

Submission: House of Lords Select
Committee on the Licensing Act 2003
Call for Evidence



**CAMPAIGN
FOR
REAL ALE**

Response from CAMRA, the Campaign
for Real Ale
September 2016

1. Executive Summary

- 1.1 Thank you for providing the opportunity to submit written evidence to the House of Lords Select Committee on the Licensing Act 2003.
- 1.2 CAMRA, the Campaign for Real Ale, is a UK consumer organisation representing over 181,000 individual consumers on matters relating to beer and pubs. We are an independent, voluntary organisation campaigning for real ale, community pubs and consumer rights.

1.3 **Please find attached our response to the Call for Evidence, expanding on points from the following summary:**

- CAMRA opposes the introduction of a licensing objective specifically based upon health and wellbeing and instead would support the addition of an objective encouraging 'public access to, and responsible enjoyment of, licensable activities that enhance community life.'
- CAMRA is calling for the abolition of late night levies, Early Morning Restriction Orders and Cumulative Impact Policies.
- Better coordination should be encouraged between the planning and licensing regimes, including a statement of how the relationship between the two will work within each council's Licensing Policy.
- The process of surrendering a premises licence should be amended so that a new licensee is able to reactivate the old premises licence rather than applying for a new premises licence. This simplification of the licensing regime is needed to ensure that community pubs can more easily reopen after extended periods of closure.
- CAMRA opposes mandatory bans on the sale of high strength beers in the off-trade as this reduces consumer choice, restricts innovation by brewers and discriminates against some high quality beer.
- CAMRA opposes any increase in license fees and the proposal that licensing fees should be set at a local level. The setting of fees on a national basis helps ensure that the licensing regime is fairly applied throughout England and Wales and licensing costs do not become a burden for small businesses such as community pubs and clubs.
- CAMRA believes that pubs with a rateable value below £12,000 should be exempt from annual licensing fees. This could be partially funded by extending the annual fee multiplier (currently in place for large bars and pubs) to the off-trade, in particular to those supermarkets which sell very high volumes of alcohol.
- The Temporary Events Notice system should be further extended, to allow up to 20 notices per premises per year with a maximum attendance of 999 people, which is necessary to take into account large scale community events such as beer festivals.

2 Licensing objectives

Are the existing four licensing objectives the right ones for licensing authorities to promote? Should the protection of health and wellbeing be an additional objective?

- 2.1 CAMRA does not support the addition of the protection of health and wellbeing as a licensing objective. Health authorities are existing stakeholders in the licensing regime and the appropriate tools are already in place for local authorities to address alcohol-related health issues within the Act as it currently exists.
- 2.2 Scotland's decision to introduce a fifth licensing objective for 'promoting and improving public health' through the Licensing (Scotland) Act 2005 is not regarded as a widespread success. The following evidence indicates that the objective is difficult to understand and to apply:
- A 2011 report, supported by the Scottish Centre for Social Research (SCRC), evaluated the effect of the Act and found that 'LSOs [Licensing Standards Officers] and licensing board respondents felt that the 'promoting and improving public health' objective was the one that had been the least successfully addressed locally'. The report cited a number of reasons for this including the difficulties defining and measuring the wider scope of the objective and the inadequacies of the local data available from which to monitor success¹.
 - The final SCRC report, two years later, stated that 'one of the most consistent findings throughout the three years of the evaluation was that the public health objective was viewed as being especially problematical, and it was the objective that Boards, Forums and LSOs in areas across Scotland were struggling to address²'. Owing to poor links between licensing and health officials, health professionals did not understand the licensing system and vice versa. It is important to note from this that officers in a council's licensing department may lack the detailed knowledge of public health issues to apply a health objective properly. Furthermore, the report acknowledged that the Act failed to achieve the aim of increasing the cost of alcohol in the off-trade.
 - Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS), a programme run by NHS Health Scotland for the Scottish Government to assess the effects of a range of legislation on public health, reported that 'understanding and addressing the public health objective has been challenging for Licensing Boards³'.
- 2.3 The final SCRC report, two years later, stated that 'one of the most consistent findings throughout the three years of the evaluation was that the public health

¹ An evaluation of the implementation of the objectives of the Licensing (Scotland) Act 2005: First interim report summary, June 2011 [http://www.healthscotland.com/uploads/documents/16165-Licensing%20\(Scotland\)%20Act%202005ImplementationEvaluationSummaryOne.pdf](http://www.healthscotland.com/uploads/documents/16165-Licensing%20(Scotland)%20Act%202005ImplementationEvaluationSummaryOne.pdf)

² An evaluation of the implementation of, and compliance with, the objectives of the Licensing (Scotland) Act 2005: Final Report, May 2013 <http://www.healthscotland.com/uploads/documents/21321-RE024%20Licensing%20Act%20Evaluation%20Final%20Report.pdf>

³ Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS): Third Annual Report, December 2013 <http://www.healthscotland.com/uploads/documents/22621-MESAS%203rd%20Annual%20Report%20Executive%20Summary.pdf>

objective was viewed as being especially problematical, and it was the objective that Boards, Forums and LSOs in areas across Scotland were struggling to address^[1]. Due to poor links between licensing and health officials, health professionals did not understand the licensing system and vice versa. It is important to note from this that officers in a council's licensing department may lack the detailed knowledge of public health issues to apply a health objective properly. Furthermore, the report acknowledged that the Act failed to achieve the aim of increasing the cost of alcohol in the off-trade.

