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TONBRIDGE & MALLING
BOROUGH COUNCIL

EXECUTIVE SERVICES

Chief Executive

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14 March 2014

Dear Councillor

LICENSING AND APPEALS COMMITTEE - WEDNESDAY, 19TH MARCH, 2014

I am now able to enclose, for consideration at the Wednesday, 19th March, 2014 meeting of the Licensing and Appeals Committee, the following report that was unavailable when the agenda was printed.

Agenda No Item
11

- a) Home Office Consultation on Licensing Hours during FIFA World Cup 2014
(Pages 3 - 20)

Yours sincerely

J E BEILBY
Chief Executive

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TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

19 March 2014

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Delegated

1 HOME OFFICE CONSULTATION ON LICENSING HOURS DURING FIFA WORLD CUP 2014

1.1 Summary

- 1.1.1 The Government is consulting on whether to relax licensing hours nationally to mark England's participation in the FIFA World Cup 2014 (the 'World Cup') in June and July 2014, or whether to rely on the existing system of Temporary Event Notices (TENs) which gives the local police and environmental health officers a say in decisions on whether local premises should extend their licensing hours, based on local circumstances. This consultation also asks for the impact of any relaxation and the geographical extent to which any licensing hours order for the World Cup should relate, were this to be the Government's decision.
- 1.1.2 The Government has decided that, were it to decide to relax licensing hours nationally following this consultation, this would relate to the sale of alcohol for consumption on the premises only and the provision of late-night refreshment in on-trade licensed premises. The Government believes that the on-trade provision of late night refreshment in licensed premises would be appropriate to accompany a relaxation of alcohol licensing hours during the World Cup, not least to support people to drink responsibly. The Government considers that any national relaxation of licensing hours should not apply to the sale of alcohol for consumption off the premises (i.e. in supermarkets and off-licences) as anyone wishing to watch the World Cup at home will be able to buy alcohol during a shop's normal hours for selling alcohol. Late night refreshment venues, by definition, are already licensed to open late at night and would not benefit from a relaxation of licensing hours. Unlicensed premises would also not benefit from a relaxation in licensing hours and would still need to use a TEN to undertake licensable activities.
- 1.1.3 The consultation asks for views on how long licensing hours should be relaxed during England's matches in the World Cup. A copy of the consultation is shown at **Annex 1**

1.2 Background

- 1.2.1 Under section 172 of the Licensing Act 2003 (the '2003 Act'), the Secretary of State may make an order relaxing licensing hours for licensed premises in relation to a 'celebration period', to mark an occasion of 'exceptional international, national or local significance'. A 'licensing hours order' can be used to relax licensing hours in licensed premises during a period not exceeding four days.
- 1.2.2 An order may be applied to all licensed premises in England and Wales or only to premises in one or more specified areas. Other variables in the order are the dates, times and licensable activities to which it applies. Since the introduction of the 2003 Act, this national power has been used to mark the Royal Wedding in 2011 and the Queen's Diamond Jubilee in 2012. This would be the first time such a power could be used for a sports tournament.
- 1.2.3 The World Cup is an important sporting event and it is likely that many pubs and other licensed premises will wish to sell alcohol and food later than their traditional hours allow. A number of games kick off late in the evening because of the time difference with host country Brazil. England's opening game on Saturday 14 June, in particular, is due to kick off at 11pm.
- 1.2.4 Unlike the TEN regime (see below), local agencies, including the police, would not be able to object to the national relaxation if introduced.
- 1.2.5 The consultation runs for 2 weeks from 13–26 March 2014.

Questions

Question 1	Notes
Which of the following statements best reflects your view on the relaxation of licensing hours for specific periods during the World Cup in 2014?	
a) I think that there should be a national relaxation of licensing hours for all England matches during the World Cup;	
b) I think that licensing hours during the World Cup should be a local decision using the existing TEN system;	
c) I do not know whether licensing hours should be relaxed nationally or not.	

