



Department of Home Affairs

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Isle of Man
Government

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**SUMMARY OF RESPONSES
TO THE
CONSULTATION
ON THE
PROPOSED ALCOHOL
LICENSING LEGISLATION CHANGES**

April 2021

Executive Summary

1. The Consultation

The present alcohol licensing regime on the Island is now outdated, overly bureaucratic and inflexible.

Before bringing forward legislation that will fundamentally change the structure of licensing on the Island, the Department looked to consult with all interested parties who might share their views on the policy and structure that will be put in place.

This provided a genuine opportunity for interested parties, key stakeholders, industry representatives, and colleagues across the government and legislature to come forward with their views in order that these might become part of the shape of the draft Bill to come.

The Department has welcomed the diversity of views which were expressed and the candour with which individuals have given their views.

A detailed summary of some of the views received and the way in which these have shaped the draft Bill is contained in the following pages.

For the most part these views were either largely in agreement with the policy point raised or served to offer useful and often thought provoking ideas that were supplemental to them.

Several key issues caused the greatest volume of diverse or disparate views.

2. The Main Issues

- The Licensing Authority versus Licensing Court model – while the majority of respondents saw this change to be positive (quicker, cheaper, streamlined, accessible for public complaint and comment on licence applications), this was tempered with concerns as to what this could mean and how it would work (standards, independence, impartiality).
- Pubwatch – a vast number of respondents view Pubwatch as a key part of the overall fabric of ensuring that alcohol consumption does not give rise to poor conduct and would support partnership between the licensees and authorities to ensure that the scheme works and that where appropriate information might be shared with those parties whose interaction will ensure that antisocial behaviour and community disruption are minimised.
- Flexibility and Adaptation of Licence Types – the ability to see aspects of the licensing regime be able to be flexible, adaptable and to embrace changes was another key theme to the responses – while it was the view of many respondents that this must be in balance with the regime being implemented and other businesses on the Island. The underpinning theme of a responsive regime that is

capable of being changed and being need driven has given the Department pause to consider what is the best “fit” that we could seek to provide for. With this came the realisation that perhaps a more enabling Bill – where granular detail is provided within Regulations which are themselves consulted upon – and which can be modified to become more permissive or to offer more variation over time – was likely the best fit for the optimistic but uncertain times to come.

- Training – we were pleased to note the positive comments around training and the fact that so many respondents felt, as the Department does, that Training was important to both the licensed industry and to the wider hospitality industry which is often unfairly viewed as unskilled. In response to some concerns raised around training costs and training suitability, we note that the evolving training portfolio will be continuously monitored to ensure that it represents value for money.
- Amongst other matters raised in the consultation which have not been addressed fully, or in detail, but which we would look to raise with the wider Government – these included:
 - Agent of Change legislation
 - Vaping

3. The draft Bill

To coincide with the publication of this summary of responses on the policy points associated with the draft Licensing Bill, we have now organised that the separate brief consultation on the draft Bill itself will be made available on the Consultation Hub.

As was noted in the previous consultation, it was the intention of the Department that in bringing forward the Bill following detailed consultation on the policy behind it, the timelines for this subsequent draft Bill consultation would be abbreviated to **two** weeks.

This is because the Department is keen to ensure the Bill is given every chance to pass through the legislative process before the House of Keys elections in 2021, and time for this to take place grows short.

The Bill will consist primarily of enabling legislation. That is, it will give powers to the Department of Home Affairs to set out how the different parts of the licensing regime will work.

1. Submission of responses to the consultation

1.1 The Department received **95** responses, of which –

- **30** were on behalf of an organisation; and
- **65** were from individuals



2. Summary of responses to the Consultation questions

2.1 ***Principle 1 – That Manx Licensing law is objective driven:***

The legislation should contain overarching objectives which will guide the Department in the consideration of all licensing applications. This will ensure that all applications are considered in a consistent way and must demonstrate how they meet the Government's licensing objectives. The objectives, each of which should have equal weighting, are:



- *Securing public safety;*
- *Prevention of crime and disorder*
- *Preventing public nuisance;*
- *Protecting and improving public health;*
- *Protecting children from harm; and,*
- *Providing an environment in which the industry can flourish*

So what does this mean? We want to ensure that the industry is well-regulated and that premises are managed by trained and competent staff. We want to ensure that the law is strict enough that the sale and consumption of alcohol is carefully controlled. We want to ensure that we do not see poor, dangerous or unsafe behaviour from intoxicated individuals. We do though want to allow those people who choose to drink moderately to be able to enjoy the experience. Lastly, we recognise the value our hospitality sector offers to the Island and its communities. We want the licensed trade, which has suffered hardship during the Emergency through necessary closure, to have the opportunity and chance to innovate and flourish in the future.

What you said:

There were **84** responses to this question. **1** indicated they did not wish to make any comment. **10** made no response.

The majority of the respondents were supportive of the principle with 41 respondents agreeing with the principle as stated.

3 respondents felt that the principle was no different to the current regime and what "existing licensees are already committed to", and "if it ain't broke don't fix it"!

Other respondents felt that "it was a good starting point" and "fair, provided it is stuck to", raising concerns about public nuisance from the noise from the venues, and it was suggested that all licensed premises should be fitted with compulsory CCTV.

One respondent agreed with the suggested approach, but indicated that a seventh principle might be appropriate: standards across the licensing trade. The respondent acknowledged that standards have improved considerably in the last twenty years, due to the efforts of the Constabulary, the Licensing Forum, the Licensing Court and the trade itself, but felt that the licensing regime should have, as a key priority, not simply the maintenance of standards, but their improvement.

Basing licensing decisions around agreed objectives was welcomed, as this "helps to provide clarity on expectations and to focus the attention of licensees, local authorities and enforcers on identifying the areas where harm could emerge and assist the implementation of mitigating measures". This same respondent encouraged the Department of Home Affairs to "model Manx licensing law on that in effect in England and Wales as much as possible."

Whilst agreeing with Principle 1, one respondent felt that there needed to be "enough rigour when administering licences that some principles aren't unduly weighted at the expense of 'Providing an environment in which the industry can flourish'."

Whilst it was agreed that the principle of putting public safety as a priority was correct, some respondents felt that any legislation should "optimise for the vast majority of consumers and businesses who are responsible", suggesting that, "regulation should be light touch with enforcement focused on the minority who abuse or break the law," and that "red tape should be reduced as much as possible to allow businesses to engage their clientele and reinvigorate the industry as a whole."

One respondent felt that the objectives were all about prevention and protection and not necessarily in the interests of "law-abiding citizens that like to drink responsibly." Whilst others felt a way forward was needed to stop anti-social behaviour due to drinking.

Some respondents felt that there was too much emphasis on the prevention of negative impacts (Securing public safety/Prevention of crime and disorder/Preventing public nuisance), and too little on the promotion of positive ones, "the positive role licensed premises can provide in the community, as a venue for cultural activities." It was also noted that whilst the emphasis on prevention was somewhat negative, if the first three objectives were sorted out this would have a positive effect on the last three objectives.

One respondent felt that the 'Designated Official' System should go, and that the "intimidating" court process should be eliminated. Training of 'Designated Officials' and licensed premises staff was raised a number of times, and more than one respondent suggested that this training should be available online with online refresher courses being available also. Comments were also made concerning the necessity for door staff at 'ordinary' pubs, and the skills/calibre/training of door staff.