- 2.4 It is now clear that it is proving difficult to implement the public health objective, due to a lack of specialist health knowledge in licensing departments, and health professionals lacking the expertise and access to detailed data that would be necessary to assess whether proposed new licensed premises would pose significant risks to public health.
- 2.5 Further to this, a health-related licensing objective is not an appropriate mechanism for assessing applications for new licences as it is impossible to identify and target specific premises that could cause alcohol-related harm to health before they are open and trading.

Should the policies of licensing authorities do more to facilitate the enjoyment by the public of all licensable activities? Should access to and enjoyment of licensable activities by the public, including community activities, be an additional licensing objective? Should there be any other additional objectives?

- 2.6 CAMRA supports the introduction of a licensing objective based on public enjoyment of, and access to, licensed activities. CAMRA would recommend that the wording of the objective be 'public access to, and responsible enjoyment of, licensable activities that enhance community life.'
- 2.7 Pubs are at the heart of the community. Research commissioned by CAMRA and carried out by Oxford University⁴ has found that people who identify as having a 'local' pub have more close friends and feel more engaged with their local community. This confirms the importance of many pubs as community facilities, the enjoyment of which should be supported and promoted by licensing authorities through a national licensing objective.
- 2.8 Whilst pubs have always served local residents and so are regarded as community facilities in their own right, in recent years there has been a growing trend of pubs diversifying and offering more varied community services to local residents. This further evidences the value of pubs to their communities and their importance in the licensed trade.
- 2.9 Some examples of pubs providing extensive community services are:

⁴ 'Friends on Tap: the role of pubs at the heart of the community' by Professor Robin Dunbar (2016)
<http://www.camra.org.uk/documents/10180/36197/Friends+on+Tap>

- The Cholmeley Arms, Burton-le-Coggles, Lincolnshire, which provides a village farm shop;
- The Black Swan, Ravenstonedale, Cumbria, which has a village shop and provides lunch meals to a local primary school;
- The Chequers, Feltwell, Norfolk, which also functions as a community cinema and hosts a senior citizens' lunch club;
- The Bell, Wortwell, Norfolk, which has a community shop, cafe and also houses the village defibrillator;
- The King's Arms, Stainton, Cumbria, which is also a Post Office;
- The George & Dragon, Hudswell, North Yorkshire, which has a village shop, library and allotments. It is also owned by the local community.

2.10 Licensing authorities should encourage a variety of licensed premises within an authority area to cater for the needs of local communities. Well run community pubs and clubs cater for the needs of local people, and provide a welcoming and enjoyable atmosphere and programme of events for those who use them.

2.11 Many pubs also make a valuable contribution to community life through their architectural merits and heritage value. CAMRA compiles a *National Inventory of Historic Pub Interiors*, which lists pubs that are considered to have traditional interiors of national and regional importance which can be accessed at: <http://www.heritagepubs.org.uk/>. CAMRA would like local authorities to do more through licensing policies and decisions to preserve pubs with valuable heritage features. A new licensing objective around the responsible enjoyment by the public of licensable activities would enable local authorities to have regard to historic pubs through the licensing system.

2.12 It is important to differentiate between the contributions made by pubs to a community and those made by clusters of late night bars and nightclubs that may cause antisocial behaviour and disrupt community life. This should be recognised through this additional objective in the Licensing Act by making direct reference to "responsible" enjoyment and the requirement to "enhance community life"

3 The balance between rights and responsibilities

Has the Live Music Act 2012 done enough to relax the provisions of the Licensing Act 2003 where they imposed unnecessarily strict requirements? Are the introductions of late night levies and Early Morning Restriction Orders effective, and if not, what alternatives are there? Does the Licensing Act now achieve the right balance between the rights of those who wish to sell alcohol and provide entertainment and the rights of those who wish to object?

Live Music Act 2012

3.1 CAMRA welcomes the introduction of the Live Music Act, and the greater facilitation of small scale music events that are important to many pubs. The financial importance of

the provision of live music in pubs should not be underestimated, and is also further evidence of a service that pubs provide to local communities.

- 3.2 In 2011 CGA Strategy conducted research for PRS for Music, which found that pubs without featured music are three times more likely to close than those with featured music, and that on average music venues take £306 per day more in wet sales⁵ when providing entertainment.
- 3.3 The changes made through the Live Music Act have not only facilitated greater provision of live music in pubs, but also ensured that a more diverse range of venues can now offer live music, increasing the range of experiences that are available to local communities through the licensed trade. Smaller licensed venues being free to provide small live music events without the need to apply for changes to their premises licence has undoubtedly boosted the commercial viability of many pubs.