Question 2				
Do you agree or disagree that a national relaxation of licensing hours would contravene one or more of the licensing objectives ((1) crime prevention / (2) public safety / (3) public nuisance / (4) prevention of harm to children)? Please tick the relevant boxes from the options below:				
	Agree	Neither agree or disagree	Disagree	Don't know
1) Prevention of crime and disorder				
2) Public safety				
3) Prevention of public nuisance				
4) Protection of children from harm				

Question 3	Notes
If licensing hours were to be relaxed nationally during England's World Cup matches, do you think that this should be for: three, three and a half or four hours after the scheduled kick off time:	
a) Three hours, so that matches which are due to kick off at 8pm would see a relaxation until 11pm and matches due to kick off at 9pm would see a relaxation until 12 midnight;	
b) Three and a half, so that matches which are due to kick off at 8pm would see a relaxation until 11.30pm and matches which are due to kick off at 9pm would see a relaxation until 12.30am;	
c) Four hours, so that matches which are due to kick off at 8pm would see a relaxation until 12 midnight and matches which are due to kick off at 9pm see a relaxation until 1am;	
d) Do not know	

Question 4	Notes
The Licensing Act 2003 applies to both England and Wales. However, a national relaxation of licensing hours could apply to the entire region or to specified areas within it. With this in mind, if licensing hours were to be relaxed nationally during England's matches in the World Cup, do you think that this should be for England and Wales or for England only?	
a) England and Wales	
b) England only	
c) Four hours, so that matches which are due to kick off at 8pm would see a relaxation until 12 midnight and matches which are due to kick off at 9pm see a relaxation until 1am;	
c) Do not know	

1.3 Legal Implications

- 1.3.1 The precise details of the Regulations are not known so it is difficult at this stage to advise whether there will be any specific legal implications of the new Regulations.

1.4 Financial and Value for Money Considerations

- 1.4.1 By increasing the trading hours of premises could have an impact on increased revenue generated within the local night-time economy.

1.5 Risk Assessment

- 1.5.1 No specific risks are identified arising from the consultation document.
- 1.5.2 There are however potential risks to relaxing licensing hours, such as the impact on enforcement agencies. Around 61% of violent crime occurs in the evening or at night and 15% of all violent incidents take place in or around a pub or club. In almost half (49%) of all violent crimes, the offender is perceived to be under the influence of alcohol and 20% of adults over 16 perceive drunkenness or rowdy behaviour as a problem in their local area.
- 1.5.3 During the 2012 UEFA European Championship, 152 football-related arrests were made in England and Wales following the opening 28 matches. Around 60% of incidents occurred on England's four match days.

1.6 Equality Impact Assessment

1.6.1 See 'Screening for equality impacts' table at end of report

1.7 Recommendations

1.7.1 That the Director of Central Services be authorised to prepare and submit a response to the consultation.

Background papers:

contact: Anthony Garnett

Consultation paper

Adrian Stanfield

Director of Central Services and Monitoring Officer

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The government is seeking responses to its consultation on increased trading hours for premises during the televised matches at the world cup. Whilst the Council's response to the consultation may have some influence, any impact which may arise will be a consequence of new Government Regulation (which in itself will have to go through a consideration of equality impacts) and not the Council's response.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.

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Home Office

Consultation: The relaxation of licensing hours during the FIFA World Cup, 2014
13-26 March 2014

