

# **Alcohol and Licensing During the World Cup 2010**

## **Guidance notes**

May 2010

## BACKGROUND

The key issue for any local area is to ensure that premises showing world cup games do so in a safe and responsible way whilst not adversely impacting on the enjoyment of their customers and the wider public.

The recommendations stated herein represent a précis of various national guidance documents, which Local Areas may find useful in implementing a proactive approach to problematic alcohol related premises. However your local licensing (coordinating) officer should remain your first point of contact should you consider utilising any of the premises closure powers stipulated below, as some of the powers highlighted require special forms which you may have on template in Force. For day-to-day licensing issues, it is strongly advised that you use staff as per local arrangements (ie; Neighbourhood Police Teams (NPT) for example) to undertake both random and targeted visits to licensed premises - with a particular emphasis on pubs and off licence premises.

The list of options for ensuring that premises are well run and public spaces are properly managed are wide ranging and this leaflet makes some general recommendations and highlights some key powers. Further information on all powers can be found on the Home Office Crime Reduction website along with guidance on the Mandatory Code Conditions on the Alcohol Concern website. Partnership working between agencies and the licensed trade is the key to managing this period of time and the experience of all alcohol/licensing partners should be included in any work undertaken.

## RECOMMENDATIONS

### Problem Premises - identification

1. In order to define and engage with the potential problematic premises consideration should be given to prioritising an intelligence led list of such premises and planning for targeted visits to those high-lighted. Consideration should be given towards coordinating such visits with partner agencies, such as: Local Authority Licensing Enforcement Officers, Fire and Rescue Safety Officers, HM Revenue & Customs- illicit Alcohol Teams, Trading Standards, health and safety and planning Officers, and local Drug and Alcohol Action Teams. Use of the Cardiff "Traffic light" model may be helpful in planning this approach.
2. Given that both alcohol and gambling licensed premises are required to adhere to the crime and disorder objective (Licensing Act 2003 and Gambling Act 2005), you may wish to demand that such premises to complete a comprehensive risk assessment, - particularly as part of an on-going remedial 'action plan.'
3. Clearly should the premises fail to comply with an existing licensing condition(s), cooperate with Police through action plans, or fail to manage their own premises effectively – in terms of the crime and disorder or public nuisance objectives - then due consideration should be given toward relevant legislative options- such as Closure Notices (s.19 Criminal Justice and Police Act 01), or closure applications/ orders (s.160, s.161 or s.53a Licensing Act 03).

### CCTV

4. Bearing in mind the need for proportionality, you may also consider implementing a revised baseline standard of CCTV systems for alcohol and late-night refreshment licensed premises. As mentioned previously, this could either be pursued with individual premises, or through existing voluntary mechanisms such as Pubwatch groups, or in conjunction with local business security grants, or equivalent funding initiatives. Additionally, you might consider daily briefing inputs to Local Authority CCTV resources to ensure coverage at threat premises during key games.

### Safer Glassware

5. In regards to existing or proposed Pubwatch initiatives, NPTs, Local Authority Licensing Officers, and other Responsible Authorities, may also consider raising the World Cup as a meeting agenda item prior to the tournament. Partners may also consider reminding premises of the need to use safer glassware (some may have addressed this issue previously and hold a stock for such large scale sporting events) or invest in obtaining a large stock of polycarbonate glasses for distribution at such meetings (or direct to a particular premises), with funding sourced through the local Community Safety Teams, Drug and Alcohol Teams, or local PCTs (note in this case partners should indemnify themselves).