Late Night Levies

- 3.4 The introduction of late night levies by local councils is strongly opposed by CAMRA owing to the extra cost this places on community pubs, many of which already face significant financial pressures. This restricts consumer choice and damages the diversity of premises on offer in a licensing authority area. Further to this, CAMRA believes that extra costs should be imposed only on licensed premises found to be individually responsible for alcohol-related disorder, rather than as a blanket charge for all premises.
- 3.5 Many community pubs with licensed hours that fall within the hours of a levy will vary their licensed hours to avoid the extra fee, reducing the availability of such premises after midnight and reducing overall levy revenue. The disproportionate effect that the imposition of a levy has on smaller, community-focused venues as opposed to nightclubs and large bars undermines the balance that the Licensing Act seeks to achieve between the interests of the larger licensed trade and local communities.
- 3.6 A report⁶ released by CAMRA and the British Beer and Pub Association earlier this year highlighted the threat that late night levies can pose to community pubs. Instead, CAMRA believes that the benefits of partnership working between local licensed premises, the licensing authority and police is the most successful and cohesive approach to managing the late night economy. These exist through Best Bar None, Pub Watches and Purple Flag schemes, which are adopted across the country.
- 3.7 There are currently eight late night levies in place across England; none have been implemented by Welsh licensing authorities. Common issues cited with the implementation of the levy are the inequality between estimated and actual income, the inflexibility of the legislation not allowing the targeting of 'problem' areas, and the lack of recognition given to existing effective local partnership schemes or Business

⁵ <https://www.prsformusic.com/SiteCollectionDocuments/PPS%20Studies/CGA%20Summary%20for%20web%20FINAL.pdf>

⁶ 'Supporting a safer night time economy: alternatives to the Late Night Levy' British Beer and Pub Association and CAMRA (April 2016) <http://www.camra.org.uk/documents/10180/0/Late+Night+Levy+Report.pdf>

Improvement Districts (BIDs). Cheltenham City Council announced in February of this year that they would be scrapping their levy in favour of a BID scheme⁷, providing further evidence for the benefits of partnership working over the imposition of a levy on local businesses.

3.8 Case studies of Councils that have rejected the introduction of a levy:

- Bristol City Council, 2013 - Concluded that a BID scheme would provide for more targeted spending of funds and would include businesses and stakeholders in efforts to manage the late night economy;
- Leeds City Council, 2013 - A report by the Scrutiny Board⁸ labelled the legislation 'fundamentally flawed', particularly in terms of flexibility and unfair costs for some licensed premises. A BID scheme has since been implemented;
- Norwich City Council, 2012 - The Licensing Committee rejected the idea of a levy due to limited revenue return following the time and cost of implementation. The estimated income before administrative fees was just £35,000;
- Royal Borough of Windsor and Maidenhead, 2014 - Concluded that the legislation was not suitable for the area. This decision was made following a meeting in which concerns were raised that alcohol related crime was not an issue across the whole local authority area, and that businesses in Maidenhead would be burdened by the costs, whilst the levy funds would most likely be spent in Windsor;
- Monmouthshire County Council, 2013, - The Council's Regeneration and Culture Directorate recommended that 'a new levy could be judged as inappropriate by many and not sympathetic to supporting local businesses'⁹;
- Tameside Metropolitan Borough Council, 2014 - Rejected a levy following public consultation in 2014 due to businesses already struggling in the area¹⁰;
- Havant Borough Council, 2012 - The Licensing Committee rejected a levy, citing falling levels of alcohol related crime and disorder which the police had partly attributed to the successful local PubWatch scheme¹¹;
- Weymouth and Portland Borough Council, 2015 - A report providing evidence to the Council included a statement from Dorset police highlighting that a BID was already in place and it was supporting the local Best Bar None scheme;
- Warwick District Council, 2015 - Produced a report which recommended that a levy not be introduced due to limited revenue return following the time and cost of implementation¹²;
- London Borough of Redbridge, 2015 - The Council's Statement of Licensing Policy¹³ from 2015 states explicitly that the Council are not considering

⁷ <http://www.morningadvertiser.co.uk/Legal/Licensing-law/Cheltenham-late-night-levy-to-be-scrapped-after-scheme-flops>

⁸ <http://democracy.leeds.gov.uk/documents/s106406/Late%20night%20levy%20Appx%20Scrutiny%20Board%20report%2021%2011%2013.pdf>

⁹ <http://www.monmouthshire.gov.uk/app/uploads/sites/11/2014/01/9c-Late-Night-Levy.pdf>

¹⁰ <http://www.popall.co.uk/news-publications/news/2014/tameside-metropolitan-borough-council-reject-late-night-levy.aspx>

¹¹ <http://havant.moderngov.co.uk/documents/s3298/Late%20Night%20Levy.pdf>

¹² <http://www.kenilworthweeklynews.co.uk/news/local-news/late-night-charges-unlikely-for-pubs-in-warwick-district-1-7064009>

¹³ http://www2.redbridge.gov.uk/cms/business_and_consumers/licensing_and_street_trading/alcohol_entertainment_and_lnr/statement_of_licensing_policy.aspx

implementing a levy as it would apply across the whole Local Authority area, and not target premises that are contributing to crime and disorder.