The issue of public health with regard to alcohol consumption was addressed, with comments made concerning the consequences of 24hr licensing and the cost "in terms of medical and physical well-being to individuals", ensuring that persons who are clearly unfit through drinks/drugs do not continue to be served and are actively turned away. Also the social costs involved, i.e. A&E departments, costs related to crime etc., was raised. Concerns with regard to the uncontrolled consumption of alcohol becoming a major issue for the Island were raised, particularly with regard to the 'protection of children'. In contrast, one respondent argued that 'protecting and improving public health' "should not be part of it," and another felt that "drinking is a personal choice and should not have limits applied," adding that "as long as a person who drinks does so without danger to themselves or others, does not commit a crime and is not unnecessarily criminalised for their actions."

It was highlighted that off-licences make up a big proportion of the sale of Alcohol and "should be held to high standards," with two respondents highlighting that the hospitality sector should be held to the same standards as the off-licence sector, i.e. with a Designated Officer present at all times. The 'disconnect between on-licence and off-licence holders with regard to responsible consumption' was raised, stating that there needed to be a consistent application and that "the consumer should carry the majority of the responsibility and consequence."

It was also felt that a large amount of individuals purchase "cheap alcohol packs in supermarkets prior to going out" (pre-loading), as they cannot afford to drink in the clubs and pubs. The question of how 'pre-loading' is regulated was raised, and it was commented that this causes difficulties for licensees.

The involvement of local brewers, distillers and soft drink manufacturers was raised and it was felt that, "there needs to be specific recognition to support and promote the local drinks producer sector which is now a fast growing sector and generating substantial returns for the Treasury and IOM Customs and Excise." With regard to occasional licences it was felt that "there needs to be a recognition that the licensed selling of locally produced drink products in sealed bottles or containers for consumption off premises or outside an event, is very different from the proposed sale of drinks over a bar on a



premises or at an event,” and that the current lengthy timeline in order to obtain an occasional licence must be changed in order to prevent local suppliers missing out on participating in local events, particularly if such events are organised at short notice as has happened due to Covid.

One respondent criticised the detail of the principle by asserting that it missed the “most important objective of the drinks-selling business – to serve customers”. The same respondent also raised concerns about the objective, ‘providing an environment in which the industry can flourish’, stating that “rules around liquor licensing should be focused on protecting public safety, not on restricting customer choice.”

Another respondent highlighted concerns that, “whilst focusing Manx Licensing law around agreed objectives is a good way to drive up standards in the retail of alcohol, this must not become a pressure point to be used against retailers in areas unrelated to alcohol.”

A concern was raised around ‘protecting and improving public health’ and ‘protecting children from harm’ categories, citing that although “the general principles are fine and worthy”, “they have been used clumsily and with prejudice historically” giving the example of banning “smoking in and around pubs outright rather than contain it.”

It was also suggested that any licensing authority when granting a licence should, “ensure that the landlord is a strong personality who will stick to the rules”, and that there should be unannounced inspections by the licensing authority and by plain clothes Police and environmental health inspectors.

What we did:

As the vast majority of feedback on this policy point was positive, the overarching core objectives have been added to the fabric of the Bill itself.

These have therefore been joined by an additional standard within the draft Licensing Bill which was suggested within one of the consultation responses, namely: “promoting high standards across the industry”.

Where possible the additional concerns which were raised and have been collated will be addressed via legislation put in place to support Principles 6 and 7. Matters which are out of scope for regulation may be addressed within the Isle of Man Licensing Forum Codes and Guidance Manual¹, subject to the agreement of the Licensing Forum to do so.

2.2 Principle 2 – A non-judicial Licensing Authority

A major proposed change within the structure of alcohol licensing comes with the establishment of a Licensing Authority which will replace the present use of the Licensing Court when considering and granting licences for establishments, individuals and organisations.

¹ <https://www.courts.im/media/2427/isle-of-man-licensing-forum-codes-manual-v-2-2019.pdf>

The Licensing Authority will be independent to the Department of Home Affairs with an independent chair; the Department will administer the proceedings of the Authority. Those parties presently involved in the grant of licences such as the Isle of Man Constabulary and the Isle of Man Fire and Rescue Service along with the Department and such other agencies or organisations with a view pertinent to the licence being considered will be considered in forming the Authority membership.

The Department would specifically welcome views on the establishment of the Authority and its membership.

The procedure of the Authority will be set out in regulations approved by Tynwald. One of the key propositions of the change to the licensing regime is that the administrative process will be simplified and a considerable amount of the bureaucracy presently required by the legislation will be removed.



A final key point in this area is that the manner in which licence applications that have been received and advertised will be adjusted. The present process requires the use of advertisements in local newspapers and it is the intention that in future a different approach modelled on that used in planning where the planning application detail is advertised physically at the location and also made available online This would also ensure that the where an individual has a right to object to an application they would easily be able to do so.

What you said:

There were **87** responses to this question. **2** indicated they did not wish to make any comment. **8** made no response.

Licensing Authority

The response to Principle 2 was very positive, with the majority of respondents expressing their strong support for the establishment of a non-judicial Licensing Authority, and welcoming a responsive, simplified and proportionate licensing regime, with the emphasis on a more streamlined but suitably rigorous process for obtaining a licence.

One respondent commented that the establishment of an Independent Licensing Authority is “an aspect of the licensing regime in England/Wales and Scotland that has worked well.”

Another respondent welcomed the proposal to introduce a non-judicial Independent Licensing Authority, but suggested that “the authority should only be an advisory and appeal body...whose role is to advise the Minister on future policy proposals, which may be deemed to improve licensing provisions, and to deal with and promote general educational matters, as well as recommending matters relating to training within the industry....”

Only 11 respondents indicated a preference for the responsibility for licensing to remain with the judiciary, with concerns expressed regarding political influence and potential cost to the taxpayer.

One of the respondents who disagreed with the proposal to create a new Licensing Authority, felt that creation of a licensing Authority would reduce the role of the courts to dealing with appeals. This respondent felt that in order to reduce bureaucracy and make things easier for the trade, it was not necessary to remove the court from the process, and that it would be entirely feasible to simplify many of the existing processes to make them administrative functions, rather than judicial ones. The main argument put forward for retaining the role of the court, was that standards needed to be maintained and the role of the court in setting standards was important. It was felt that anyone entering the trade as a designated official relished the role of the court, in that the court understood that a DO has to demonstrate their knowledge and readiness to run premises to lay magistrates and to a stipendiary magistrate in the form of the Deputy High Bailiff. It was felt that DO's see the successful accomplishment of this as a real achievement, which reinforces in their own minds the heavy duty that falls upon them. This respondent contended that making this an administrative process, even if it includes an appearance before a committee, would inevitably reduce its impact. It was however suggested that the court should still play its part, but that some matters could be dealt with administratively, rather than judicially (e.g. approval in principle for new premises could be given at a very early stage, allowing a full application to be heard at a later stage.)

Another respondent, whilst firmly stating that issuing of licences should remain with the judiciary, agreed "with the general principle of an administrative body created, under the umbrella of the courts, which could deal with the vast majority of licensing matters without the need to go before an actual court." Further stating that, "this body could process all smaller matters that normally come before the bench, for example changes to layout of premises, occasional licensing, additional ""Approved Persons"" and changes to Licences by completing a checklist of requirements and approval from interested authorities, unless there was any particular objections raised by the public." Effectively, the licences would be granted by the Judiciary but maintained by their administrative body for the long-term, resulting in, "no need for triennial re-approvals, the only reason for a licence to be returned to court would be if there were issues with the running of that licence, and the authorities wanted to challenge it."



With regard to triennial re-approvals, one respondent contended that if this was to disappear, then “provisions ought to exist to allow specific or general conditions to be placed on licences to reflect the operating environment (e.g.; if violence were to increase, then a condition could be imposed in all premises to enable them to take steps necessary to protect the public, such as the mandatory use of unbreakable

glasses), and the Constabulary ought to have greater powers to close, restrict or impose conditions on premises where there is an urgent need to do so.”