### Temporary Event Notices & Televised events

6. Given that the World Cup final is on Sunday 11<sup>th</sup> July, premises may well seek last minute TENs on the 28<sup>th</sup> June therefore it is advised that you consider your provision to monitor submission of alcohol TENs and gambling TUNs at all Police premises during this period. The commercial incentive for big screen viewing areas or 'fan zones' is considerable, and you should consider maintaining frequent contact with local authority licensing and events departments as part of a wider risk assessment strategy. (Clearly such risks may well increase should England reach the knockout stages of the tournament).
7. It should be noted that licensed premises do not require TENs in order to solely set up additional viewing screens in existing licensed premises; however should you have any concerns you may consider initiating TV licence checks under Part 4 of the Communications Act 2003.
8. Be aware that some premises may seek to vary their licences to extend the licensed area to cover any car parks, gardens or terraces that form part of the property. In this case partners who are Responsible Authorities will need to consider the need to make representation to the local authority.

### General

9. Consideration should also be given to conducting test purchase operations (with Trading Standards Officers or otherwise) in both on and off-licensed premise during May –with a view to taking action on failures before the event.
10. NPTs may also consider sending out letters to all licensed premises prior to the event outlining particular expectations with advice that failure may result in a premises closure or review. This could feature as part of a wide media strategy to include advertisements / notices in local newspapers, radio and community television.

## USE OF THE LICENSING ACT AND ASSOCIATED POWERS

### Public/Open Spaces

#### DIRECTIONS TO LEAVE

##### Sec 27(2) Violent Crime Reduction Act 2006

A constable in uniform can now issue Directions to Individuals to leave a locality to persons aged between 10 and over; where, in the constable's judgement, the presence of the individual in the locality is likely to cause or contribute to the occurrence, repetition or continuance in that locality of alcohol-related crime or disorder. The constable may direct that s/he leave the area for up to 48 hours and attach conditions – such as which route to take.

It also allows the police to take the young person (aged 10-15 years) home or to a place of safety if they are issued with Directions to Leave and the police reasonably suspect that they are under 16. A person who fails to comply with a Direction is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale. Public place includes premises where a premises licence, or Temporary Event Notice is in force but not a private members club.

Officers must comply with local instructions to ensure the requisite information is updated to the Direction to Leave database

#### DESIGNATED PUBLIC PLACE ORDERS

##### Section 13 Criminal Justice and Police Act 2001 (amended by S155 Licensing Act 2003)

In a designated area a Constable, PCSO or Designated Person may require a person who is, has been or intends to consume alcohol:

- Not to consume alcohol in that place
- To surrender alcohol in his possession
- The Officer may dispose of the alcohol

Failure to surrender alcohol is an offence and carries a power of arrest under **Section 12 Criminal Justice and Police Act 2001**

### Premises

#### RIGHT OF ENTRY TO LICENSED PREMISES

##### Section 179 Licensing Act 2003

Where a Constable or an authorised person of a Licensing Authority has reason to believe that any premises are being, or are about to be, used for a licensable activity, he may enter the premises, using reasonable force, with a view to seeing if activities are in accordance with the authorisation.

(In relation to a Temporary Event notice under S108 entry may be at any reasonable time and using reasonable force in order to assess the likely effect of the notice on the promotion of the crime prevention objective)

Police should note that Section 180 allows for them to enter, using reasonable force if necessary, and search any premises in respect of which he has reason to believe that an offence under the Licensing Act 2003 has been, is being or is about to be committed.

#### UNAUTHORISED SALES CLOSURE NOTICE

##### Section 19 Criminal Justice & Police Act 2001

A Police Constable or Authorised Officer of the Local Authority can issue a closure notice where:

- any premises are being used or have been used within the last 24 hours for the sale or consumption of alcohol on or in the vicinity of the premises without a licence.
- any premises that have not acted in accordance with the conditions of their licence for the sale of alcohol by retail.

A S19 notice (local form) must be given which informs the licence holder that if unauthorised sales continue or the licence conditions are not corrected, application may be made to the Court for an order to close the premises. (If required the cancellation notice, s.19(7-9), should be served to the original recipient of the Notice). Should unauthorised sales continue you should consider S20 Closure (see below). Alternatively if alcohol continues to be sold after a notice has been served the seller is committing a criminal offence under s.136 of the Act and can be arrested or reported for summons

## **UNAUTHORISED SALES CLOSURE ORDER – Refer to local court for relevant form Section 20 Criminal Justice & Police Act 2001**

If the police or the Local Authority are not satisfied that the breach has been remedied following a Closure Notice, and if unauthorised sales are continuing, they may seek a Closure Order from a Magistrates' Court.