- 3.9 So far, no conclusive evidence exists that late night levies are an effective tool for managing the late night economy, while the benefits of partnership working and BID schemes have been well documented. During the process of setting up a BID, licensees must all agree to pay fees towards the scheme, engaging them in the process rather than the local authority imposing a levy on them without consent from all businesses.
- 3.10 CAMRA is calling for the abolition of the late night levy and better promotion at both a national and licensing authority level of partnership schemes such as PubWatch, Best Bar None, Purple Flag and Business Improvement Districts, which encourage participation and input from the licensed trade rather than imposing a blanket tax on all late night premises.

Early Morning Restriction Orders

- 3.11 CAMRA considers Early Morning Restriction Orders ineffective, and supports the removal of this power. No licensing authority has implemented one since the measure was introduced, proving there is no appetite for their use.

Cumulative Impact Policies

- 3.12 The use of cumulative impact policies by licensing authorities is opposed by CAMRA as the measure unfairly penalises prospective licensees and operators, rather than working with the established partnerships to tackle problems with existing premises. New applications for premises licences or for variations should be dealt with on their individual merits alone, and not restricted due to other 'problem' premises in the local area. Such policies can contribute to the negative image of particular areas, and prevent new, more responsible premises from contributing to the local economy and regeneration of an area.

Do all the responsible authorities (such as Planning, and Health & Safety), who all have other regulatory powers, engage effectively in the licensing regime, and if not, what could be done? Do other stakeholders, including local communities, engage effectively in the licensing regime, and if not, what could be done?

- 3.13 CAMRA estimates that a net 21 pubs close each week¹⁴, which is partly due to weaknesses in the planning system. We believe that the planning system should better support the licensed trade to protect pubs against unwanted development behind the backs of the local community.
- 3.14 Currently, pubs can be converted into other uses, such as supermarkets and estate agents, without planning permission, which is required for conversion to housing. A report by Fleurets highlighted that as many as half of the pubs sold in 2015 were

¹⁴ CGA Strategy, July 2016

converted to another use.¹⁵ This undermines pub sites allocated on the Local Plan and denies members of the local community a right to consultation. Without appropriate consultation, this can have a negative impact on the public engaging with the council's consultations in future applications and undermine the council's efforts to ensure that licensed premises reflect community needs.

- 3.15 CAMRA campaigns for the General Permitted Development Order to be amended so that any development involving a pub site requires an application to be made for planning permission.
- 3.16 Now increasingly providing important community facilities and diversified services including community shops, post offices and libraries, these premises are bringing a welcome variety to the licensed trade. A licensing objective reflecting the importance of a premises' enhancement to community life would recognise the importance of good community pubs, encourage local communities to engage positively in the licensing process and provide clear and positive guidance for the licensing team in regulating its areas.

4 Licensing and local strategy

Licensing is only one part of the strategy that local government has to shape its communities. The Government states that the Act "is being used effectively in conjunction with other interventions as part of a coherent national and local strategy." Do you agree?

- 4.1 The licensing objectives set out in the Act are with the view to protect communities. However, without a fifth objective seeking proactively to enhance community life, the current objectives fail to meet wider local and national strategies that aim better to benefit and empower communities. Introducing this objective would be in line with other government policy that seeks to encourage communities to register important buildings as Assets of Community Value, as well as recognising and investing in the growth of local co-operative models such as community owned pubs through the recently announced DCLG Community Pub Business Support Programme.
- 4.2 It is important for a coherent local strategy that planning departments contribute to licence applications in order to make applicants and decision makers aware of any impact licences will have on developed properties surrounding the premises or developments for which permission may have been granted.

Should licensing policy and planning policy be integrated more closely to shape local areas and address the proliferation of licensed premises? How could it be done?

- 4.3 Because of the impact that disjointed approaches from different local government departments can have on communities and on licensed premises, we would urge

¹⁵ http://www.fleurets.com/market-intelligence/media/survey_of_pub_prices_dec_15.pdf

closer cooperation between planning and licensing regimes at a local level. This should include clear and consistent delegation of powers to officers to help resolve cases where separate departments' positions on applications differ. The decision making process should be set out in each council's Licensing Policy.

