



Local Government Association

unfinished business: a state-of-play report on alcohol and the licensing act 2003



Introduction

Councils have worked hard to implement the Licensing Act 2003. Much about the new system works. But the effort of introducing a new system has inevitably occupied too much attention and distracted us from the real issues of concern to citizens, licensees, and public authorities who want to tackle alcohol-related health and social issues. We need to refocus our efforts on those central issues.

This report, based on new research commissioned by the LGA, looks at that wider picture, as well as highlighting a number of pieces of unfinished business related to the implementation of the Act. On the basis of this new and updated evidence, it reaches some clear conclusions for policymakers:

- if the 2003 Act was ever conceived as a single solution to alcohol-related disorder and health issues, it has failed to meet that objective; but it is clear that the Act has been burdened with exaggerated expectations; a more mature understanding of the Act is that it has been an effective administrative reform of the licensing system, but does not contain within it the levers needed to produce cultural and behavioural change on the part of individuals or the licensed trade;
- our new figures show that the Act has cost, to date, over £100 million more to implement than the government expected; council tax payers are footing this bill, which is worth nearly £5 for the average council tax payer; the government has failed to remedy this unfair situation, which is in conflict with the 2007 Concordat between central and local government, and despite the clear recommendations of a DCMS-commissioned report delivered to the Secretary of State 16 months ago; action needs to be taken urgently both to close the existing deficit and to move the administration of the Act onto a genuine cost recovery basis;
- although the Act is felt to have led in some places to reductions in alcohol-related disorder, the majority of councils, police authorities, and health Primary Care Trusts (PCTs) we have surveyed report no positive effects on drink-fuelled disorder as a result of the new licensing arrangements;
- about a third of areas are considering introducing new alcohol disorder zones; there are concerns about the cost of implementing them;
- council trading standards departments have been successful, working with the police, in cracking down on inappropriate sales of alcohol to children;
- But alcohol prices remain too low to reduce sales. There is a case for making significant increases in duty in order to reduce consumption of alcohol. The necessary increases in price could be as much as 17% for some kinds of products; if the Treasury does not wish to implement the necessary duty increases to reduce inappropriate alcohol sales and so consumption, local government would be willing to take responsibility for imposing local duty surcharges in order to target excessively cheap sales of alcohol in individual areas. Government should urgently consider introducing the necessary legislation.

The Licensing Act 2003

Has the Act reduced alcohol-related disorder?

The LGA has surveyed one in seven councils, half of police authorities and just under a third of all primary care trusts. Each local authority adopted its own licensing policy under the Act, taking account of local needs and concerns. Between a fifth and a quarter of each kind of organisation considered that alcohol-related disorder had reduced as a result of the implementation of the 2003 Act. Between two-thirds and three quarters of each category of organisation perceived either no change, or an actual increase in alcohol-related incidents since the implementation of the Act. For police and local authorities, the proportion reporting an increase was relatively small, at 10% and 4% respectively. More alarmingly, perhaps, 29% of primary care trusts reported an increase in alcohol-related incidents.

The survey

The Local Government Association (LGA) commissioned TNS to carry out research to increase understanding of the effects of the Licensing Act 2003 on local authorities, primary care trusts and police authorities in England and Wales.

The sample frame was split into three distinct groups - local licensing authorities, primary care trusts and police authorities in England and Wales.

The population sizes for each group are detailed below:

- Local authorities – 376
- Primary care trusts (Health Board in Wales) – 174
- Police authorities – 43.

In total 120 telephone interviews took place and the achieved sample size is as follows:

- Local authorities – 51
- Primary care trusts – 49
- Police authorities – 20.

Numbers of incidents

Health authorities which reported increases in alcohol-related incidents also overwhelmingly (86%) reported that this had put pressure on resources. The largest single source of that pressure (43% of responses) came through increased admissions to hospital A&E departments. The survey does not supply enough information to allow us to analyse exactly where the extra pressures are coming from. We believe this is an issue that would merit further research, although it underlines our general view that any action which reduces binge and under-age drinking will benefit health and well-being.

Half of police authorities reported that the Act had led to incidents of alcohol-related disorder occurring later at night than had previously been the case. (See figure 1 opposite).