Contents

1. Introduction	3
2. About this consultation	6
Annex A – Disclaimer and consultation criteria	11

1. Introduction

Proposal

1. The Government is consulting on whether to relax licensing hours nationally to mark England's participation in the FIFA World Cup 2014 (the 'World Cup') in June and July 2014, or whether to rely on the existing system of Temporary Event Notices (TENs) which gives the local police and environmental health officers a say in decisions on whether local premises should extend their licensing hours, based on local circumstances. This consultation also asks for the impact of any relaxation and the geographical extent to which any licensing hours order for the World Cup should relate, were this to be the Government's decision.
2. The Government has decided that, were it to decide to relax licensing hours nationally following this consultation, this would relate to the sale of alcohol for consumption on the premises only and the provision of late-night refreshment in on-trade licensed premises. The Government believes that the on-trade provision of late night refreshment in licensed premises would be appropriate to accompany a relaxation of alcohol licensing hours during the World Cup, not least to support people to drink responsibly. The Government considers that any national relaxation of licensing hours should not apply to the sale of alcohol for consumption off the premises (i.e. in supermarkets and off-licences) as anyone wishing to watch the World Cup at home will be able to buy alcohol during a shop's normal hours for selling alcohol. Late night refreshment venues, by definition, are already licensed to open late at night and would not benefit from a relaxation of licensing hours. Unlicensed premises would also not benefit from a relaxation in licensing hours and would still need to use a TEN to undertake licensable activities.
3. The purpose of any national relaxation of licensing hours during the World Cup would be to enable all pubs and other on-trade premises to sell alcohol and late night refreshment to people watching England's World Cup matches live. Any relaxation would therefore not cover regulated entertainment as this relaxation would be in the context of the World Cup.
4. The consultation asks for views on how long licensing hours should be relaxed during England's matches in the World Cup. The options presented in the consultation seek to enable pubs and other on-trade premises to sell alcohol and late night refreshment throughout the duration of live England matches whilst balancing concerns about public order. Licensing hours will not be relaxed beyond 1am for any of the matches, including England's opening game which is due to kickoff at 11pm. The consultation asks whether licensing hours should be relaxed for three, three and a half or four hours after kick off (eg. so that matches which kickoff at 9pm could be extended until 12 midnight, 12.30am or 1am). This allows for a minimum of three hours of playing time (including 30 minutes for extra time and 20 minutes for penalties). The Government believes this is a reasonable length of time to allow for the duration of matches. After these licensed hours, premises would not be able to sell alcohol or late night refreshment under the licensing hours order. However, premises may be able to allow customers to remain on the premises beyond these hours and could give a TEN if they wished to open later.

5. This consultation asks about the premise of relaxing licensing hours for England playing in a World Cup and whether it is an occasion for which this power should be used, or whether this should remain a local decision through the existing TEN system.

Background

6. The licensing regime is designed to ensure a balance between the benefits of licensable activities including responsible drinking and sale of alcohol, and the potential problems which can arise from them, such as alcohol-related crime and disorder, public nuisance and risks to public safety.
7. Under section 172 of the Licensing Act 2003 (the '2003 Act'), the Secretary of State may make an order relaxing licensing hours for licensed premises in relation to a 'celebration period', to mark an occasion of 'exceptional international, national or local significance'. A 'licensing hours order' can be used to relax licensing hours in licensed premises¹ during a period not exceeding four days. An order may be applied to all licensed premises in England and Wales or only to premises in one or more specified areas. Other variables in the order are the dates, times and licensable activities to which it applies. Since the introduction of the 2003 Act, this national power has been used to mark the Royal Wedding in 2011 and the Queen's Diamond Jubilee in 2012. This would be the first time such a power could be used for a sports tournament.
8. The World Cup is an important sporting event and it is likely that many pubs and other licensed premises will wish to sell alcohol and food later than their traditional hours allow. A number of games kick off late in the evening because of the time difference with host country Brazil. England's opening game on Saturday 14 June, in particular, is due to kick off at 11pm. A national relaxation of licensing hours would potentially benefit all on-trade licensed premises which stop selling alcohol or late night refreshment before the nationally specified time. It would be a decision for individual premises whether or not they choose to take up any national relaxation. Unlike the TEN regime (see below), local agencies, including the police, would not be able to object to the national relaxation if introduced. There are an estimated 134,000 premises licensed for on-sales of alcohol in England and Wales² of which 49,000³ are pubs⁴. In terms of which on-trade premises could benefit from a relaxation, in the case of 14 June game it could be nearly 90%. Figures obtained by the Home Office in 2010 imply that only 12% of on-trade premises are licensed to sell alcohol until 1am or later on a Saturday night.
9. Under the 2003 Act, the existing TEN regime enables people with or without existing licenses, including people who run pubs and bars, to give notice that they intend to sell alcohol at times when this would not otherwise be authorised on a 'one-off', limited basis. This system is designed to balance giving people and organisations flexibility in selling alcohol and carrying on other licensed activities, with protecting local people from the problems this can cause, including crime and disorder and public nuisance. For this reason, the police and environmental health authorities can object to a TEN on the basis of the licensing objectives⁵ and potentially prevent the event to which it relates from going ahead.

1 A licensed premises is any premises authorised by a premises licence or club premises certificate to carry on licensable activities.

2 <https://www.gov.uk/government/publications/tables-for-alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2013>.

3 <http://www.beerandpub.com/statistics>.

4 The on-trade also includes, for example, restaurants, hotels and private members' clubs, such as Royal British Legion, political or working men's clubs.