- 4.4 In cases where licences are considered by Committee, additional conditions should be imposed to reflect and promote the importance of the objectives. Officers' reports on applications should refer to the planning department for comment on the area surrounding the premises to contextualise the application, and highlight any impact the licence will have on other properties or developments at the time of application.
- 4.5 There should also be greater communication between licensing and planning departments when considering planning applications for developments adjacent to, or near, licensed premises. Despite the amendment to the Planning Bill in 2016 to provide an 'Agent of Change' principle, there is still concern that pubs can be affected by noise complaints from residents of new developments next to or near existing pubs. High profile cases where such concerns have been raised include the George Tavern, Tower Hamlets, an iconic music pub and community venue whose late night licence is under threat due to plans to develop flats on adjacent land¹⁶, and also the 100 year old Prince of Wales in Moseley, Birmingham, a pub with an award winning licensee who fears that approved plans for flats next to his pub could lead to closure if residents submit noise complaints¹⁷.
- 4.6 In both the planning and licensing regimes' approach to granting licences, CAMRA would like to see recognition that many pubs are community facilities which provide features that are unique from other licensed premises, such as village shops, post offices and libraries, and which play a vital role in community cohesion. At a local planning authority level, and in line with paragraph 70 of the National Planning Policy Framework¹⁸, pubs are increasingly being granted robust protection in Local Plans. We believe that a fifth objective recognising premises that enhance community life would support the retention of community pubs and clubs.
- 4.7 Contrary to issues around the proliferation of other types of licensed premises, well run community pubs and clubs can encourage moderate, responsible and social drinking and can have a positive influence on neighbouring premises. CAMRA acknowledges the potential impact on anti-social behaviour and disruption to community life that could occur as a consequence of a disproportionate number of late night bars and nightclubs, and supports the spreading of late night licences across public houses throughout a licensing authority area.

¹⁶ <http://www.standard.co.uk/news/london/the-george-tavern-iconic-music-pub-set-for-fresh-court-battle-in-development-row-a3206866.html>

¹⁷ <http://www.itv.com/news/central/2016-08-16/landlord-fears-development-cause-lead-to-pub-closure/>

¹⁸ National Planning Policy Framework, (2012), pg 17
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

5 Crime, disorder and public safety

Are the subsequent amendments made by policing legislation achieving their objects? Do they give the police the powers they need to prevent crime and disorder and promote the licensing objectives generally? Are police adequately trained to use their powers effectively and appropriately?

5.1 It is in the consumer interest that licensed premises are well run and safe environments. Existing legislation provides a whole range of measures that can be taken by the police to mitigate the risk of disorder and antisocial behaviour. These measures appear both reasonable and proportionate

Should sales of alcohol airside at international airports continue to be exempt from the application of the Act? Should sales on other forms of transport continue to be exempt?

5.2 As a consumer organisation, CAMRA believes that the importance of choice and availability should be balanced with public safety. We are not aware of a body of evidence that would support the removal of these exemptions.

6 Licensing procedure

The Act was intended to simplify licensing procedure; instead it has become increasingly complex. What could be done to simplify the procedure?

6.1 CAMRA believes that licensing authorities should take licensing decisions with regards to the current licensing objectives, and the following criteria:

- the suitability of the applicant;
- the suitability of the premises;
- the likelihood of nuisance to neighbours;
- whether granting the application will provide a wider choice for the consumer.

6.2 In addition to this, and in the interests of preventing further complication of the licensing regime, the protection of health and wellbeing should not be included as an additional objective in the Act as this will further increase administrative costs borne by local authorities, and is an unnecessary measure considering the involvement that health authorities and health and wellbeing boards already have in the licensing regime and in the promoting the existing licensing objectives.

6.3 Further simplification can be achieved by allowing premises licences that have been surrendered or lapsed to be reinstated by a new licensee even where that pub has been closed for an extended period. Currently premises licences can only be transferred within strict time limits. CAMRA would urge reform of this process so that licensees looking to reopen pubs that have been closed for an extended period of time

can do so as soon as possible, and at no further delay to the local consumers who would frequent the business.

What could be done to improve the appeal procedure, including listing and costs? Should appeal decisions be reported to promote consistency? Is there a case for a further appeal to the Crown Court? Is there a role for formal mediation in the appeal process?

- 6.4 The Licensing Act provides important powers to local government and allows communities and local stakeholders to engage with local licensing issues, however the Act must be consistently applied in the interests of the national licensed trade. We would support further measures to ensure this, as well as the maintenance of nationally set licence fees.
- 6.5 CAMRA supports the process of a further appeal to Crown Court, as well as a role for formal mediation during this process. Often, licensing departments and hearing panels revoke or reduce licences owing to temporary issues, and with limited information on the impact a decision will have on a pub. This could otherwise be remedied by imposing relevant conditions and close monitoring from the council (and if necessary, the police). A disproportionate decision can significantly affect the trade of a pub for months while it gathers evidence that it is capable of tackling a perceived problem. Mediation, or an extension in the appeal process, would allow greater flexibility in reaching a decision that suits all parties and would not result in a pub becoming unviable.

7 Sale of alcohol for consumption at home (the off-trade)

Given the increase in off-trade sales, including online sales, is there a case for reform of the licensing regime applying to the off-trade? How effectively does the regime control supermarkets and large retailers, under-age sales, and delivery services? Should the law be amended to allow licensing authorities more specific control over off-trade sales of “super-strength” alcohol?

