

## DRAFT

### Regulatory Impact Assessment

#### 1. Title of proposal:

**VIOLENT CRIME REDUCTION BILL - The police to have a power to require the review of premises licences, under the Licensing Act 2003, in cases where the premises are associated with serious crime and disorder, and for the Licensing Authority to take interim steps pending a full licence review. The Licensing Act 2003 comes into force from November 2005.**

#### 2. Purpose and intended effect:

##### The objectives -

2.1 The aim of this policy is to:

- Provide an **accelerated** means to review premises licences where a senior police officer certifies to a Licensing Authority that in his/her opinion the premises are associated with serious crime and disorder, and then give the Authority the opportunity to take appropriate interim steps, pending a full review of the premises licence, to address this.

2.2 This builds on existing provisions for determining reviews and taking the necessary consequent steps provided for under the Licensing Act 2003. The police can already, as interested parties under the Act, apply for a review of a premises licence. The Licensing Authority in determining the review may take a number of designated steps including: modifying the conditions, or scope, of the licence; removing the designated premises supervisor and; suspension or revocation of the licence. However, the hearings process takes at least 28 days.

2.3 This provision will allow an accelerated process, by permitting the Licensing Authority to take the above steps on an interim basis. This will contribute to reducing violent crime and assist in delivering specific policy aims including:

- Contributing to changing the culture of carrying weapons by requiring at risk pubs and clubs to search for weapons **where this is a demonstrable risk** – this will serve as a clear deterrent to carrying weapons
- Reducing the risk of injury caused by glass by requiring pubs and clubs in areas of high crime and disorder to use toughened drinks glasses and bottles **where there is a demonstrable risk** – this will help reduce the risk of injury from glassing.

2.4 **This is intended to be a highly selective measure to be used where the circumstances are appropriate, and where used the interim steps are intended to be applied so that they reflect the risk posed by the particular premises.**

2.5 There is, therefore, a strong test to be met – serious crime or disorder - before the power is triggered by a senior police officer (at or above the rank of

Superintendent). And the Licensing Authority can determine what steps to take according to the individual circumstances of the case.

2.6 So it is not the aim, for example, to require all licensed premises to undertake searches for offensive weapons. Rather, it is the policy aim to provide a selective tool, to be used proportionately, to limit this condition to those pubs that are at risk either because police intelligence shows there is a risk of knives/guns being carried or because crime and disorder has occurred on the premises.

2.7 The policy will cover England and Wales.

2.8 This Regulatory Impact Assessment (RIA) considers the options for achieving these objectives.

### **3. Background -**

#### (a) General

3.1 In June 2004 there were a total of around 160,000 licensed premises of which 113,000 were premises with licenses to sell alcohol on the premises. Those with full on licences – falling in the categories of public houses etc – numbered around 81,000. These constitute 71% of on licensed premises.<sup>1</sup> The provision outlined in this paper is mainly targeted at this category of licensed premises.

3.2 The Licensing Act 2003 will strengthen the powers available to the police and licensing authorities to deal with those licensed premises which fail to comply with legislation or which, depending on their nature and location, require certain conditions to be attached to their licences to trade.

3.3 The accelerated system of attaching conditions builds on the existing provisions to attach conditions to premises licences. This will support the government's policy aim of requiring at risk pubs and clubs to search for offensive weapons, and requiring pubs and clubs to use toughened drinks glasses and bottles in areas of high crime and disorder:

#### (b) Offensive Weapons

3.4 Existing data suggests the carrying of bladed or pointed articles has increased since 2000. Provisional 2003 convictions data shows 5,308 convictions for 'having an article with a blade or point in a public place', an increase of 1% on the previous year. This followed much larger increases of 22% in 2001 and 23% in 2002.

#### (c) Glasses and Bottles

3.5 The British Medical Journal has noted that injury caused by drinking glasses could be reduced substantially by the universal use of toughened glass in bars and clubs. Data published in the journal in 1998 showed that 4% of the 125,000 violent facial injuries sustained annually were caused by so-called "glassing" injuries. Research undertaken by the University of Wales suggested that bar glassware accounted for 10% of assault injuries in A&E Departments.<sup>2</sup>

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<sup>1</sup> Derived from DCMS Statistical Bulletin, Liquor Licensing, England and Wales 2003 – 2004 (published 27 October 2004 – [www.culture.gov.uk](http://www.culture.gov.uk).)