Membership of the Authority

There were varying opinions regarding the membership of the Authority, with concerns being raised should, “anyone currently working within the licensed trade being represented as it could lead to a conflict of interest”. Conversely, other respondents supported the view that it, “would be useful to have people who run a licensed premises on the Administrative panel to provide a balance between bureaucracy and the practicalities of running licensed premises,” suggesting a “pool of people to draw upon, so that the same people are not always making the decisions so that there is no prejudice against new premises which could be viewed as competition.”

It was also suggested that there should be, “an industry experienced representative on the authority membership but who will not be conflicted (i.e. no current ties, a former publican or executive) and who can ideally ensure the particular challenges and best practices in operating licensed premises are front of mind.” Including lay people and not just professionals as members of the Authority was supported. There was support for the inclusion of representatives of the Isle of Man Constabulary and Isle of Man Fire and Rescue Service as part of the panel. A representative from the Town Centre Management and OffWatch was also suggested. It was proposed that health care professionals should also be consulted on licence applications alongside Fire and Police representatives and a representative from environmental health (with regard to noise abatement). One respondent suggested that the membership should include people of all ages, including those in their early 20s. It was also proposed that posts for membership of the Licensing Authority should be widely advertised so that members of the general public have the opportunity to be represented.

Some concern was raised that a Licensing Authority could be more subject to political pressures/influence, and increase expense to the tax payer of another government authority was queried.

One respondent commented that, "the membership of any Licensing Authority is less important than the standing orders governing how the Authority exercises its functions", going on to mention that in England/Wales and Scotland, "the police and fire and rescue services are not members of licensing authorities" but instead have an important statutory role to play being designated as "responsible authorities with the ability to submit representations when a licence is submitted." This respondent favoured a licensing authority "with a membership drawn from elected representatives to ensure democratic oversight."

The need for transparency in the licensing process was highlighted to ensure, "fairness and the ability for the public to raise objection and to allow for public debate and discourse". However, it was felt that there should be "significant grounds for objection", and the weight should be on the objector to prove their point. An authority website with links to all the current laws and regulations was suggested. One respondent commented that, "the terms of reference of the licensing authority must be tightly constrained so that they are only allowed to reject decisions on public safety grounds", with another requesting that there be means by which the general public can support an application.

Respondents were supportive of the proposed changes to how licence applications are advertised, in terms of cost and convenience, however there was concern expressed over 'occasional licences' if a large period of notice is required. It was suggested that, "a database of all licensing applications and judgements be made easily available so that interested parties could view upcoming applications properly, and learn from previous applications." It was suggested that there be a 14 day notice period with a 7 day objection period. Concern was also raised over anonymity for a member of the public who wished to oppose an application, and it was suggested that notice could also be given by mail/email to residents of the postcode. 3 respondents felt that applications for licences should continue to be advertised in local newspapers.



What we did:

Given the strong views on the institution of a Licensing Authority and the need to tread carefully in establishing such an Authority; to ensure that it would be both credible and wholly impartial in its deliberations. This is clearly a matter that will take time to bring about properly in a manner that is satisfactory to all concerned.

There cannot be an overnight change and it is only correct that such changes as are made will follow detailed public consultation via the Consultation Hub, and engagement by the Department with key stakeholders whose involvement would be desirable within the Authority.

The Department has therefore brought forward within the draft Licensing Bill such enabling provisions as to allow for the establishment of an Authority in the future and for the detail of its composition and terms of reference to be provided within regulations, we have also retained suitable provisions to allow for the Licensing Court and Licensing Court of Appeal to continue to allow a hybrid model to be introduced should prove to be the most desirable approach.

Given the commitment to the approach of public consultation via the Consultation Hub on these (and any other regulations to be initially brought forward relating to the change in licensing regime), we have also included provisions within the Bill that relate to the Triennials.

We have been in close discussion with the Department for Enterprise regarding the Triennial. It was the case that last year the Isle of Man Government allowed the Triennials themselves to be deferred (fully funded) to 2022 by bringing forward legislation – the Licensing (Amendment) Act 2020². Given the ongoing global pandemic and the recent lockdown we are keen to ensure that further hardship is not caused by the planned triennial if the draft Licensing Bill should not be progressed and enacted by that time. Such a delay to the Triennials is subject to the funding being provided to meet the shortfall in income of this proposal.

2.3 Principle 3 - The right to judicial appeal

The Licensing Court, which has been such an important part of the Island's licensing regime, would become the appeal court for decisions taken by the Licensing Authority. This will ensure a noted separation in decision making for these appeals and will make appropriate use of both the Court's time and expertise.

What you said:

There were **82** responses to this question. **4** indicated they did not wish to make any comment. **13** made no response.

Out of the 78 people who commented, 65 respondents were very positive towards, and in favour of the Principle as stated, acknowledging that it seemed a fair and sensible route of appeal.

Comments regarding the cost and process of appeal were made, requesting that the cost to the party seeking the review is not prohibitive, and that the appeal process is streamlined and not a long drawn out procedure. It was also commented that the court, "should be the avenue of last/final resort," suggesting that, "it would seem preferable for there to be a mediation opportunity within the Licensing Authority as an interim between decision and appeal to the courts."

² https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2020/2020-0009/LicensingAmendmentAct2020_1.pdf

Of the remaining respondents who commented - 1 was not in favour of the judiciary being involved in any way whatsoever; another suggested that a review could be undertaken by a committee of the licensing court; 9 wanted no change to the current system (i.e.: no



Licensing Authority with the judiciary making all licensing decisions) with “a similar appeal process as present to allow for challenge to decisions of the court.” 1 suggested that the Licensing Authority could also hear appeals; 1 respondent was against any form of regulation whatsoever, and 1 had misunderstood the Principle and incorrectly believed that the court would continue to make licensing decisions and also hear any appeals, which they opposed.

A view was expressed that Judicial appeal should continue the view being agree that the right to judicial appeal is necessary. The response indicated the configuration of the Court could potentially change.

What we did:

Retention of judicial appeal regardless of any change to the licensing regime was always a very important proposal.

The views expressed in response to the consultation made it clear that the vast majority of those who responded agreed with this approach.

The innate fairness provide by such a route of appeal has be retained within the draft Bill.

2.4 Principle 4 - A flexible and responsive licensing regime

In order to provide for the widest possible variation of licensing and ensure that the regime is able to support both changes to the industry and be responsive to current demands, a number of possible types of licence are being considered. These include:

- *On-licence – the standard licence type held by most public houses and restaurants where alcohol is sold to be consumed on the premises.*
- *Off-licence – the standard licence type held by most premises where alcohol is sold for consumption at home i.e. shops and off-licences.*
- *Registered Club Licence.*

- *Occasional event licence – similar to the present occasional licence but with the potential that such a short-term licence might be “repeated” e.g. a TT occasional licence could be issued for use over a span of years rather than annually.*
- *Other categories of licence – event/trade show licence for use with pop-up or managed events where another organiser has overall responsibility for the facilities where the event is taking place.*
- *Charitable Function Licence.*
- *Mobile licence.*
- *Bring Your Own Bottle – introduction of an infrequent, low cost and light touch notification requirement, much like Firework display notifications, rather than a licence – to ensure that the premises operating BYOB have, for example, training in place and the Police have the opportunity to review premises if necessary to manage public safety concerns. As currently envisaged, this would not affect not-for-profit or charity events.*
- *Transport licence – a licence for use in connection with passenger transport e.g. boats or trains.*



What you said:

There were **87** responses to this question. **2** indicated they did not wish to make any comment. **8** did not respond.