Licensing in the off-trade

- 7.1 CAMRA believes that the best place for alcohol to be consumed is in the pub, where not only the sale but also the consumption of alcohol is supervised. However, CAMRA is concerned that supermarket alcohol loss leaders are driving consumption away from well run community pubs and towards drinking at home, contributing to the closure of many community pubs. For this reason, the practice of below-cost selling of alcohol in the off-trade is opposed by CAMRA.
- 7.2 As discussed in Section 8 ‘Pricing’, CAMRA supports the extension of the annual premises fee multiplier to off-sales licences so that supermarkets pay the same annual licensing fees as pubs and bars with the same rateable values. Irresponsible price

promotions and below cost sales in the off-trade have contributed to more beer being sold by the off-trade than by the on trade.¹⁹

High strength beers

7.3 CAMRA is concerned about the introduction by some licensing authorities of mandatory bans on the sale of high strength beers. A blanket ban on the sale of high strength beers runs serious risk of breaching competition law. This risk is particularly severe when the pricing of products is discussed. Such an approach also restricts consumer choice and innovation in the beer market.

7.4 It is discriminatory that higher strength cider and beer products are subject to local bans when no issue has been taken with the sale of low cost spirits and wines, which are far higher in alcoholic strength. Of particular concern to CAMRA are mandatory licensing conditions which set a very low ABV% point to be considered 'super strength'. As the strength of beers has increased over time, bans that limit beers with as low ABV as 5-6% can severely impact on consumer choice.

7.5 Examples of bans on the sale of high strength beers and ciders include:

- Bedford City Council - beers and ciders with an ABV of above 6.5% cannot be sold in any off licences in the restricted alcohol zone in the city centre; further model licensing conditions restrict the sale of beers or ciders above 5.5% ABV, to be considered 'super strength';
- City of London Council - reserves the right to impose conditions to restrict the sale of beer and cider above 5.5% ABV, and to restrict the sale of single cans or bottles of beer²⁰;
- Worthing and Adur Councils - reserve a right to impose conditions on new applications when requested by police to restrict the sale of any beers, lagers or ciders over 6% ABV²¹.
- London Borough of Islington - runs a best practice scheme which involves off-licences committing to not selling beer and ciders above 6.5% ABV. Membership of the best practice schemes can qualify premises for a 30% reduction on the Borough's Late Night Levy annual fee²².

Balance between the on-trade and off trade

7.6 The Act places a higher restrictive burden on the on-trade compared to the off-trade, which has subsequently contributed to the overtaking of beer sales in the off-trade by beer sales in the on-trade in 2014.²³ CAMRA believe that any further restrictions on the on-trade supposedly aimed at tackling alcohol abuse could have potentially devastating consequences.

¹⁹ British Beer and Pub Association Statistical Handbook, 2015, pg14

²⁰ <http://www.cityoflondon.gov.uk/business/licensing/alcohol-and-entertainment/Pages/Licensing-policy.aspx>

²¹ <http://www.adur-worthing.gov.uk/media/media.98561.en.pdf>

²² <http://www.islington.gov.uk/services/business-licensing/regulations/licences/Pages/late-night-premises-best-practice-scheme.aspx?extra=17>

²³ British Beer and Pub Association Statistical Handbook, 2015, pg14

- 7.7 Of particular concern is the administrative and financial burden that the pub sector already faces, helping to contribute to 21 net pub closures a week in the UK²⁴. Further restrictions on the on-trade could irreversibly damage the sector and further tip the balance to the off-trade – where consumption is unregulated and therefore health risks to the consumer are greater.

8 Pricing

Should alcohol pricing and taxation be used as a form of control, and if so, how? Should the Government introduce minimum unit pricing in England? Does the evidence that MUP would be effective need to be “conclusive” before MUP could be introduced, or can the effect of MUP be gauged only after its introduction?

- 8.1 Increases in taxation applied to the on-trade would unduly penalise the vast majority who drink and enjoy pubs responsibly as well as undermining community life. A minimum unit pricing would potentially benefit the large supermarkets and the off-trade by further increasing their profits.
- 8.2 CAMRA would instead suggest an end to the current exemption to the licensing fee multiplier enjoyed by the off-trade including supermarkets. This would result in the annual alcohol licensing fee charged to the largest supermarkets increasing from £350 to £1,050, which is the same fee currently paid by the largest pubs. It is also inequitable that pubs with high rateable values are required to pay a multiplier of standard licensing fees whilst supermarkets with the same rateable values are not.
- 8.3 To reduce the burden of annual premises licence fee costs to smaller pubs and clubs, CAMRA believes that the Government should introduce an exemption from the annual fee to all holders of licences for pubs and clubs with a rateable value below £12,000. Based on existing rateable values it is estimated that around 16,000 pubs would benefit from such an exemption. An exemption from licensing fees would save these pubs either £70 or £180 annually. The proposed exemption threshold is in line with the changes to Small Business Rate Relief next year which means that businesses with a rateable value below £12,000 in England will be exempt from the payment of business rates. This could be partially funded by extending the annual charge multiplier for rateable bands D and E, which is currently in place for on-trade licences only, to premises licensed for off-trade sales as well.