Working together

The Licensing Act has had a strongly positive effect on the way public sector organisations work together, according to our survey results. Almost three quarters of those in PCTs and police authorities believe that they are now working more closely with local councils on licensing and alcohol matters as a result of the Act. All but two of the councils surveyed considered that they are working more closely with police authorities, and a third of councils considered they are now working more closely with their PCTs. Across the different groups, respondents highlighted better information sharing and communication between their organisations.

Conclusions

The overall message from the survey is that if we have looked to the 2003 Licensing Act to change the culture of rowdiness and public disorder associated with drinking in England, we have been looking in the wrong place. The Act has simplified and improved licensing processes. On the evidence of our survey, it has also contributed significantly to closer public sector working. But the overwhelming majority of councils, police authorities and primary care trusts do not report an

improvement in alcohol-related disorder incidents as a result of the Act.

How much has the Act cost taxpayers?

Our survey of councils, police authorities and PCTs also asked about perceptions of the resource consequences of the 2003 Act for the public sector. Of the PCTs which reported an increase in incidents since the Act's implementation, 86% said this increased pressure on their resources. Among police authorities, 10% reported an increase in resource pressures. Councils, which have responsibility for implementing and administering the Act, almost all (94%) reported an increase in pressure on their resources.

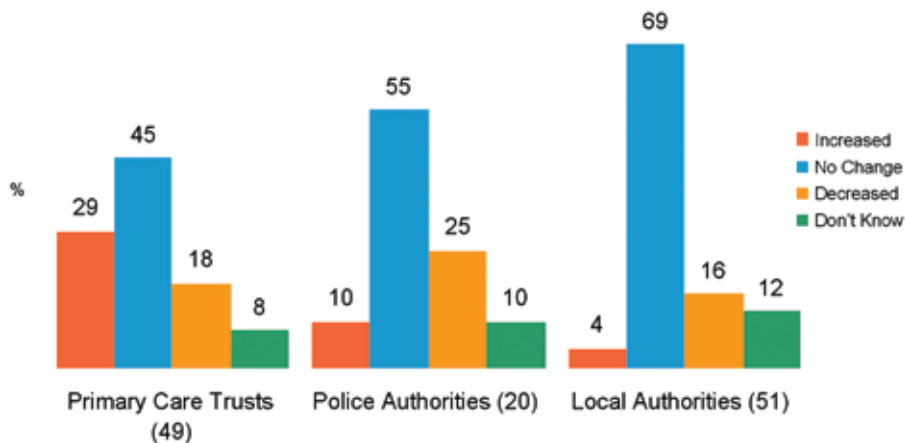
This finding for councils is borne out by a separate survey we commissioned in order to update previous work on the budgetary consequences of implementing the 2003 Act. The reason why this survey was conducted was that, when the Act was passed, Ministers assured Parliament that the costs of administering it would be covered by fee income from licensed

premises, and not increase the burden on council tax payers. Fees are levied at a rate which is set by statutory instrument and has not been updated since the Act was introduced. Councils have consistently found that fee levels do not, in fact, cover their costs. In 2006, we conducted a survey of councils' costs for licensing against their fee income and found that they faced a large accumulated deficit at that point. This cost has been met by council tax payers, who – compared to Ministers' policy as explained to Parliament – have been subsidising the licensed trade by that amount.

A government-commissioned report by Sir Les Elton took the view that not all of the deficit figure represented justifiable spending by councils, although the report does not explain how this conclusion was reached. It recommended, on the basis of the financial information available in late 2006, that central government pay councils £45 million in direct grant, and that fees should rise immediately by 7%. Notwithstanding that, even taken together, these recommendations would not fully compensate local taxpayers for the extra costs they have faced, neither of these recommendations has, at the point of writing, been implemented, sixteen months after the Elton report.

Figure 1.

Overall effect of the Licensing Act 2003 on the level of alcohol – related incidents/disorders



Source: Q1, Q13, Q21 – What overall effect do you think the Licensing Act 2003 has had on the level of alcohol-related incidents in your area
 Base: All respondents

LGA/LACORS LICENSING FEES SURVEY 2008

The survey was sent to all 376 licensing authorities in England and Wales requesting total licensing income and costs for the financial year 2007/8.