Just under half of the respondents had no issue with what was being proposed and welcomed the variety of licences being suggested.

Of the remaining respondents who commented, only 2 were opposed to the Principle outright citing, “current licenses meet requirements”, and “too complicated, no regulation” as the reasons for their opposition.

Whilst agreeing with the principle of a flexible and responsive licensing regime, it should be remembered that an application for a fire certificate will still need to be made when relevant under our current fire service legislation.

On & Off Licence

One respondent felt that there needs to be clarity with regard to ‘on’ and ‘off’ licences stating that, “in the last 5 years there had been a real blurring of the relevance of the terms ‘on & off’ licence.”

It was suggested that, "the Bill should provide that competition from other operators or proposed operators is not a matter to be taken into account, in the consideration of an application for an 'On-Licence' or 'Off-Licence'. This restrictive practice is detrimental to meeting the Island's needs, with self-interest playing the major part, if not the only part, in objections made against applications."

Occasional/Pop-up Licences

Concerns were raised with regard to 'occasional event' and 'pop-up licences', with requests being made that these licences not be too restrictive and granted swiftly, with people being able to purchase alcohol and, "not be corralled in a defined location." It was also suggested that existing Licence Holders should be able to provide bar facilities at private events or pop ups without having to obtain additional permission but with these events being restricted to, "12 times per year...with the Constabulary being given 7 days' notice of the event." One respondent requested that the, "occasional licence/event trade show licence mimic the Temporary Events Notice in the UK in that any Designated Official could apply for a Temporary Events Notice for events without it being linked to a premises licence," with the same restrictions as those imposed in England and Wales.

It was also suggested that occasional/pop-up licences be granted to cover a specified period of time, e.g. 6 or 12 months and not just per event, as having to apply for a license each time, "is not efficient administratively or cost-wise either for the host or the court." Those respondents who are specifically involved in organising events, commented that the time restrictions currently imposed on obtaining an occasional licence are very obstructive to business, and there is often, "not enough time to collate the paperwork required in the period within which to apply for the licence....pop up events and functions that may need to happen quickly for whatever reason, need to be taken into account."

Others were "concerned about the suggestion of granting repeated occasional licences for annual events and so on, the obvious problem being that dates, times and personnel will change for these licences, and as such should be reappraised on each application." It was suggested "a number of caveats to provide for approval still being needed each year for



boundaries, DO staffing, security, music and dancing provision etc." would be required. One respondent supported the, "maximum length of Occasional Licences to be increased in law to 16 days," as it was felt that this was a long enough period, citing that any longer, "would lead to premises being 'test ran' for weeks or longer at a

time as an occasional licensed premise which may not be suitable for a full On Licence.”

A respondent who opposed the formation of a Licensing Authority suggested, with regard to ‘Occasional Licences’, that, “the administrative body mentioned in Principle 1 should take control of issuing these licences without a court appearance unless there are objectors, or challengers from authorities.” Further stating that, “Occasional licence law would cover applications for the suggested "trade show", "mobile", and "pop-up" suggestions in this document. There should never come a time when any licence granted does not have a responsible "Parent On-Licence" which is held responsible for its operation.”

Another respondent, who also opposed the formation of a Licensing Authority, suggested that the focus should be on people (the suitability, qualification and experience of individuals in the management of premises); places or premises (the suitability and standards of the places where alcohol is to be sold or consumed); and purpose (what is the purpose of the business) which could then determine new types of licence.

The sale of locally made drinks was highlighted, with the suggestion that there could be specific ‘Event/Pop up licences’ for retail of locally made drinks products for sale off the premises/event, “to encourage and help develop this developing sector”. It was suggested that, “drink sales at such events also should be permitted and granted to the 'event



organiser', who would for example have to illustrate provision of suitable security etc., but with each proposed vendor responsible for the sale of their own drinks, again being required to already hold their own on-license and thus experience in the retail of drinks and again provided they have their own approved DO supervising their service of drinks. The event organiser is thus responsible for the general security and management of the event but the

individual retailers / vendors should be ultimately responsible for their individual sales operations.” The same respondent felt that, “off sales should be permitted at an event generally i.e. not requiring to be within a licensed drinks sales area (i.e. bar), provided the retailer already holds a license and has an approved DO onsite supervising the sales.”

Mobile Licence

Some respondents felt that the idea of a Mobile licence to, “encourage pop-up bars for example, at any place or time without prior approval” was excellent, whilst others expressed concerns as to how such licences would be managed, and felt that any mobile licence holder would have to, “show significant licenced experience, and a named individual would have to be the licence holder, to retain personal liability.”

One respondent wished for further clarification with regard to the Mobile licence, “as in the UK this also requires a personal licence”. The same respondent goes on to say that, “the IOM has a finite geographical market for pop up and event functions and many existing on-

licence holders rely heavily on supplementing their income in an already competitive trade, by offering pop up bar and event capacity. To permit a person / entity to hold only a mobile licence/ personal licence would clearly have a negative impact on existing licence holders who have invested in premises, training staff and stock holding etc. We would propose such licences be limited to existing holders of an on-licence to avoid the risk of over dilution of the market in a geographically limited market and thus hopefully avoiding the likely proliferation of 'occasional part time bar tenders' with limited experience both commercially and regulatory and the resultant likely lowering of standards and negatively impacting economically on the existing on traders. This may sound protectionist, but what we feel it is protecting are the full time jobs if those trained staff members working for the existing on and off trade as much as it also protects full time businesses themselves."

Bring Your Own Bottle

The suggestion of a 'Bring Your Own Bottle' licence caused concern for some respondents. Some suggested that BYOB should not be part of the legislation and that, "the customer who bought the booze should accept the responsibility of its safe and social consumption," and argued that it is not fair to impose training costs on BYOB businesses, "when they don't benefit from the sale." One respondent, a philanthropic organisation raised concerns that the effect of a 'notice of intent scheme' might have on organisations such as themselves if such notice of intent became a refusal.

Whilst others felt that, "any venue wishing to serve alcohol should have a licence," with the suggestion that there should be, "one licence to sell alcohol," with an all Isle of Man Licensing area, or a personal licence to specific individuals. The requirement that every premise that allows alcohol to be consumed should have, "a responsible and trained person on the premises when trading," was proposed.

Concerns were raised that premises with BYOB facilities did not face the same scrutiny as licence holders, yet, "the same issues of intoxication can occur and in many cases go uncontrolled as people are consuming their own drinks." It was felt that training and strict guidelines should be imposed with regard to BYOB. Another respondent felt a BYOB licence would encourage young people to drink more, and it was also felt that the provision for BYOB is too weak, and that, "anyone who promotes alcohol usage within their business model to drive their business should have full knowledge of licensing rules and regulations and should have to be cleared as an acceptable person to hold a licence."

Another respondent felt that pubs should be granted both on and off licences to, "enable the sale of carryouts," stating that, "all venues who wish to serve alcohol should comply like everyone else."

One respondent described the BYOB provisions as, "totally unnecessary bureaucracy," and added that there was [in their opinion], "no real reasoning, explanation, or justification for the need to introduce such legislation, in fact it is totally lacking." The respondent points out that premises that operate BYOB are, "already required by law to comply with many statutory matters such as public safety, fire safety, health and safety at work and food

hygiene where Government Departments and their agencies already inspect for compliance with statutory requirements.” This respondent totally opposed changes to BYOB provisions, however went on to say that, “if the Department determines to progress the proposal relating to BYOB, then I would suggest that it is paramount that the legislation is clear.....in relation to non-commercial organisations.....that any BYOB statutory requirements will **only** apply to premises classed and operated permanently as a commercial café or restaurant.” The same respondent suggested using the term ‘Bring Your Own Alcoholic Drinks’ rather than ‘Bring Your Own Bottle’ to clarify that it is only alcoholic drinks that are being referred to.