9 Fees and costs associated with the Licensing Act 2003

²⁴ CGA Strategy, July 2016

Do licence fees need to be set at national level? Should London, and the other major cities to which the Government proposes to devolve greater powers, have the power to set their own licence fees?

- 9.1 CAMRA strongly opposes any fee increases for the on-trade, as this would be damaging to the viability of many pubs. Additional costs associated with licensing beyond the current tax and regulatory burden that pubs face could contribute to further pub closures, currently estimated to be 21 per week²⁵, causing the loss of variety of premises within the licensed trade and therefore restricting consumer choice.
- 9.2 A study into the effect of the Licensing (Scotland) Act 2005 (which increased fees for liquor licences) found that when interviewing Licensing Standards Officers and board representatives, some reported that that the cost of licensing fees had driven some small businesses to withdraw from licensed sales²⁶. An increase in licensing fees in England and Wales must be avoided to prevent the closure of small, responsibly run local businesses, the loss of which would impact the hardest on the local community.
- 9.3 Additionally, licence fees should be set at a national level to ensure fair and equal application and so as not to disadvantage licensees unfairly in different parts of England and Wales.

10 International comparisons

Is there a correlation between the strictness of the regulatory regime in other countries and the level of alcohol abuse? Are there aspects of the licensing laws of other countries, and other UK jurisdictions, that might usefully be considered for England and Wales?

- 10.1 Draconian restrictions on licensing hours can encourage binge drinking and increase consumption of cheap alcohol brought from the off-trade. Modest deregulation in the Nordic countries, where alcohol policy is amongst the most restrictive in the world, has proved that increasing the availability of alcohol has had little overall effect on alcohol related crime. An experiment where alcohol retail shops were opened on Saturdays in a city in Sweden (where previously they had been shut), recorded an increase in alcohol sales but no increase in assaults.²⁷
- 10.2 The scrapping of permitted hours under the Licensing Act 2003 has ended the set 'kicking out time' caused by the previous regime. Instead, local authorities have been provided with the power to stagger licensed hours as suited to ease the burden on transport and other public services. Since the Act came into force there has been a fall in arrests for drunkenness offences, partly attributable to the effects of greater flexibility on licensed hours meaning staggered 'kicking out' times for pubs and clubs.

²⁵ CGA Strategy, July 2016

²⁶ [An evaluation of the implementation of the objectives of the Licensing \(Scotland\) Act 2005: first interim report summary.](#)

MacGregor A., Sharp C., Mabelis J. et al. NHS Health Scotland, 2011.

²⁷ <http://www.ncbi.nlm.nih.gov/pubmed/12817829>

Arrests for ‘drunk and disorderly’ offences have decreased greatly since the Act came into force, as shown in the graph below²⁸, this is in line with licensing objectives for the prevention of crime and disorder, public safety, and the prevention of public nuisance.

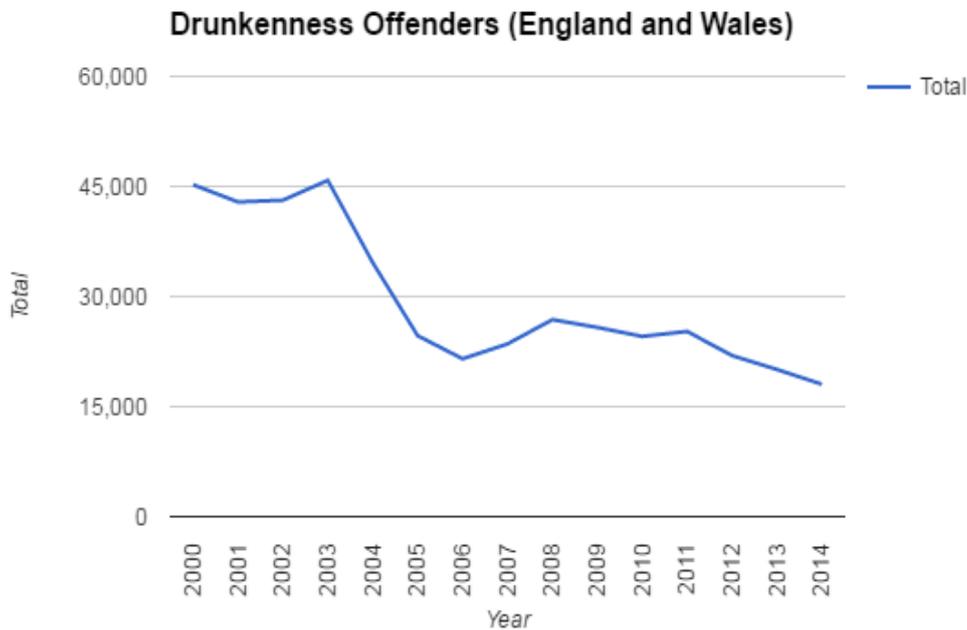


Figure 1. Total Drunkenness Offenders In England and Wales 2000-2014 (Source: BBPA Statistical Handbook)