The survey was despatched on 14th March 2008 and by 25th April 182 authorities had responded (48%). The response broken down by type of authority was as follows:

	Number	%
London boroughs	19	58%
Metropolitan districts	13	36%
Shire districts	126	53%
Unitaries	24	35%
England & Wales total	182	48%

We have refreshed the fees survey in the Spring of 2008. This shows that in 2007-08, councils faced a licensing deficit of £22 million.

costs, fees, deficits, 2007-08

	Income (£m)	Costs (£m)	Difference (£m)
London boroughs	8.1	18.9	10.8
Metropolitan districts	8.7	9.8	1.1
Shire districts	21.0	27.9	6.9
Unitaries	11.0	13.8	2.8
England & Wales total	48.8	70.4	21.6

There is some good news in this, as it shows that councils have taken responsible management action to reduce the ongoing in-year deficit they face compared to the level of the Act's first two years. But it also shows that the accumulated deficit which local authorities face has now risen to £102 million. This is the equivalent of £4.75 for the average council tax payer.

	Income (£m)	Costs (£m)	Deficit (£m)
England & Wales			
2004/5	0.7	36.4	35.7
2005/6	61.3	88.8	27.4
2006/7	48.7	65.7	17.0
2007/8	48.8	70.4	21.6
Total	159.5	261.3	101.7

The government has not implemented the Licensing Act in the way it told Parliament it would. Council tax payers have by now been surcharged nearly £5 each to give the licensed trade a more convenient system. The government must now address this serious problem urgently.

A further financial problem for councils is that there is no sanction against a licensee which fails to pay its fee apart from routine debt recovery procedures which can be costly and long-drawn-out. In some cases, the cost of recovering unpaid fees outweighs the fee to be recovered, which is a manifest absurdity. Councils, and the LGA and LACORS on their behalf, have called on the government to amend the Act so that a licensee which fails to pay its fee would forfeit its licence as a result.

How will councils and police forces implement Alcohol Disorder Zones?

Alcohol Disorder Zones are a Government manifesto commitment that was recently approved by Parliament via sections 15-20 of the Violent Crime Reduction Act 2006. They were developed to tackle alcohol-related public nuisance or disorder in public spaces which may be the cumulative result of drinking in a number of premises and cannot be directly attributed to an individual licensee.

While ADZs were designed to assist local authorities and the police, a House of Lords committee has stated that the 'system is unduly bureaucratic and without a clear explanation of how ADZs offer benefits additional to the other methods for combating alcohol-fuelled disorder that are already available to

the local authorities.' In the House of Lords debate on 13 May 2008, opposition was only withdrawn following an offer from the Government to review the regulations in a parliamentary debate in twelve months time. The LGA remain firm in the view that ADZs are unworkable and pose an unnecessary burden on councils.

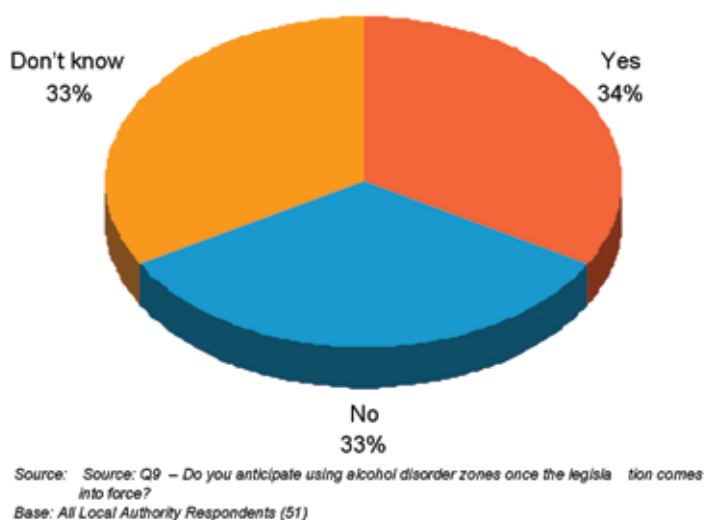
It has been made clearer in the guidance that ADZs are intended to be a measure of last resort; to be used only in tightly-drawn areas and after other tools have proven insufficient to address such nuisance or disorder. For example, local authorities might as a first step publish a voluntary action plan to reduce such nuisance or disorder. If the action plan is not sufficiently implemented, the local authority may charge certain alcohol licence holders to pay for additional enforcement services. The LGA and LACORS have successfully argued that councils should have the option of charging for the significant cost of preparing an ADZ, as well as for the period when an ADZ is actively in force. Despite this, councils

do not anticipate that ADZs will be self-financing. Only a quarter (24%) said they expected to recoup the costs of operating ADZs through the charging regime, while 41% said they did not.