<sup>2</sup> Derived from Magennis P, Shepherd J, Hutchison H and Brown A (1998) "Trends in facial injury" *BMJ*, 316 325 - 326

3.6 The Licensing Act 2003 (effective November 2005) is the main statutory lever to regulate both on and off licence traders. Operators are issued with a licence to sell alcohol, and this licence is the main vehicle for regulating their behaviours.

3.7 There are conditions applied to this licence, relating to crime and disorder, which are on the face of the Act (e.g. not knowingly sell alcohol to a drunk) and apply universally to all licensed establishments.

3.8 There is also a provision which allows other conditions to be attached to licenses, by Licensing Authorities, which are tailored to the particular circumstances of individual establishments. Searching for weapons and use of toughened glass (listed above) are examples of this type of selective provision that can already be applied to licences where there is a demonstrable need.

3.9 The provision will use this existing framework for regulating premises licensed to sell alcohol and attaching conditions to licenses.

#### **4. Rationale for Government Intervention:**

4.1 At present the police have a number of tactical options to deploy depending on the crime and disorder problem associated with the premises.

4.2 They could, for example, deploy police personnel to search bars' and clubs' customers, for offensive weapons. The police will also have powers to close premises under the Licensing Act 2003 (from November 2005), for up to 24 hours where crime and disorder is occurring.

4.3 The Act also gives the Police statutory powers to apply for the review of a licence from which applying conditions to a licence might follow. The decision for this rests with the Licensing Authority which might be expected when presented with a strong evidence base for action to agree to attach conditions.

4.4 However, the review process will take at least 28 days to resolve (and probably up to 2 months by the time that the hearing takes place). This is now considered to be too long if conditions are required to be set more immediately – for example, an incident occurs at a pub and bar with offensive weapons and is likely to occur again within a few days.

4.5 As stated above, the provision for an accelerated review follows the government's policy aim to require at risk pubs and clubs to search for offensive weapons and use toughened drinks glasses and bottles. However, the legislation will be framed so that the speeded up process will not apply only to these areas. And the Licensing Authority will have a wider menu of interventions to take as interim steps or in response to the full review. The rationale for this is:

- The serious local problem may be drugs related and the priority may be for door staff to search for drugs rather than, or in addition to, offensive weapons – accordingly there will be a requirement to modify the conditions in a different way.
- The problem may require a solution that is over and above a modification of the conditions – for example in the very unlikely event that the situation has

been caused or exacerbated by the premises management then suspension of the licence might be called for.

4.6 The process, however, still uses the main regulatory framework for licensing the alcohol trade, the Licensing Act 2003, and the interim steps taken by the Licensing Authority are already available to it under section 52 (4) of the Act as steps that they can take in determining reviews under the Act. This provision speeds up the process.

## **5. Consultation**

### (a) Within Government

5.1 The provision was contained in the Labour Party manifesto 2005. So far we have consulted:

- The Home Office (the lead Department);
- The Department for Culture, Media and Sport;
- The Office of the Deputy Prime Minister;
- The Department for Environment, Food and Rural Affairs;
- The Cabinet Office (Better Regulation Executive); and
- The Treasury.

### (b) Public consultation

5.2 Meetings have been held with key stakeholders:

- Association of Chief Police Officers (ACPO).
- The Local Government Association (LGA).
- Association of Police Authorities (APA).
- British Transport Police (BTP).
- British Beer and Pub Association (BBPA).
- Association of Convenience Stores (ACS).
- Bar Entertainment and Dance Association (BEDA).

5.3 The key points arising from stakeholder consultation are:

- The Police broadly welcome these provisions – they intend to use their position as interested parties under the Licensing Act 2003 to push for conditions to be attached to premises' licences (where required) and welcome the flexibility of applying conditions more speedily where they are required.
- The Industry is broadly supportive of the policy aim to require at risk pubs and clubs to search for offensive weapons and use toughened drinks glasses and bottles **on the proviso that they are targeted in a selective way based on risk**. They point out that the vast majority of city centre clubs already have door staff with searching protocols in place and that 80-90% of bars and clubs already use toughened glass.