10.3 The proliferation of 24-hour licences, which was feared by many before the introduction of the Act, never happened. In 2014 there were just over 7,400 24 hour premises licences in England and Wales, with 75% being held by hotels and supermarkets/stores; only 831 24-hour licences were held by pubs, clubs and bars²⁹. Furthermore, a regional report on the effects of the Licensing Act found that while many premises had extended their licensable hours, they were not using the full range of hours on a regular basis, and were taking advantage of the added flexibility to ‘play it by ear’ as to when to close³⁰.

²⁸ Figures taken from the BBPA Statistical Handbook 2015, source quoted as Ministry of Justice

²⁹ <https://www.gov.uk/government/publications/beer-and-late-night-refreshment-licensing-england-and-wales-31-march-2013/beer-and-late-night-refreshment-licensing-england-and-wales-31-march-2013>

³⁰ <http://socialwelfare.bl.uk/subject-areas/government-issues/legislation/homeoffice/141713horr05.pdf>

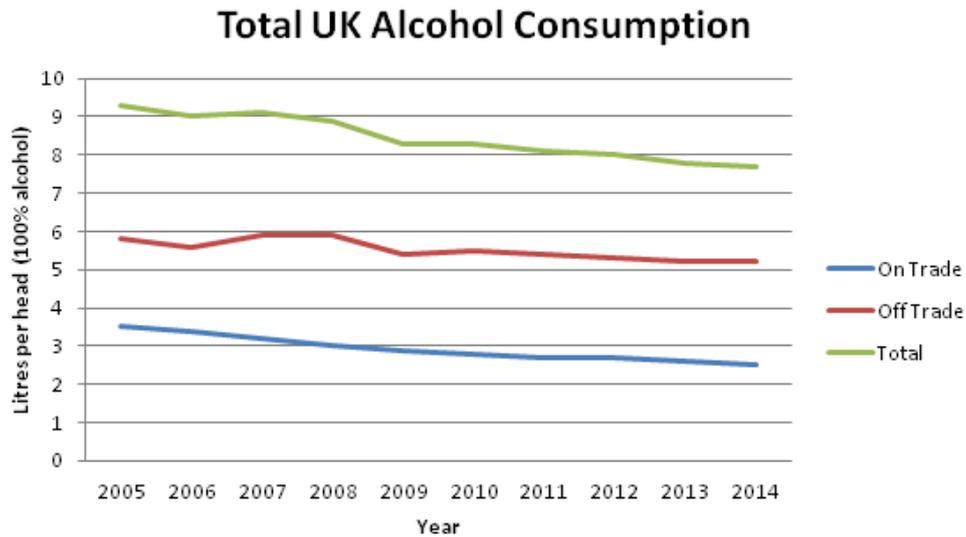


Figure 2: Total UK Alcohol Consumption, litres per head of 100% alcohol, 2005-2014 (Source: BBPA Statistical Handbook)

- 10.4 Additionally, since the Act came into force in 2005, total annual alcohol consumption per head has fallen by over one litre in the UK, and consumption in the on-trade has fallen every year. This is a clear indicator of reduction in alcohol-related harm, and the Office for National Statistics reported in 2013 that the number of 16-24 year olds reporting that they did not drink at all had increased by over 40% between 2005 and 2013³¹.
- 10.5 Overall, the system brought in by the Licensing Act works well, and provides the balance between rights and responsibilities that the Act sought to achieve. Alcohol harm has decreased since the Act came into force, and predictions by opponents of the Act of 24 hour drinking and rises in crime have not materialised, with the opposite being observed. There is greater consumer choice through more flexible opening times, increased freedom for smaller venues to host live entertainment, and greater community engagement with the licensing regime. Whilst some changes should be made to ensure fairness, greater consumer choice and a better balance between the on- and off-trade, the Act has been a success and helped foster a safer, more diverse and inclusive night time economy and overall licensed trade.

11 Other policy issues

Temporary Event Notices (TENs)

- 11.1 Although we welcomed the extension of TENs rules in January this year, CAMRA believes that restrictions on TENs should be further relaxed to allow up to 999 people

³¹ <http://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/compendium/opinions/andlifestylesurvey/2015-03-19/adultdrinkinghabitsingreatbritain2013>

to be present at any one time, and that Notices should be available for up to five days, with a maximum of 20 notices to be issued per premises each year.

11.2 The current TENs system does not take into account community events such as CAMRA's beer festivals, which are organised across the country by 160 volunteer groups and, owing to capacity demands, are often held in premises not usually licensed to serve alcohol. Beer festivals are important community events that promote locally produced beer and help support smaller brewers and raise money for charities, as well as giving attendees the chance to sample beers that they may not find in their local pubs.

12 Contacts

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