

Licensing Act 2003

Analysis of Responses from Consultation Exercise

Section 8 - Prevention of Harm to Children

Ref	Name	Summary of Comments	Section	Appraisal of Comments	Authority's Response
9.2	Mr John Fagbottun	Wishes issue of adults purchasing alcohol on behalf of children addressed	8 - Protection of Children	It is an offence under Section 149 of the Act to purchase alcohol on behalf of children, except where beer, cider or wine is bought for 16 or 17 year olds accompanied by an over eighteen year old for consumption with a table meal on relevant premises.	No change to Policy.
9.3	Mr John Fagbottun	Concern that too many drinks and cigarette promotions raise awareness among children encourages them to try products	8 - Protection of Children	The sale or promotion of tobacco is not within the licensing objectives. In terms of alcohol the Policy does encourage a responsible approach to drinks promotions.	No change to Policy.
15.7	Revli Costabell	Wants premises imposing a full smoking ban to keep area outside kept clear of cigarette butts.	8 - Protection of Children	Section 7 of the policy may include steps to prevent the accumulation of litter in the vicinity of premises. Refer to 101.3 below and Section 7 of the guidance.	No change to Policy.

101.3	Joe Pattison (Greene King)	Guidance makes it clear that conditions should not be used to impose a smoking ban for either health or desirability as these matters are for other legislation and voluntary codes of practice.	8 - Protection of Children	Section 7.32 of the DCMS Guidance states that "no attempt should be made to use a licensing condition to impose a smoking ban for either health or desirability. These are matters for other legislation and voluntary codes of practice and duplication should be avoided." Clearly, smoking bans can not be imposed as part of the measures to protect children. However, the reference in the Policy to smoking bans is widely supported among the health community and members may wish to consider whether to keep the encouragement to impose smoking bans where children are admitted while making it clear that this will not be imposed as a licence condition.	Amend policy so that it is clear that while the licensing authority supports the introduction of smoking bans as a measure to help protect children this will not be imposed as a licence condition.
104.8	G H A Barnes (Shepherd Neame Ltd)	We do not consider the provision of AWP machines to constitute a strong element of gambling	8 - Protection of Children	The DCMS Guidance notes in Section 7.50 that small numbers of cash prize machines does not constitute "a strong element of gaming" upon a premises. The reference in the Policy to areas where concerns might be raised over harm caused to children should reflect this.	Make clear in Section 8 dealing with "Protection of Children" that small numbers of cash machines does not constitute a strong element of gaming.
104.9	G H A Barnes (Shepherd Neame Ltd)	Smoking is not controlled by the Act	8 - Protection of Children	See representation 103.1	See representation 103.1

104. 10 G H A Barnes (Shepherd Neame Ltd)	Admission of children to public houses should be a matter of parental choice	8 - Protection of Children	Section 145 of the Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises under the authorisation of a premises licence or club premises certificate or where that activity is carried on under a Temporary Event Notice. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5.a.m. at other premises supplying alcohol for consumption on the premises under the authority of the same consents. Parental control and choice does, of course, have a role but within the confines of the law.	No change to Policy.
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108.5	Annette Bradford (Cinema Exhibitors' Association)	No additional conditions can be applied unless objection raised	8 - Protection of Children	Accepted. The Council as Licensing Authority may only impose conditions that are consistent with the applicants operating schedule unless its discretion is engaged by relevant representations from responsible authorities or interested parties. Even then conditions may only be imposed that are found necessary to achieve the licensing objectives after consideration of those representations.	Section 8 of Policy dealing with "Prevention of Harm to Children" to reflect position.
108.6	Annette Bradford (Cinema Exhibitors' Association)	Smoking bans is not a licensing objective	8 - Protection of Children	See representation 103.1	See representation 103.1
108.7	Annette Bradford (Cinema Exhibitors' Association)	Proof of age cards should not be mandatory	8 - Protection of Children	It is unlawful for children under the age of 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. The Policy encourages applicants to require personal identification in every case where there is any doubt as to whether the customer is of lawful age - as a safeguard to the operators. However, this is not intended as a mandatory requirement.	No change to Policy.