Charitable Function Licence/Registered Clubs

With regard to a ‘Charitable Function Licence’, one respondent felt that the current system was a complete ‘fiasco’ and requested that such licences could, “be applied for on an annual or even five yearly basis.”

It was suggested that, “it may be possible to remove the need for Registered clubs by absorbing the majority of their benefits into a more relaxed On-licence, removing many outdated restrictions to on-licences”. The example of allowing the running of charitable events around games like Bingo, Race Nights and small staked casino nights was given.

A strong case was made for making sure that offences committed in licensed clubs are on a par with those committed in other licensed premises. The issue of, “the supply of free drinks by a business as part of a promotion of their trade,” was raised. It is understood that, “currently a full on-licence or occasional licence is needed to offer a free drink in such circumstances,” and it was suggested that this needed reviewing.

The principle that charity licenses may be granted without charge was welcomed, and it was suggested that this could be extended to all bar sales on charity-owned vessels.

Transport Licence

The idea of a ‘transport licence’ was welcomed, particularly with regard to ‘party buses’, ‘Booze Cruises’, ‘Train Trips’ and ‘Champagne Limo’ which a number of respondents expressed concerns about. The concern raised by one respondent was that, “there has been an increase of business generating income by creating events where the customer consumes their own alcohol while paying for the service.” This respondent also suggested that, “the risk to public health and safety from these style of business are far greater than that of premises offering supervised, licensed sales of alcohol. There is nobody in many of these business supervising consumption, maintaining age related drinking laws



or observing that banned persons are not involved (indeed they would have no idea who is banned or not).” It was suggested that a "Supervision of Alcohol Consumption" licence should be created for all businesses that wish to use it to drive turnover, which, “would not have to have the requirements of more complete licensing, however there should be someone who could be trained in protecting the public from harm, basic first aid and be aware of the major requirements of licensing law.”

One respondent felt that a ‘transport licence’, as a single form of licence, would be unlikely to, “incorporate the flexibility needed to cover trains, locally based excursion vessels, visiting excursion vessels and regular sea transport services.” It was suggested that a ‘new’ occasional licence might be appropriate for visiting excursion vessels to permit occasional events to be held on ships.

It was also proposed that, “the Department includes within the Bill a Clause to exempt all Passenger Vessels operating to, from, and within the Island’s territorial sea from requiring a licence to sell alcohol on board the vessel or being able to sell alcohol on board whilst within the Islands 3-mile limit....The responsibility to ensure control and provision of the sale of alcohol on board such a vessel, and the control of passengers consuming alcohol should, as now, remain with the Captain, and the owner of the vessel. There is no reason why such vessels operating within the Island’s Territorial sea should need to be licensed by the Island regarding the sale of alcohol on board a passenger vessel.”

Other comments

One respondent suggested that all licences issued, within whatever category, should ultimately be linked to a Premise licence to ensure responsibility. Conversely, another respondent felt that, “it would be sensible for a licence to be issued directly to an event organiser rather than through a licensee,” with the event organiser being able to, “provide evidence of competence with a proven track record of running bars at events and who can also demonstrate their understanding of the rules by undertaking the BIIAB licensing course and any other training as deemed necessary.” This same respondent goes on to say that it is the event organiser who is, “the actual person managing the event and ultimately the responsible person and so if there was an incident, the wrong individual could find themselves responsible (the Designated Official).”

Other types of licence were suggested, such as a ‘café licence’ and a ‘children’s licence’ (which requires that children leave at a set time particularly with regard to private functions).

What we did:

The existing Licensing Act³ has been in place for almost 25 years and given the likelihood of the next Act being in place for a similar length of time it is vital that it should meet the current and future needs of the Island.

³ https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1995/1995-0008/LicensingAct1995_8.pdf

The global Coronavirus pandemic has shown us the importance of flexibility and the ability to change both the ways we as individuals or organisations work, and for businesses, sometimes their entire business model and the way that is accessed, when the need arises.

Providing within the Bill for enabling powers that will allow for regulations to be made concerning the types of licence that shall exist and the requirements associated with those licenses will mean that regardless of what the future holds, the Department is able to (with appropriate consultation) bring forward a regime that is both safe, and offers suitable opportunity for industry to flourish.

In addition to this the Department will look to incorporate specific licensing needs in relation to some of the additional points raised in the consultation that may include:

- Wholesale business licences
- Music and dancing licences
- Café licences
- Craft distillers licences
- Licence conditions (and changes to these)
- Licence limitations, suspensions or temporary suspensions (and how these come about)

Again we would note that ANY changes brought initially within regulations in respect of these areas would be done so following full and detailed consultation publicly via the Consultation Hub.

2.5 Principle 5 - More flexibility for Designated Officials and Licensees

The present regime where either Licensees or Designated Officials are required to manage licenced premises will remain. However, the administrative requirements for this process will once again be simplified. This will include an additional level of approved official to allow for the ease of the management of licensed premises over the period of opening and although overall responsibility will remain with the Licensee or Designated Official, it is proposed that the day to day control would lie with approved officials for each premises.

The Department is committed to improving and extending the training available for those employed within licensed premises from initial entry (glass collectors, casual bar staff etc.), through to registered door security staff and Licensee and Designated Officials. The Island has seen changes to the industry in recent times and both the safety of the public and their satisfaction with the service they receive are underpinned by the capability of the staff in the individual licensed premises.

What you said:

There were **85** responses to this question. **1** indicated they did not wish to make any comment. **10** did not respond.

The majority of respondents agreed with the two main components of this Principle; the inclusion of an additional level of approved official and the improvement and wider availability of training for those employed within licensed premises. One person felt that it contradicted the previous 4 principles, and another felt that, "over the years it has become easier to qualify as a designated official," and therefore handing, "responsibilities to an additional level will potentially cause problems."

"Approved Official"

There was overall support for a more simplified administrative process, and another level of approved official was very much welcomed, with the suggestion that such persons must hold a suitable qualification, be approved by the Police and have relevant industry experience including the, "basic necessary understanding of the licence – e.g. Challenge 25, refuse alcohol where persons are intoxicated etc." It was also highlighted that it should be, "clear that the DO has ultimate responsibility, then this safeguards premises being left unsupervised." One advantage of a 'second layer' of approved person which was commented on by a number of respondents, was that, "this creates a pathway for future experienced DOs to then be appointed."

One respondent suggested that every licensed premises should have at least two designated officials, with others stating that there should be a DO or 'approved official' on site, "any time alcohol is being sold or supplied". It was requested that, "the current requirements for Designated Officials remain the same regarding absence periods with premises being acceptable to be ran by such "approved persons" for up to 14 days in the absence of the D.O." It was pointed out that, "D.O.'s do need rest days and are subject to illness, and the authorities should not expect a D.O. to be available 24 hours a day 7 days a week."

Whilst recognising what the department is seeking to accomplish, one respondent expressed some reservations, noting that, "a key aspect of current arrangements is that someone is responsible for what actually happens in licensed premises. A while ago premises had a licensee and no one else. Licensees had vicarious responsibility for everything that happened, even if they were temporarily absent.



Several years ago came the concept of designated officials, which was soon extended to the current system whereby most premises have several such officials. This makes sense. It is vitally important that responsibility and liability are clear whenever premises are in operation."

Another respondent expressed concerns, "that to create an additional level of 'approved official' (in addition to the licensee or designated official) has the potential to water down responsibilities should problems arise."