## 6 Options

### (a) Option One: Do Nothing

6.1 Under this option, existing powers under the Licensing Act 2003 would be used by the police and licensing authorities to attach conditions relating to searching and the use of toughened glass, and other provisions. The police could also use other tactical options and where necessary use the powers to close licensed premises for up to 24 hours where crime and disorder had occurred.

6.2 However, the time scale means that the police/licensing authority do not have an intervention to apply more quickly where the need arises. The advantage with this option is that the provisions in the Licensing Act 2003 could be used without amendment, and the police could apply for conditions to be applied using the existing channel provided. The disadvantage is, as already stated, that there is no mechanism to put in place more quickly temporary conditions.

### (b) Option two: Introduce blanket conditions

6.3 Under this option, Parliament could determine a set of blanket conditions that applied to all pubs and clubs. For example, all pubs would have to employ door staff to search for offensive weapons.

6.4 This would have the advantage of being administratively more straightforward (less work for licensing authorities) but would be seen to be putting disproportionate burdens on industry. The whole point of the policy is to target at risk premises and provide solutions that meet local requirements.

### (c) Option three: Amend Licensing Act 2003

6.5 This would use the existing regulatory framework and would provide a form of statutory review of the premises licence on an accelerated timescale with the provision to apply temporary conditions pending a full licence review.

6.6 This would have the advantage of using the existing regulatory framework to attach conditions and allow it to be targeted at those premises at risk as the policy envisages. The decision would rest with the Licensing Authority. The disadvantage is that this is likely to create some additional work for Licensing Authorities – administering the temporary conditions – and the provision to attach conditions may be used more than originally envisaged.

## 7. Costs and benefits

### (a) Sectors and Groups Affected

7.1 Those affected by Option three include:

- Premises licensed to sell alcohol that are at risk from crime and disorder.
- Glass Manufacturers
- National Health Service
- Police forces; and
- Local Authorities.

### (b) Costs generated by the proposals

7.2 The Licensing Act 2003 already provides for the Police as responsible authorities to trigger reviews of licences following which the Licensing Authority may modify the conditions attached to the premises licence or take other appropriate steps. This is about providing a speedier process of attaching conditions to licences.

7.3 However, the regulatory issue here is arguably one of **additionality** – whether an accelerated timescale will result in this power being used more frequently thus putting an additional burden on the police, for using the trigger, industry, for implementing the modifications, and Licensing Authorities, which would manage the process.

7.4 The police are most likely to be best placed, at the front end of the process, to determine how far the benefits of using the accelerated process outweigh the costs to them. For example, an isolated incident at a pub, dealt with by some other quick means, would not warrant the time they might need to invest in triggering the power and supporting an accelerated hearing. On the other hand, a recurring serious problem which was taking up police time and effort would provide a proportionate basis for triggering the process.

7.5 Given that the police are interested in making towns and cities safer environments then Option 3 could be said to have some benefits compared to the other options with regard to the cost on business. For example, given the delays in their ability to add requirements onto licenses under Option 1 police might find it prudent to identify all potential problem areas and simply attach conditions to many pubs in one area in order to reduce alcohol related violence. However under Option 3 the number of premises that have it as a part of their licence could be smaller, as the police know that if an area does become problematic they can swiftly apply for such a temporary order. This reduces the burden on the police to try and predict future problem areas and on business who, under Option 1, could end up facing a cost with no real benefit attached.

7.6 There would be a resource cost to the Local Authority in administering the additional process and a cost to the Industry of implementing the modifications to the licence. The intention is that virtually all local government costs, associated with administering the Licensing Act 2003, should be wholly recovered through licensing fees and annual charges on licensed premises. The level of fees were set in time for the first appointed day of 7 February 2005.

7.7 A review of fees and charges, led by the Department of Culture Media and Sport (DCMS), is currently underway and the impact of this measure, where it can be assessed, will be taken into account. Based on our assumption (below) that the number of premises involved will be between 0.5% and 1.5% of the 81,455 full on licences, we estimate that the additional cost will be in the range of £0.53m to £1.60m (including appeals). For the purposes of this RIA we will assume this to be £1m.