Our survey shows that about a third of councils are considering taking up the opportunity that ADZs offer to take fresh action on alcohol-related disorder. This is a surprisingly high figure compared to previous indications given to the Home Office by councils. But an equal number of councils know they do not want to use this new instrument. Councils that do intend to go ahead with ADZs are mainly motivated by a wish to reduce alcohol-related incidents and bad behaviour; a quarter of the sample said the main attraction of the new arrangements were that they would give the police and themselves more power to act. Perhaps worryingly, however, a quarter of respondents, even in councils which were planning to introduce the new zones, either did not know what their effect would be, or anticipated that their effect would be nil.

Figure 2.

Opinion of local authorities as to whether they anticipate using alcohol disorder zones



Councils overall do not anticipate that ADZs will be self-financing. Only a quarter (24%) said they expected to recoup the costs of operating ADZs through the charging regime, while 41% said they did not.

Are underage sales being tackled?

The sale of alcohol to underage drinkers has been a major source of concern. Councils have been working with the police to clamp down on the worryingly high proportion of traders who make illegal sales to children. The evidence now emerging suggests that this has been a very successful effort. Fewer pubs and off-licences are persistently selling alcohol to children thanks to strict penalties, tough enforcement and positive efforts by the industry, according to figures published by the Home Office.

The results of the national Tackling Underage Sales of Alcohol Campaign (TUSAC), during which 2,683 premises were targeted by police and council trading standards officers during a 10-week campaign between 4 May and 13 July 2007, show that in nearly 9,000 test purchase operations children were only able to obtain alcohol in 14.7 per cent of cases. Only 22 premises (0.8 per cent of premises targeted) sold alcohol to children on three separate occasions. The figures signal a further improvement in the test purchase failure rate since national enforcement campaigns began three years ago. In 2004, the overall test purchase failure rate was 50 per cent. In 2006, it had dropped to 20 per cent. In this latest and more targeted campaign it now stands below 15 per cent overall.

Whereas earlier enforcement campaigns were conducted on a random sample of premises, good and bad, this campaign targeted premises known to be problematic. A further reduction in the failure rate is therefore particularly encouraging. The evidence suggests that action by councils to address drinking by young people is effective; the Scottish example in the box below shows another successful approach to this issue by a local authority.

Case study: Armadale, West Lothian

Later this week a small but significant experiment in the village of Armadale in West Lothian comes to an end. For the past six weeks, no one under 21 has been able to buy alcohol from off licences between 5pm and 10pm on Fridays and Saturdays. Every licence-holder signed up the experiment, which requires anyone young enough to arouse suspicion to provide proof of identity. The results have been dramatic. The number of calls to the police reporting vandalism by youths has come down by half, and cases of assault have reduced by 57 per cent. Two other neighbouring villages were included to prevent the crime circle simply moving to other areas. Police and local councillors think it has been a success, and there are plans to extend it.

The Times, 7 May 2008

Is drink too cheap?

There is, of course, another reason why alcohol may be too freely available to those who use it irresponsibly. Drink is relatively cheap. In real terms, the price of alcohol fell about 5% between 1996 and 2006.

The most straightforward way to reduce the demand for drink is to increase its price. A public policy instrument to do this is easily available, in the form of excise duty. But there are two important reasons why recent duty increases have not significantly contributed to efforts to reduce alcohol consumption:

- first, the Treasury principally uses excise duty in order to raise revenue, and not as an economic instrument to achieve other policy aims; so in order not to kill the goose that lays the golden egg, duty increases have tended to be limited in order to maximise revenue both by increasing the rate, but also allowing the market to grow;
- secondly, the impact of those relatively small duty changes on consumers is further limited by retailers' pricing behaviour;

shops tend to sell drink at particular market-determined price points, and so, within limits, they will absorb duty increases in their profit margins, making them invisible to consumers.

There is no absolute bar to using excise duties as instruments of policy. Indeed, for several years when oil was cheap, the government tried to pursue its environmental policy objectives by adding a so-called “escalator” to fuel duty. The measure was unpopular; but that is itself a sign that it was effective in making consumers think twice about the amount they were prepared to spend on fuel. The 2008 budget, which implemented modest real duty increases on drink, is the first time in recent history that the government has linked tax and a desire to moderate alcohol consumption.