5 The licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; the protection of children from harm.

10. Each TEN costs £21 and authorises the activities to which it relates⁶ to be carried on for up to 168 hours (seven days). A premises user must submit a standard TEN at least 10 working days before the event begins and at least five working days for a late TEN. Premises users are subject to annual limits on the number of TENs they can use (including a maximum of 12 per calendar year and covering events up to maximum of 21 days per year). This Government has increased the flexibility in the TEN system by introducing late TENs and increasing their duration. At the same time, the Government has increased safeguards, including giving environmental health authorities a say in whether TENs take place. The Government is currently looking to extend the availability of TENs from 12 to 15 per premises per calendar year to give premises users more flexibility in how they use them. This measure is in the Cabinet Office Deregulation Bill which is currently proceeding through Parliament.

⁶ Licensable activities are the sale of alcohol, late night refreshment or licensed entertainment.

2. About this consultation

Scope of the consultation

Topic of this consultation:	This consultation seeks views on whether to relax licensing hours during England's matches in the World Cup 2014 on a national basis or whether to leave this as a local decision via the existing Temporary Event Notice system.
Scope of this consultation:	Licensing authorities, the police, environmental health authorities, licensed trade, residents.
Geographical scope:	England and Wales

Basic information

To:	We are keen to hear from everyone who would be affected by a national relaxation of licensing hours, including: members of the public, those who live close to licensed premises, those who own or work in on-trade premises, the police, licensing authorities and trade associations.
Duration:	The consultation runs for 2 weeks from 13–26 March 2014.
Enquiries:	worldcup.consultation@homeoffice.gsi.gov.uk
How to respond:	Please respond using the online consultation tool through the GOV.UK website: www.gov.uk/government/consultations/world-cup-licensing-hours If you are not able to respond via the online system please contact the Home Office on the email address above. Further information on how to respond to this consultation can be found on the GOV.UK website.
Additional ways to become involved:	Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The Department is obliged to both offer, and provide on request, these formats under the Equality Act 2010.
After the consultation:	Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

Background

Previous engagement:	The Government has already consulted a number of key partners, including the police, local authorities and licensing officers prior to publishing this consultation.
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Details of the proposal

11. The Government is consulting on whether to relax licensing hours nationally to mark England's participation in the World Cup in June and July 2014, or whether to rely on the existing system of TENs. In the event of a national relaxation of licensing being decided on, the Government is consulting on the duration of the relaxation and the geographical extent to which the relaxation would apply.
12. In coming to its final decision on whether to relax licensing hours nationally or to use the TEN regime, the Government will balance reducing burdens on businesses wishing to mark England's participation in this World Cup (where some matches will be screened outside traditional licensing hours) with protecting the public from potential crime and disorder and public nuisance late at night.
13. A relaxation of hours would benefit all licensed on-trade premises, particularly those that wish to televise live World Cup matches and would normally close earlier. The Government estimates that almost 90% of on-trade premises could benefit from a national relaxation until 1am on Sunday 15 June⁷. The Government does not know how many premises would have used a TEN in the absence of a national relaxation, but clearly there will be savings in not having to apply for a TEN for those that were intending to trade later and additional revenue from the extended time they could sell alcohol and late night refreshment. A national relaxation would also relieve local authorities and the police from the burden of considering potentially thousands of TENs in the run up to the World Cup.
14. There are however potential risks to relaxing licensing hours, such as the impact on enforcement agencies. Around 61% of violent crime occurs in the evening or at night and 15% of all violent incidents take place in or around a pub or club⁸. In almost half (49%) of all violent crimes, the offender is perceived to be under the influence of alcohol and 20% of adults over 16 perceive drunkenness or rowdy behaviour as a problem in their local area. During the 2012 UEFA European Championship, 152 football-related arrests were made in England and Wales following the opening 28 matches⁹. Around 60% of incidents occurred on England's four match days. The TEN regime (conversely to a licensing hours order) provides for local discretion, with the police or environmental health authorities able to object to (or in the case of a late TEN, prevent) a TEN on the basis of local circumstances because of a negative effect on any of the four licensing objectives¹⁰.

⁷ See paragraph 8.

⁸ Statistics are from the period 2012/13, taken from the Crime Survey for England and Wales, Office for National Statistics.