7.8 In making a comparison between the options on costs, both Options 1 and 3 rely on devolved decision making, where it is left to the Police to trigger the process and the Licensing Authority to make decisions on what conditions should be applied to best meet the local requirements. This requires us to make assumptions about the number of cases and the corresponding responses that are introduced.

7.9 The costs of Option 2, on the other hand, are determined by decisions at the Centre which would set uniform conditions across all licensed premises. The costs of these can be applied across all premises of a particular kind (with some assumptions made about the variation between similar premises (e.g. physical size). For example, costs provided by DCMS suggest that if we were to require all premises to employ security staff this would potentially cost the industry an additional £10 billion although this figure is less if we assume that many pubs would not require a full array of doormen (as shown below). Potentially, however, this could be more as both demand and supply side pressures on the security industry would lead to inflation of costs.

7.10 In the circumstances, we propose to model the costs by making assumptions about the number of additional cases we could reasonably expect to be generated under Options 1 and 3. The Licensing Act 2003 comes into force from November 2003 so we have no existing data, on licence reviews, to form a judgement about what the additional impact of this measure will be.

7.11 The existing licensing regime gives us some pointers, if we use the employment of door staff as a proxy measure for the possible volume of cases. In 2004 there were 12,215 special hour certificates (11% of on licensed premises) in force<sup>3</sup>. A condition of this certificate is that the premises should employ door staff, and we know that in many towns and cities pubs and bars voluntarily employ door staff. Many of these will be in those areas that are considered to be most at risk from violent crime, and where the action may be more about changing search protocols rather than employing door staff.

7.12 Given this baseline, we have assumed that at any time the equivalent of between 0.5% and 1.5% of public house type premises will be the subject of reviews – this would give a range of around an additional 400 and 1,200 premises subject to reviews. The table below illustrates the costs of each range based on a conservative estimate of the number of cases involved.

7.13 Options 1 and 3 assume that, of the 81,000 establishments discussed above, 1.5% are likely to be targeted by these orders in some way.

#### **Option 1**

No of extra staff required	1	4	7
Percent requiring	70%	15%	15%

<sup>3</sup> DCMS Statistical Bulletin Liquor Licensing 2003 – 2004, table 9 page 13

Cost per pub	£21,429	£85,714	£150,000
Cost per type pf pub	£18,225,000	£15,621,429	£27,337,500
Door staff cost	£61,183,929		

### Option 2

No of staff required	7	4	2
Percent requiring	33%	33%	33%
Cost per pub	£150,000	£85,714	£42,857
Cost per type pf pub	£4,050,000,000	£2,314,285,714	£1,157,142,857
Door staff cost	£7,521,428,571		

### Option 3

No of extra staff required	0	1	2	4	7
Percent requiring	60%	20%	10.0%	7.5%	3%
Average duration (years)	0.5	0.5	0.5	0.5	0.5
Cost per pub	£0	£21,429	£42,857	£85,714	£150,000
Cost per type of pub p.a.	£0	£2,603,57	£2,603,57	£3,905,35	£2,278,12
Door staff cost	£11,390,62	5	1	7	5

7.14 In addition to the costs discussed above for Option 3, there would also be the additional cost on those pubs who have not yet moved to toughened glass. Option 2 already looks prohibitively costly (a net cost of £7.5 billion) and so has not been costed further.

7.15 Other impacts on the industry include the logistics of meeting any modifications required by the Licensing Authority. For example, there may be supply side issues on recruiting door staff which could mean that there will be a time lag in complying with the conditions. We have discussed the measure with the Security Industry Authority (SIA). Some door staff already search pubs' and clubs' customers for offensive weapons, but this is by no means universal. The SIA have concerns that the door staff will be put at risk and about the implications that the measure will have for the programme of training for licensed door staff. We will be engaging with the SIA, ACPO and the drinks industry over the Summer to work through, in detail, the implications for implementation of this provision.

7.16 Across the options we do not assume any change in the likelihood of pubs being closed down temporarily either through changes in management or through the premise itself requiring a new licence. Arguably this would be most likely under Option 1, as Option 1 provides the least scope for police to introduce searching requirements quickly and thus would be most likely to lead to premises being shut down on safety grounds.