A number of respondents felt that the 'approval' should be about the person and not the site, therefore enabling DOs or approved persons to easily move between sites and not be tied to one premises. On this topic, it was further suggested that a new type of DO Licence be created, "that within categories e.g. restaurants with on licences", meaning that DOs can transfer between different premises, so if a DO, "leaves employment at one restaurant, they can continue as a DO at an equivalent restaurant without having to restart the DO process."

On the other hand, one respondent stated that a DO, "should be site specific within an organisation and can only be moved to another venue on the agreement of the licensing authority to be done administratively and fee. Approved persons should be allowed to move between units within a company to ensure compliance is met at all times. If they leave the employment of one company to go to another, a new application is required. Fee related."

Issues around seasonal staff were raised, particularly relating to visiting vessels, in that, "the seasonal operation of these vessels mean that crew are recruited to work for around 5 months, although some may return from previous seasons. They are all qualified for their roles and must satisfy the (UK) Maritime and Coastguard Agency before a passenger certificate for the vessel to operate is issued. This respondent highlighted that, in order to ensure compliance, a Manx Licensee has had to act as licensee for the operators of the visiting vessels, including sailing aboard the ship and arranging crew briefings by a Legal Adviser. The respondent state that, "whilst this has proven to be both an economic and reasonable solution to ensure compliance, it is entirely subject to the good will and availability of one willing volunteer, whose availability cannot be assumed indefinitely." This responded suggested that the ability to have the Island recognise a UK Licensing qualification, plus the requirement that the vessel's licensee demonstration of knowledge of, and adherence to, the Island's licensing laws could be an proposed alternative requirement.

Training



Improvements in the training of all staff was welcomed, but concerns were raised about the cost of training courses and who would be responsible for the cost, and the accessibility of any courses. Many respondents would like to see training introduced for all staff in licensed premises, including seasonal staff, not just the DO/licensee, "to make them fully aware of their responsibility in a regulated industry."

Being able to complete training online was requested by many respondents, and also the necessity to keep any training updated and current. It was suggested that, "as long as the aims and content of any training are clear, it is not necessary to be prescriptive about the body that delivers that training...permitting licensees to deliver training in-house to ensure that the training is adapted to their specific circumstances."

Concerns were raised by three respondents specifically surrounding training of door staff/door security.

It was suggested that, "it may be beneficial, particularly for those in more senior roles (e.g. licensee and designated official), to undertake some form of annual CPD to ensure that standards do not slip or training become out of date."

One respondent suggested that a, "general code of conduct for all staff of licensed premises could be a useful document that employers can integrate in to their employment contract so as to create a consistent approach towards bettering standards across the Island's on-trade."

What we did:

The majority of responses you made to the consultation were positive with regard to this policy area.

Again in order to provide for the greatest functionality and flexibility the Licensing Bill has been drafted to allow for enabling power for regulations which again would be subject to initial detailed public consultation via the Consultation Hub.

This would mean that the regime which was outlined could be provided for either gradually, modified over time or, conversely if there was shown to be any detriment to the rigour of the regime, be once again modified to provide for more strictness.

Any changes implemented would be continuously monitored and any subsequent adjustments would themselves be consulted upon.

The Department is dedicated to arranging that detailed online training can be made available via an outsourced.

The transition to this online offering has been ongoing since 2020, with materials being developed and tested, the full offering is set to become fully available very soon.

Given the concerns raised around training costs and training suitability the evolving training portfolio will be continuously monitored to ensure that it represents value for money. Training as a mechanism to drive standards across the industry is both practical, and should also improve the opportunities that are presented to staff within that industry which has long been unfairly viewed as unskilled.

2.6 Principle 6 – Effective management and control on the sale of alcohol and controls

The general restrictions and controls currently in place will be largely mirrored by the forthcoming Licensing Bill. Several key changes are planned that would be introduced to supplement that regime and allow for gradual changes to the sale of alcohol including minimum unit pricing, below cost price sale restrictions, and promotions. There would also be potential to look at areas in which premises offering retail sales of alcohol could be

limited in number, or restricted, if consumption of alcohol had become troublesome in that area. Furthermore the Department may include powers to regulate online sales and delivery of alcohol products.

What you said:

There were **84** responses to this question. **0** indicated they did not wish to make any comment. **11** did not respond.

There is little detail in the proposals, however, it is considered that controls must remain tight. This means that alcohol promotions must be tightly controlled and that in off-licences there should be clean areas from where alcohol is sold.

Minimum unit pricing/below cost sales

The issue of minimum unit pricing produced robust responses both for and against.

Those respondents who were in favour of the introduction of a minimum pricing of alcohol felt that minimum pricing would prevent large retailers buying, "a massive amount of stock and selling it much cheaper than any pub or restaurant," and this in turn would, "begin to reduce the harm to people's health of over-consumption of damaging high strength cheap alcohols."

It was also suggested that the introduction of minimum pricing would, "be helpful for bringing people back to the pub for the night rather than pre-drinking," and, "that supervised consumption of alcohol on licensed premises is the safest way to consume it." The same respondent felt that the types of premises now allowed to sell alcohol, "has led to multiple premises in close proximity competing, this leads to making it more likely that problem drinkers can gain access to it. We should consider in the new law if further styles of businesses are needed to be able to gain licences."

The effectiveness of the introduction of minimum pricing and related controls in Scotland was referenced as having been of benefit in the reduction of consumption of alcohol, and it was hoped that, "any Manx scheme would mirror the existing schemes in Scotland and Wales."

It was also suggested that 5% of alcohol sales could be diverted to, "alcohol support services to support detox programmes and health education."

Conversely, respondents who were opposed to minimum unit pricing cited that, "the evidence from Scotland does not support it as actually working," and that it, "is discriminatory against those on lower incomes and further favours national supermarkets and retail outlets while driving more pubs and businesses to the walls." It was felt that minimum pricing would not work for those who are determined to drink, who would still purchase alcohol, "at the expense of other essential items."

Other respondents felt that there was no need for minimum pricing of alcohol, but that there should be some control over promotions, as these encourage over consumption of

alcohol. One respondent felt that there should be, “a complete ban on any time based consumption promotions”, and that, “any promotion which causes risk to public health or leads to public disorder should be liable to raise an issue against the licence of the operator.” The same respondent was not against promotions per se, but felt that “relying on the operator’s good sense, and compliance with licensing laws,” would enable ideas to be used.

One respondent specifically supported support restrictions on below cost sales of alcohol, whilst another needed, “additional guidance to explain what that means as different operators may pay different cost prices for their alcohol.”

It was requested that, “price control mechanisms should not be applied to vessels, as the sale of alcohol is incidental to the purpose of the vessel, which is to provide coastal sightseeing opportunities at a substantial fare.”

Specific Areas

The issue of limiting of sales of alcohol in a specific area was commented on by only a few respondents. One respondent stated that, “there have been certain areas where public disorder is an issue, and in these cases, there is definitely a requirement to consider licensing density.”



Concerns were expressed that premises may be unjustly ‘punished’ if trouble occurs near their premises but the alcohol has been bought elsewhere, and it was suggested that, “there should be an attempt to rectify this by other means before just reducing the number of places selling alcohol.” Concern was expressed that limiting sales of alcohol in a specific area could restrict business and ‘the cultural growth’ of an area.

One respondent agreed that the suspension of licences for trouble spots was a good idea, “as long as every licensed premises is held to the same standard.” Another suggested that ‘areas’ could include, “areas permitted for alcohol consumption operated by a licensee (e.g. Garden) where there are proximate neighbours, could be approved/withdrawn where the consumption of alcohol in an area has become troublesome.”