⁹ As reported by police forces in England and Wales to the Home Office during Euro 2012.

¹⁰ See paragraph 9.

Questions

15. This consultation seeks your views on whether the Temporary Event Notice (TEN) system should be used to determine licensing hours **locally** during the FIFA World Cup or whether there should be a **national** relaxation of licensing hours for all England matches during the World Cup. This would apply to all England matches with a scheduled UK kick off time of 8pm or later. It also asks for your opinion on the impact of any relaxation, the duration and geographical extent which any national relaxation of licensing hours for England's matches in the World Cup should apply to, were this to be the Government's decision.
16. Under the Licensing Act 2003, people and premises can give notice that they intend to extend their hours on a limited basis using the TEN system. This system gives the police and environmental health authorities an opportunity to object to a TEN on the basis of the licensing objectives¹¹. This would not be possible under a national relaxation.

Question 1: Which of the following statements best reflects your view on the relaxation of licensing hours for specific periods during the World Cup in 2014?

- I think that there should be a national relaxation of licensing hours for all England matches during the World Cup;
- I think that licensing hours during the World Cup should be a local decision using the existing TEN system;
- I do not know whether licensing hours should be relaxed nationally or not.

Question 2: Do you agree or disagree that a national relaxation of licensing hours would contravene one or more of the licensing objectives ((1) crime prevention / (2) public safety / (3) public nuisance / (4) prevention of harm to children)? Please tick the relevant boxes from the options below:

Licensing Objective	Agree	Neither agree nor disagree	Disagree	Don't know
1) Prevention of crime and disorder				
2) Public safety				
3) Prevention of public nuisance				
4) Protection of children from harm				

17. If you have stated under Question 1 that you do not know or do not think that licensing hours should be relaxed nationally during the World Cup (options b or c), we are still interested in your view on Questions 3 and 4, which consider the duration and geographical extent to which any national relaxation should apply, were this to be the Government's decision following this consultation. Please answer these questions on this basis.

¹¹ The licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; the protection of children from harm.

Duration

The following question asks how long you think licensing hours should be relaxed for after the scheduled kick off time. Three hours would cover the normal playing time, extra time and penalties.

Please note that any national relaxation of licensing hours will not go past 1am. After these licensed hours, premises would not be able to sell alcohol or late night refreshment under the licensing hours order. However, premises may be able to allow customers to remain on the premises beyond these hours and could give a TEN if they wished to open later.

Question 3: If licensing hours were to be relaxed nationally during England's World Cup matches, do you think that this should be for: three, three and a half or four hours after the scheduled kick off time:

- a) Three hours, so that matches which are due to kick off at 8pm would see a relaxation until 11pm and matches due to kick off at 9pm would see a relaxation until 12 midnight;
- b) Three and a half, so that matches which are due to kick off at 8pm would see a relaxation until 11.30pm and matches which are due to kick off at 9pm would see a relaxation until 12.30am;
- c) Four hours, so that matches which are due to kick off at 8pm would see a relaxation until 12 midnight and matches which are due to kick off at 9pm see a relaxation until 1am;
- d) Do not know.

Geographical Extent

Question 4: The Licensing Act 2003 applies to both England and Wales. However, a national relaxation of licensing hours could apply to the entire region or to specified areas within it. With this in mind, if licensing hours were to be relaxed nationally during England's matches in the World Cup, do you think that this should be for England and Wales or for England only?

- a) England and Wales
- b) England only
- c) Do not know

Information about you

Question 5: Please indicate in what capacity you are responding to this consultation:

- Police
- Licensing authority
- Licensed trade / trade organisation
- Environmental health
- Member of the public
- Other

Question 6: Do you currently reside, or (if you are responding in a professional capacity) work in:

- a) England
- b) Wales
- c) Other

Responses: Confidentiality and Disclaimer

1. The information you send us may be passed to colleagues within the Home Office, the Government or related agencies. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
2. If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard any information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Co-ordinator

3. If you have a complaint or comment about the Home Office's approach to this consultation, you should contact the Home Office Consultation Co-ordinator.

The Co-ordinator can be emailed at: HOConsultations@homeoffice.gsi.gov.uk, or alternatively you can write at:

Consultation Co-ordinator
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Better Regulation Unit
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