7.17 Option 3 may imply some administrative costs for business in showing that they are complying with temporary orders, but it is likely to be small, and needs to be seen in context against the costs that would be faced with the permanent measures of Option 1.

7.18 Option 3 would lead to an extra cost to licensing authorities of processing temporary licences. At the current time we are unable to precisely quantify this, but will undertake to obtain an estimate.

## **8 Benefits**

8.1 The benefits of option three are as follows:

### (a) The local community

8.2 Residents will benefit from an increased feeling of safety and reduced crime, cleaner streets and less noise, and additional public services.

### (b) Local Authorities

8.3 Local Authorities have a statutory duty to reduce crime and disorder in their area. The power will help support this objective.

### (c) Police

8.4 The Police will benefit from an accelerated process to attach conditions.

### (d) Licensed Premises

8.5 Licensed premises will see the benefits of a safer drinking environment and an improved town or city centre environment and improved profitability. Safer drinking environments are likely to attract more customers.

### (e) NHS

8.6 Fewer injuries caused by glassing incidents. Data available in 2001 showed that 4% of the 120,000 violent facial injuries sustained annually were caused by so-called "glassing" injuries. Research undertaken by the University of Wales suggested that bar glassware accounted for 10% of assault injuries in A&E Departments. The benefits to the NHS from reduced glassings are included in the benefits below. It should be noted though that the figures are based on all types of offence – not just for those from glassing incidents. It could well be that the true cost of glassing is higher if more time needs to be spent on a glassing injury.

8.7 It is understood that many pubs and clubs now use toughened glass. Option 3 ensures that those premises that have not upgraded and are most at risk of disorder upgrade as soon as possible. This reduces the cost to business.

### (f) Simple quantitative estimate of benefits

8.8 Of the 3 options we might expect Option 2 to reduce alcohol related violent crime the most. However the extra benefit here is likely to be small as most pubs have a low risk of such issues. For options 1 and 3 it is hard to say which will deliver more benefits. This would depend on how widely the police added the extra requirements on licences. If they widely added these requirements then Option 1 would be expected to reduce alcohol related crime by more than Option 3, although they would less easily be able to respond to new problem areas.

8.9 The table below shows the potential benefits of reducing alcohol related violence. This is in addition to the £1m revenue to be recouped by local authorities on a cost recovery basis.

	Percent reduction in Alcohol Related Violent Crime <sup>4</sup>	Benefit
Option 1	6%, 1%	£13.7m
Option 2	7%, 1%	£15.1m
Option 3	5%, 1%	£12.3m

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<sup>4</sup> We provide two percentages – one is for a fall in serious woundings, the other is for a fall in less serious woundings.

### Summary table

	Quantified Cost	Quantified Benefits	Net (quantified) Benefits
Option 1	£61.2m	£13.7m	-£47.5m
Option 2	£7,521m	£15m	-£7,506m
Option 3	£12.4m	£13.3m	+£0.9m

8.10 Option 3 shows a slight net benefit although it should be noted that it is particularly hard to estimate with any great accuracy the costs and benefits associated with these measures. In particular we have not quantified the benefits to individuals in terms of reduced fear of crime or any potential benefit to businesses following from an improved drinking environment.

### **9. Small Firms Impact Test**

9.1 We held an initial screening meeting with the Small Business Service on 18 May 2003 to consider the impact on small businesses. It has been agreed that we will undertake further consultation to ensure that the way the policy is implemented will not impact disproportionately on small businesses.

### **10. Competition assessment**

10.1 This is not likely to impact on competition.

### **11. Enforcement, Sanctions and monitoring**

11.1 This will provide an additional stage in review hearings for local authorities, but should not provide an additional burden in monitoring.

### **12. Summary and Recommendation**

12.1 The Home Secretary favours option three. This shows a small net benefit, and is the most preferable option due to the targeted nature such a policy represents.

### **13. Summary costs and benefits table**

	Quantified Cost	Quantified Benefits	Net (quantified) Benefits
Option 1	£61.2m	£13.7m	-£47.5m
Option 2	£7,521m	£15m	-£7,506m
Option 3	£11.4m	£12.3m	+£0.9m