110. 18	Nick Bish (Association of Licensed Multiple Retailers)	Policy should be clear that that "gambling" in the list of inappropriate activities relates to substantial gambling operations and not the inclusion of small numbers of amusement with prize machines in pubs	8 - Protection of Children	See representation 104.8.	See representation 104.8.
110. 19	Nick Bish (Association of Licensed Multiple Retailers)	Health is not a licensing objective. Smoking bans should not be included.	8 - Protection of Children	See representation 103.1	See representation 103.1
110. 20	Nick Bish (Association of Licensed Multiple Retailers)	Reference should be made to the Portman Group's Retailer Alert Bulletins which tells licensed retailers which products have been found to be in breach and should be removed from sale.	8 - Protection of Children	DCMS Guidance makes reference in Annex H to Portman Group's Retailer Alert Bulletins dealing with packaging or point of sale advertising that breaches the Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.	Extend reference to Portman Group's Retailer Alert Bulletins into the section dealing with "children and responsible drinks promotions" within Section 8 of the Policy dealing "Protection of Children From Harm".
113. 10	Dr Martin Rawlings (British Beer & Pub Association)	Smoking is not a licensable activity. The Policy should not be used to impose smoking bans.	8 - Protection of Children	See representation 103.1	See representation 103.1
113. 11	Dr Martin Rawlings (British Beer & Pub Association)	Welcomes the recognition of the importance of proof of age schemes. Helpful if policy could support the acceptance of all proof of age schemes which carry the PASS hologram logo.	8 - Protection of Children	Support noted. The DCMS Guidance notes in Annex D that the "Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that high standards, particularly in the area of integrity and security".	Amend policy to include reference to PASS accredited proof of age systems alongside photo-driving licences and passports.
114.9	Berwin Leighton Paisner (J D Weatherspoon)	Smoking is not a licensable activity. The Policy should not be used to impose smoking bans.	8 - Protection of Children	See representation 103.1	See representation 103.1

114. 10	Berwin Leighton Paisner (J D Weatherspoon)	Welcomes the recognition of the importance of proof of age schemes. Helpful if policy could support the acceptance of all proof of age schemes which carry the PASS hologram logo.	8 - Protection of Children	See representation 113. 11	See representation 113. 11
116.8	John Mc Namara (British Institute of Innkeepers)	Suggests the first paragraph in this section be changed to read "The Act prohibits the admission of children under 16 to public houses"	8 - Protection of Children	See appraisal of comments in relation to response 104. 10. where position is detailed.	Amend Section 8 of Policy on "Prevention of Harm to Children" to reflect full position.
116.9	John Mc Namara (British Institute of Innkeepers)	Use of phrase "licensee" may be confusing	8 - Protection of Children	Accepted.	Consistent use of "applicant" or phrases such as "Personal Licence Holder" or "Premises Licence Holder" to be used throughout.
	John Mc Namara (British Institute of Innkeepers)	Policy should reference industry best practice on topic of responsible drinks promotions mentioned in DCMS guidance	8 - Protection of Children	See representation 110. 20	See representation 110. 20
116. 10					
302.2	Chris Rackley (Health and Safety Strategic Services)	Support smoking issues	8 - Protection of Children	Support noted. However, see representation 103.1	See representation 103.1
308.3	Malcolm Ward (Social Services - Area Child Protection Committee)	As the Area Child Protection Committee and Social Services will not be in a position to provide individual advice to applicants the following advice should be offered in this section. That applications should demonstrate that the company / organisation has a policy or statement on keeping children safe from harm;	8 - Protection of Children	Relevant in cases where facilities are provided solely for children.	Incorporate into Section 8 of the Policy as new section dealing with on "Facilities Provided Solely for Children".

308.4	Malcolm Ward (Social Services - Area Child Protection Committee)	As the Area Child Protection Committee and Social Services will not be in a position to provide individual advice to applicants the following advice is offered in this section. That applicants should demonstrate how employees or contracted agencies will be made aware of the company's / organisation's policy / statement on keeping children safe from harm;	8 - Protection of Children	Relevant in cases where facilities are provided solely for children.	Incorporate into Section 8 of the Policy as new section dealing with on "Facilities Provided Solely for Children".
308.5	Malcolm Ward (Social Services - Area Child Protection Committee)	As the Area Child Protection Committee and Social Services will not be in a position to provide individual advice to applicants the following advice is offered in this section. That applicants should demonstrate that recruitment processes for staff who may have to deal direct with children under the age of 18 seek to ensure, as best the company / organisation can, that the appointed applicant has not been known to have harmed children; (d) That there will be clear expectations on staff with regard to their personal conduct in direct relations with children under 18 and guidance on what is appropriate in dealing with specific situations which may arise;	8 - Protection of Children	Relevant in cases where facilities are provided solely for children.	Incorporate into Section 8 of the Policy as new section dealing with on "Facilities Provided Solely for Children".