Online sales/delivery

Only a few respondents commented on online sales/delivery of alcohol products. One respondent felt that, “one of the biggest problem areas in management of Alcohol on the IOM is that anyone can order items in the UK and have them sent to their home in the IOM with virtually no checks at the point of delivery. Alcohol could be delivered to banned people, which can potentially make a mockery of the fact we have any licensing laws and even court bans.” Support for the creation of powers to regulate online sale and delivery of

alcohol was expressed, “as long as they are developed with the licensing objectives in mind.”

Concern was also expressed with regard to age checking on delivery. In this respondent’s opinion, “this [delivery of alcohol] is one of the biggest problem areas the IOM has as it is completely under the radar, and runs a coach and horses through all the legislation a very strong compliant local licensing industry here on the IOM.”

Another respondent, who is involved with the delivery of age restricted products like alcohol on Island, stressed that they adopt the ‘Challenge 25 policy’ and also, “insist that any third-party platforms with whom we partner have similar protocols.” The same respondent recommended that the Department, “revise the existing rules on the forms of ID



acceptable as proof of age,” as the current list of acceptable forms of ID does not include cards issued by the UK’s National Proof of Age Standard Scheme. Also, it was highlighted that in the UK there are currently ongoing discussions about, “acceptance of digital forms of proof of age,” and suggested that the new licensing law would be, “the perfect place to ensure that any legislation is future-proofed to allow – or certainly not prohibit future allowance of – acceptable forms of digital ID.”

It was also suggested that online ordering from sellers off the IOM should be restricted as they do not contribute to the, “IOM alcohol management infrastructure or economy.”

Conversely, one respondent felt that, “the public buy online for various reasons and should have freedom to do so.”

Another respondent requested, “clearer guidelines of what can and can’t be done,” with regard to online sales, stating that, “there are non-licensed local business websites selling alcohol products for licensed businesses on a commission basis, they aren’t licensed, yet take a cut of each alcohol sale...this should not be allowed.”

One respondent, who runs a marketplace platform felt that the licence should be held by the seller who is supplying and delivering the product, and that the licence should be the same as for wholesale distribution.

Another respondent expressed concerns about, “the abuse of legislation to deal with the wholesale sale of alcohol. Legislation to deal with this is much overdue.” This respondent suggested that, “The advent of online trade in alcohol also requires some thought. Other jurisdictions, notably New Zealand and the Republic of Ireland, legislate for such sales. New Zealand’s Sale and Supply of Alcohol Act 2012 appears to offer a useful template.”

What we did:

This is closely linked to the types of licence that exist and the activities that take place under such licences, as many of the concerns raised are contingent matters.

Again in the interest of the draft Licensing Bill best providing for the current regime and into the future the Bill contains many of the provisions previously covered within the 1995 Act, along with new provisions in relation to price controls, sale and marketing controls, delivery and supply controls, provisions in relation to minors and regulation of matters such as entertainment and gaming on licensed premises.

Any regulations brought to further the enactment of these provisions will be subject to initial public consultation via the Consultation Hub.

2.7 Principle 7 - Proportionate and responsive enforcement and offences

In general, the current management of the sale of alcohol and the present controls and restrictions in place are, for the most part robust and fit for purpose.

Under the current legislation, the ability to deal with both licensees and patrons when their behaviour falls below that which is expected already exists. Offences perpetrated by licensees are happily rare. Unfortunately, offences by patrons are more common. The existing powers found under section 35 of the Licensing Act 1995 to deal with those issues will be retained. Also as currently, for more serious matters an individual might receive a ban issued by the courts.

Additional requirements planned for the forthcoming Licensing Bill include either a specific offence or an aggravation of an existing offence (such as assault) in relation to any attack against staff in licensed premises. Furthermore, the Department is keen to include powers to share information in connection with public safety or anti-social behaviour to support a formal 'Pubwatch' ban scheme administered by the Licensing Authority.

What you said:

There were **78** responses to this question. **2** indicated they did not wish to make any comment. **17** made no response.

There was significant support from respondents in relation to creating and maintaining a safe and secure environment for both Licensees (and their staff) and patrons, with aggressors suffering serious consequences for their actions. One respondent suggested that, "police should be able to record details of drunk and disorderly individuals they come across and have a three strikes process that can lead to a court overseen imposition of attendance at alcohol awareness and civic pride training akin to speed awareness training

for drivers.” It was also suggested that, “there needs to be clarity in the law as to at what stage licensees need to stop serving a person.”

The continuation of the existing section 35 of the Licensing Act 1995 powers was welcomed, with the suggestion that, “the court banning scheme should apply to all outlets (including private clubs) and the offences for which a ban can be imposed should be left to the sentencing court rather than a prescriptive list. This would enable for instance, the perpetrator of domestic violence through drink to receive a ban.”

It was suggested that, with regard to law and disorder in the Act, it should clearly include that, “any offence committed on a licenced premises, no matter what, should be liable to have a court ban issued for the offence...in particular any offence involving illegal drugs.” The same respondent stated that, “there should be the creation of an absolute offence under the act of ‘assault on a Licensee, their staff or their agents’ which carries at the very least a long-term Court ban from all purchasing of alcohol, and in all but the lowest levels carry a custodial sentence.” It was also highlighted that in relation to, “a specific offence of



assault upon staff of a licensed premises, or such being a specific, statutory, aggravating feature to an existing offence(s),” that this is, “often something mentioned as an aggravating factor of which account has been taken when pronouncing sentence.”

One respondent stated that, “where the Isle of Man Government puts specific obligations to uphold or implement the law on a specific

group of people, they should provide additional protection over and above existing offences,” citing that, “it has long been the upholding of the law in relation to sales of restricted products such as alcohol and shoplifting that has been the flashpoint for abuse and violence.” The same respondent also asked that ‘attack’ be defined to include “assaults, threats, abuse, obstruction or hindrance of a worker who is doing their job,” and that if such an offence is committed “because the worker is applying an age-restriction, by asking for proof of age, it will count as aggravation potentially making the offence more serious.”

The ability to share information in connection with public safety was supported, with the suggestion that new legislation be created, “that allows the sharing of information between the police and licensing authorities to make Pubwatch schemes work within the data protection laws.” One respondent suggested that, “all information should be allowed to be shared by licensed premises regardless of whether it is on or off trade, and went on to suggest that a digital means of communication could be introduced, “issued by the

authority to all licenced premises allowing for the police to send current and up to date information, and remove any expired bans in time.”

One respondent felt that Pubwatch doesn't work as, “licensees won't report trouble makers currently. A formal report to pub watch means that there has to be an identified complainant. Licensees will simply ban the miscreants from their own premises but won't report them formally for fear of reprisal.”

Another respondent who fully supported a formal 'Pubwatch' scheme, was concerned that there would be anonymity for the member of public making the report, with only the police knowing the identity of the complainant, not the publican or patron.

The issue of underage drinking was raised by two respondents. One suggested that, “a person attempting to buy or outright purchase alcohol whilst underage should be dealt with in a more severe manner, either through prosecution or enforced education attendance,” whilst another felt that youngsters “should be dealt with by rehabilitation programmes rather than brought before the courts.” In relation to 'proxy purchasing', one respondent felt that those facilitating the purchase of alcohol for under age persons should receive, “a heavy fine, potential jail depending on the seriousness, and banned from entering licensed premises.”

More information was requested on how 'Licensing Authority 'Pubwatch' Ban' would interact with the current 'Licensing Act bans'.

