repeal of any or all of the mandatory conditions?	<p>In principle we agree with this removal of all the mandatory conditions, with the exception of condition regarding of free tap water. This condition may have a benefit in promoting public health and, potentially, be beneficial for customers.</p>
29	Would you support measures to de-regulate the Licensing Act, and what sections of the Act in your view could be removed or Simplified.	<p>We are unconvinced as to the necessity to have a named Designated Premises Supervisor.</p>