

THE MAGISTRATES' ASSOCIATION
JUDICIAL POLICY AND PRACTICE COMMITTEE

Licensing – Policy Brief

THE ISSUES

The courts are now only marginally involved in the licensing process, but remain fully involved in dealing with the consequences of the consumption of alcohol on society more generally.

Under the 2003 Licensing Act, local authorities became responsible for all alcohol and entertainment licences, along with licences for the sale of hot food after 2300 hours. However, the magistrates' courts remain as the appeal court for all those who disagree with decisions made by local council licensing committees.

Magistrates' courts have powers to grant closure notices for licensed premises at the request of a senior police officer and also responsibility for dealing with holders of personal licences who commit any one of a range of offences.

Magistrates' courts also deal with those who commit offences under the Act and see, on a day to day basis, the consequences of over-indulgence in alcohol, whether it results in stranger on stranger violence, domestic abuse or drink driving.

Although for us the most significant of the four licensing objectives is *crime and disorder*, magistrates are also involved either directly or indirectly in cases involving the *impact on public safety, public nuisance and protection of harm to children*.

Registration of Personal Licence Holders

Premises selling alcohol must normally be under the direction of a designated premises supervisor who must be an accredited Personal Licence Holder. The licences are valid for ten years and are issued by the authority where the person is living at the time they apply for a licence. As each authority holds its own register there is no central register of Personal Licence Holders. The absence of a central database makes it impossible for the police to check whether anyone arrested for an offence listed in Schedule 4 of the Act is in fact a personal licence holder without checking every local licensing authority. As one of the four licensing objectives is '*the prevention of children from harm*' the creation of a national register would further this particular objective.

It is an anomaly that door supervisors, often under the control of personal licence holders, are nationally registered by the Securities Industry Authority and have to re-register on a more frequent basis than do personal licence holders. It is worth considering whether personal licences should either be transferred to the SIA or a new national regulatory body.

PNDs and FPNs

The Association has long been concerned that some violence involving alcohol is dealt with by means of a fixed penalty notice or penalty notice for disorder. We believe that all crimes involving violence, even when no lasting injury results, should be dealt with before a court. One reason is that ancillary orders, such as a ban on entering licensed premises, can be dealt with by a court but not as part of a fixed penalty. Another is that the court should be aware if it is a repeat offence and therefore more serious. Out of court disposals may also have a lower collection rate than court fines.

Drink Driving

Many drivers are still unaware of the relatively small amount of alcohol they need to consume to become over the legal limit. Many of those who appear in front of magistrates for drink driving have never been before a court for any other matter. We support any moves to increase awareness and responsible drinking.

Recording alcohol and offending

There is an issue with reporting the relationship between alcohol and offending. Where an offence relates to the consumption of alcohol such as drink driving there is no problem. However in domestic violence how far is alcohol to be seen as an aggravating factor and does this mean the offence should be classified as alcohol related?

Many alcohol related injuries are treated in hospital emergency departments and not reported to the police. Some accident and emergency departments have reported a huge increase in alcohol related admissions.

Sale and supply of alcohol

We have concerns about the promotion of alcohol in supermarkets. We frequently see in court evidence of under-age drinking where there has apparently been no difficulty in obtaining alcohol in shops. Although there is evidence that large supermarkets are asking for proof of age, this should be rigidly imposed throughout the industry. The current Magistrates' Courts' Sentencing Guidelines do not make explicit reference to the expectation of a licence withdrawal after two sales to those under eighteen within a specified period and more may be needed by way of liaison between DCMS and the Ministry of Justice to ensure commonality of approach.

We are aware that when ordering alcohol online a box must be ticked declaring that the purchaser is over 18 but have no information on how or whether this is checked.

Appeals

The new drive within government towards full cost recovery has increased the cost of appeals under the Act. At present, individuals appealing a decision of a licensing authority pay a protected lower fee rate. The Association believes this is an important right that should be enshrined in law.

We believe it should be made clear by parliament whether anyone raising an objection at first instance may be heard on appeal in addition to the licensing authority which has turned down the licence request. This would bring licensing appeals more in line with planning appeals although the former are judicial in nature and the latter administrative.

KEY RECOMMENDATIONS

- There should be a national register of Personal Licence Holders
- The registration of personal licence holders should either be transferred to the SIA or a new regulatory body.
- All crimes involving violence, even when no lasting injury results, should be dealt with before a court, and not as part of a fixed penalty.
- We welcome any moves to increase awareness and responsible drinking.
- It should be a legal requirement for licensed premises to display prominently unit and health information at points where alcohol is bought.
- We condemn the irresponsible drinking practices such as happy hours and ‘*all you can drink for £10*’, supplying only doubles etc
- Attempts should be made to control the sale of alcohol online and by mail order.
- Individuals appealing a decision of a licensing authority should pay a protected lower fee rate.
- Licensing appeals should be brought more in line with planning appeals
- There should be more liaison between DCMS and the Ministry of Justice to ensure commonality of approach in deterring anti-social behaviour associated with alcohol consumption
- There should be better recording of all alcohol related crimes

Taken from the submission to DCMS Select Committee in September 2008, the response to Home Office consultation Safe, Sensible, Social