The application must be made not less than seven days, and not more than six months, after the Closure Notice was first served.

The Closure Order may:

- physically close the premises to members of the public until a Constable or Local Authority terminates the order; and/or
- require that unauthorised alcohol sales be discontinued immediately; and/or
- require the defendant to pay a sum of money to the Court which will not be released until the other requirements of the order are met.

## **AREA CLOSURE ORDER – for areas experiencing/anticipating disorder Section 160 Licensing Act 2003**

Where there is, or expected to be disorder a Police Superintendent may apply to a Magistrates' Court for an order requiring one or all licensed premises and those with a temporary event notice at or nearby to be closed for up to 24 hours. A constable may use such force as is necessary for the purpose of closing licensed premises. There is no power to cancel such an order once issued.

## **EMERGENCY CLOSURE ORDER (licensed premises or temporary events) Section 161 Licensing Act 2003**

The powers allow police to enforce an instant closure without a court application and will generally be used where immediate action is required to deal with unanticipated or imminent disorder. S161 allows police inspector or above to make this decision, although the order can be issued via a Constable. A compulsory closure order should only ever be used in the public interest and never as a penalty on the licence holder. It is good practice to seek voluntary closure before issuing a formal order.

## **EXPEDITED REVIEW Section 53A Licensing Act 2003**

A Superintendent can bring about a Review within two working days if he is of the opinion that crime and/or disorder on alcohol licensed premises is serious. The definition of serious crime is the same as RIPA, i.e. person on first conviction likely to receive a custodial sentence of 3 years. Serious disorder is not defined; it is disorder which the Superintendent considers to be serious in the local context. The Licensing Authority must within 48 hours consider interim steps and can suspend licences pending a full review.

## **MANDATORY LICENSING CONDITIONS ORDER (2010) Irresponsible Promotions**

An irresponsible promotion is any activity or offer that encourages customers to drink in a way that could cause a significant risk of breaching one or more of the four licensing objectives. Special mention is given under Condition 1 (No Irresponsible Promotions) of sporting events and cites examples such as:

- "half price drinks when England scores a goal"; or
- "free drinks if your team wins"

Any breaches of this condition can be treated in the same way as breaches of existing conditions, subject to the Section 139 due diligence test.

## **POLICE CLOSURE ORDER FOR NOISE NUISANCE (Section 161 Licensing Act 2003)**

Where a senior police officer is concerned about noise being emitted from a premises, its beer garden, courtyard or street terrace he should judge whether the noise is causing a nuisance. Such judgment will be subjective and the officer will need to bring their experience to bear. If the officer judges that the noise is causing a nuisance, and reasonably believes that the noise is causing a nuisance to the public, and has cause to believe that particular individuals in the vicinity are annoyed by the noise (liaison with local authority environmental health officers would be beneficial) then he may issue a s.161 Closure Order..

**Good use of the tools and powers available will ensure that coverage of the World Cup in pubs and clubs will be an enjoyable, but safe event for all.**

### Useful links

The practical guide for preventing and dealing with alcohol related problems: [www.crimereduction.homeoffice.gov.uk/drugsalcohol/drugsalcohol](http://www.crimereduction.homeoffice.gov.uk/drugsalcohol/drugsalcohol)

Mandatory code conditions guidance:

<http://www.alcoholconcern.org.uk>

Pocket size guides on licensing powers for licensing officers and frontline staff are available for download on:

<http://www.crimereduction.homeoffice.gov.uk/drugsalcohol/drugsalcohol104.htm>

For additional guidance:

[www.lacors.gov.uk](http://www.lacors.gov.uk)