In relation to enforcement, it was highlighted that the approach taken by the Constabulary on the Island has been about, “creating, maintaining and developing high standards,” although this has not negated the importance of enforcement. It was stated that, “enforcement action against licence holders and designated officials is therefore rare.” Currently there is an offence of permitting drunkenness, which pre-dates the 1961 act and is difficult to prove. It was suggested therefore, that, “thought needs to be given to updating the law to take account of contemporary issues, such as the phenomenon of pre-loading.” Also, it was noted that, “the current system that allows licences to be cancelled is slow and clunky. Consideration should be given to providing additional powers to make the temporary closure of premises easier to achieve. This would extend to a power existing to require premises to close for a period of up to a week, or to operate under temporary conditions, until judicial oversight could take place. Currently the powers to do this are limited.”

It was also suggested that, “consideration should be given to increasing the maximum penalty for breach of a 'Licensing Act ban'. At present the maximum penalty stands at a fine of £2,000. It is not possible to impose a sentence of custody.” In relation to individuals, “who repeatedly breach such bans, despite appearing in court and having been dealt with previously for breach,” it was proposed that, “consideration should be given to the possibility of imposing custody in such cases,” which would be in line with the option

of a custodial sentence which already exists in order to deal with offenders convicted of breaches of court orders (e.g. driving whilst disqualified, breaching sexual offences prevention orders etc.).

What we did:

Many of the respondents were keen to see a safe environment for both staff and customers.

By far the strongest view raised in many of the responses was the value of Pubwatch as a mechanism to reinforce standards of good behaviour on premises and the necessity to bring this scheme into an official managed process if at all possible.

The Island's Pubwatch has been a means by which licensee worked together to ensure that their ability to exercise collective denial of service and to address poor conduct for nearly 20 years (Douglas and Onchan). This scheme has recently encountered particular issues with regard to data protection compliance and information sharing and these need to be overcome to allow true partnership working and be part of the solution to tackle crime and disorder problems in the local community.

Other specific categories of offence have been included within the draft Bill such as the offence of attacking a member of staff from a licensed premises. Additionally powers have been provided to allow extra offences that might relate to working within one of the capacities on licensed premises without being qualified to do so – such as door security, to be able to prescribe new offences should new and particular staff members begin to be regulated (stewards or delivery drivers for instance); and, the ability to offer mandatory guidance on matters which aggravate existing offences due to location on, or proximity to, licensed premises.

Other interesting points were raised in relation to bans and the ability for the Licensing Authority to make banning orders at a "lower level" than a court ban and in order to address poor conduct or anti-social behaviour such as drunkenness with a "three strikes" process where a person coming to the attention of the Authority three times could be banned. Further discussion would be needed to see how this might co-exist with Court and Pubwatch bans. One respondent raised a useful point in relation to elective bans where a person might approach the Authority and ask to be banned from premises in order to desist from an addictive behaviour – in much the same way as might be requested from bookmakers in some places (and is referred to as a self-exclusion scheme).

2.8 Other miscellaneous matters

What you said:

There were **71** responses to this question. **2** indicated they did not wish to make any comment. **24** did not respond.

A number of respondents felt that not enough information had been given in order for them to make an informed response.

The responses received varied in content and included suggestions/comments as follows:

- Request to allow more varied Gaming licences for premises (i.e. Casino nights/Bingo nights) and charitable fundraisers;
- Querying why 3 references from a cross section of society is required as part of the application for DO, when the person has already passed a course, had an interview with a police officer and potentially has work experience to demonstrate competence;
- The obligation to see licensees communicate with their neighbours with regard to noise levels and operating times, and restriction to operating times;
- The excessive amount of eateries/drink outlets on the Island and the costs involved in running them as compared to the negligible costs of a 'pop-up';
- Restrictions and licensing should not apply to music and dance activities;
- An applicant for an on licence who has spent convictions should be treated the same as any other applicant;
- Concern that the administrative process spills over into pricing controls;
- Ability for places to stay open later;
- Need for a simpler, more immediate methodology for one off, pop-up, limited event licences for alcohol and music;
- Need for enforcement powers capable of being exercised within the capacity of the enforcers;
- Ability to open for 24 hours with no notice required;
- Banning of children from all licensed establishments;
- Music and dancing licences until 2am only, not 5am;
- Immediate reporting of suspected drug dealing in pubs and clubs to the police;
- Change the measure of spirits to be in line with either Scotland or England;
- Making it illegal to put a covenant on the sale of premises prohibiting future owners from selling alcohol or operating as a public house;
- Powers of neighbours to unreasonably prohibit outdoor live music events or sound levels should be curtailed;
- Consideration should be given to making it a condition of licensing that public houses contribute to the cultural life of their community;
- Encourage innovation, reduce bureaucracy and focus restrictions on impacting the minority who offend rather than the majority who don't;
- Formal ban of smoking/vaping in pub doorways;
- All licences should include music and dancing;
- Any proposed change in the Law relating to Music and Dancing must still allow for Philanthropic organisations to be exempt from the Act;
- To include in the Act that any development, or resident, who builds or takes up residency around a music venue, has no right to complain regarding noise levels unless they can prove there has been a significant change since their arrival (Agent of Change legislation);
- Occasional licences only for extraordinary events;

- Delivery of alcohol – a responsible adult over the age of 18 should be present when the delivery is made;
- Mandatory code of practice welcomed which should be future-proofed for a digital age (digital forms of ID/licensee-led online training for colleagues/electronic reporting automatically linked to refusals through a retailer's tills will count as evidence of due diligence on behalf of the licensee);
- The issue of ecommerce - a key route to market for craft distillers, particularly as a route into the UK market (direct retail enjoys a higher margin and more immediate sale to a wider spread of consumers than wholesale or on-Island opportunities presents);
- Prohibition of vaping in all public areas;
- Further clarification/discussion with regard to retail of alcohol via e-commerce;
- Anyone who produces, distributes or sell alcohol on island should contribute a small percentage of revenues towards a Manx school based alcohol awareness programme for sixth formers and year 11;
- Removal of music and dancing licences and Cinematography Licence;
- All secondary legislation should be approved by the Isle of Man Licensing Forum;
- Craft distillers to have a quick regulated route to a localised selling licence at fairs and markets (where the product is not to be consumed on site);
- Trading hours relating to public houses - include 'Minimum Opening Times'. Also requirement for public house to display a notice confirming its normal hours of opening and requirement to give 24 hours' notice before any changes commence, and provision to enable a public house to apply to have such Minimum Opening times reduced by the Licensing authority, determined by the Minister.
- Licensing working practice should be formalised and also be subject to periodic review.
- Modernising liquor licensing will not be truly effective unless music and dancing legislation is also updated. Music and dancing are only part of the issue. The broader matter of public entertainment needs to be addressed in a modern, enabling and progressive fashion, which allows public entertainment to take place, but in a safe manner.



- Beneficial ownership: there ought to be a requirement for the beneficial ownership of all companies holding a licence to be made clear. There have been cases over the years, where it has proven difficult to determine exactly who owns a company.

- Test purchasing: provision needs to be made to allow for proper test purchasing

operations to be undertaken by the police. This will help protect against the sale to young people.

- Door staff: there ought to be an offence of someone working as door staff when unlicensed, not just an offence to employ someone.

- The possession and sale of controlled drugs in or outside licensed premises should be viewed as being particularly serious matters, which in the latter case should attract enhanced sentences and in the former should attract a banning order.

What we did:

From among the diverse opinions provided under this part of the consultation numerous matters were picked up to be addressed within the other policy areas and these are visible within the provisions drafted in the Licensing Bill.

The consultation on the draft Bill is set to be published alongside this consultation summary of responses and we encourage interested parties to refer to that consultation and offer any supplementary opinions there.

Several matters which were out of scope within the core responsibility of licensing law set to be addressed by the Department, but which resulted in valuable comments that will be shared with other Government Departments were:-

- Agent of Change legislation
- Vaping on premises and in proximity to premises
- Spirit measures in use on the Island differing to the UK