308.6	Malcolm Ward (Social Services - Area Child Protection Committee)	As the Area Child Protection Committee and Social Services will not be in a position to provide individual advice to applicants the following advice is offered in this section. That applicants should demonstrate that there are systems in place and that staff are aware of them for dealing with possible abuse or violence to children from other users of the licensed facility;	8 - Protection of Children	Relevant in cases where facilities are provided solely for children.	Incorporate into Section 8 of the Policy as new section dealing with on "Facilities Provided Solely for Children".
308.7	Malcolm Ward (Social Services - Area Child Protection Committee)	As the Area Child Protection Committee and Social Services will not be in a position to provide individual advice to applicants the following advice is offered in this section. That applicants should demonstrate that there are clear and accessible complaints system for children to report if they have been harmed; and that there are clear whistle-blowing procedures for staff who may have concerns about the welfare of children on the premises; and (f) That all duty managers or staff in charge of the premises are aware of how to refer any concerns about the welfare of children to the local police, education authority or social services as necessary.	8 - Protection of Children	Relevant in cases where facilities are provided solely for children.	Incorporate into Section 8 of the Policy as new section dealing with on "Facilities Provided Solely for Children".

308.8	Malcolm Ward (Social Services - Area Child Protection Committee)	Should Section state that application forms will be copied to responsible authorities as part of the consultation process	8 - Protection of Children	Under Section 17 applicants for premises licences are required to give notice of his / her application to all relevant responsible authorities. Matter will be emphasised in separate guidance issued on the licensing process.	No change to Policy.
310.1	Eva Geser (Health First)	Very positive thing to have included the section on children and smoking bans and an important opportunity to influence the health debate. However, suggested that applicants should give consideration to full smoking ban over partial smoking ban as partial bans are inadequate to protect people from harmful effects of second-hand smoke.	8 - Protection of Children	Support noted. However, see representation 103.1	See representation 103.1
506.2	Sally Slade (Southwark Trading Standards)	Supports adoption of identity card as safeguard to operators. Recommends adherence to those schemes accredited by the Government PASS scheme (Proof of Age Standards Scheme).	8 - Protection of Children	See representation 113. 11	See representation 113. 11
506.3	Sally Slade (Southwark Trading Standards)	Trading Standards also available to advise applicants on what other steps can be put in place to help prevent sales of alcohol to children under the age of 18.	8 - Protection of Children	Noted.	Reference to be included in Section 8 of the Policy dealing with "Protection of Children".

506.4	Sally Slade (Southwark Trading Standards)	Suggests insertion of following passage where policy deals with enforcement of under-age sales "Weights and Measures Officers from the Council's Trading Standards Service or Officers from the Police Authority will carry out covert test purchases of alcohol using young volunteers where complaints are received concerning the supply to children under the age of 18. Where sales are made all responsible persons may be subject to enforcement action." "The Council's Trading Standards Service routinely carry out inspections of trade premises and will advise and carry out enforcement action on all consumer legislation relevant to the trading activity."	8 - Protection of Children	Under Section 152 of the Act sending a child to obtain alcohol constitutes an offence. However, there is an exemption so as to provide the ability for weights and measures officers and police officers who are acting in the case of their duties to use children under the age of 18 years for "test purchasing".	Amend Section 8 of Policy on "Prevention of Harm to Children" as proposed.
506.5	Sally Slade (Southwark Trading Standards)	Suggests that section should be re-arranged so that issues dealing with alcohol are grouped together	8 - Protection of Children	Logical step.	Re-arrange Section 8 of Policy dealing "Prevention of Harm to Children" to gather alcohol related issues together.
508.3	Kenneth Gregory (Southwark Drugs and Alcohol Action Team)	Raises the issue of further sales of alcohol on licensed and off licensed premises to individuals that are intoxicated and have children with them.	8 - Protection of Children	Section 141 of the Act makes it an offence to sell or attempt to sell alcohol to a person who is drunk or allow alcohol to be sold to such a person.	No change to Policy.