The Department of Health has a study under way which will look at the link between the price of alcohol and alcohol-related harm. But it is already clear that the recent duty increases were not on anything like the scale needed to reduce consumption significantly. It is possible to make reasonable estimates of the effect of duty increases on consumption. The box below summarises the economic arguments.

New research, specially commissioned from the Centre for Economics and Business Research (cebr) by the LGA, demonstrates the scale of duty increases that would be necessary to reduce alcohol consumption. A one per cent increase in duty on off sales of bottled beer would have a negligible effect. In order to reduce consumption by 10%, duty would have to increase by 85%, or a 17% increase in the price of beer to the consumer. For cheap drinks, however, duty would have to rise by less to reduce sales: for standard-strength cheap lager, a 36% increase in duty – worth 22p a litre on the selling price – would be needed to reduce sales by 10%, and for premium lager, a 73% increase in duty, worth 57p a litre, would have the same effect. Although the data needed to make accurate estimates of the effect of price on sales of smaller categories of products are not available, cebr suggests that, to reduce consumers’ willingness to buy alcopops by 10%, a duty increase of 45p a litre, or 53%, would be needed.

the economics of using prices to reduce alcohol consumption

We commissioned the Centre for Economics and Business Research, a well-known economic consultancy, to carry out a study of the relationship between price and demand for alcoholic drinks. The relationship is described in terms of the price elasticity of demand, which is an econometric measure of the amount by which consumers change the amount of a good or service they will buy as the price changes.

The cebr conducted a literature review of 23 UK studies which provided 78 different own price elasticity estimates for beer (on and off sales), wine and spirits. Their estimates were based on the mid-point of the range of elasticities this literature review provided. They also used elasticities from a paper produced by the government Economic Service for HM Customs and Excise and from the 2008 British Beer and Pub Association budget submission.

The table illustrates the findings of the research for off sales of a typical alcopop:

Bacardi Breezer Orange

Elasticity	-0.8	-0.3	-2.6
Price per litre	£3.54		
Duty per litre	£0.85		

Impact of five per cent increase in duty

New price	£3.58		
Price change	1.2%		
Impact on sales	-0.9%	-0.4%	-3.2%

Impact of ten per cent increase in duty

New price	£3.63		
Price change	2.4%		
Impact on sales	-1.9%	-0.7%	-6.4%

Requirements for a ten per cent reduction in sales

Change in price	12.7%	34.1%	3.8%
Increase in duty per litre	£0.45	£1.21	£0.13
Increase in duty	53%	141%	16%

It is clear that the national Treasury does not have the appetite or the policy drive to impose duty increases on this scale. But for many councils, tackling sales of excessively cheap drink is a major local priority in improving the quality of life for their citizens. We would therefore suggest that councils should be given the power to levy duty surcharges in their area in order to tackle localised problems with drinking. Those surcharges might be targeted, for example at drinks which are particularly attractive to teenagers, or are particularly high in alcohol for their price. Councils which wanted to use such a power would need to carefully consider the effects on traders, and on competition between their local traders and those in other areas. But there will be some places where councils are willing to balance those effects against the ability to deter excessive consumption. They might, for example, want to surcharge strong lagers or ciders in order to discourage street drinkers.

alcohol that is fuelling excessive consumption and underage drinking; and if it is unwilling to increase duty as a national policy, legislate to allow councils to impose targeted local duty supplements in order to reduce problem consumption in their areas where that is what their communities want.

What next?

The new research summarised in this paper leads to a number of recommendations that the LGA and LACORS would make to councils and to government:

- councils, PCTs, and the police should recognise the need to go beyond the limited framework of the 2003 Licensing Act and build on the successful closer working the Act has encouraged to do even more together to tackle alcohol-related disorder, using the full range of powers they have at their disposal;
- council trading standards departments and the police should build on their highly successful fight against under-age sales;
- the government must as a matter of urgency end its sixteen-month delay in responding to the Elton Report, and reimburse council tax payers for the £102 million they are now owed for the costs of implementing the 2003 Act; it should also consider replacing the current fixed fee with a regime of actual cost recovery at the local level;
- the government should consider using tax as an economic instrument to raise the price of the cheap and discounted



Local Government Association

The Local Government Association is the national voice for more than 500 local authorities in England and Wales. The LGA group comprises the LGA and four partner organisations which work together to support, promote and improve local government.



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