

# Brief review of licensing schemes

Food Standards Agency

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### **Acknowledgements**

The author wishes to thank Beverly Kuster, and Nathan Philipppo for their comments, as well their highly informative advice and guidance.

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# Executive Summary

When it comes to government licenses the basic function is for a government authority to set out a range of criteria under which it is possible to assess if a business/individual is sufficiently competent to engage in a particular activity/provide a service.

The Food standards Agency (FSA) published a report in July 2017 '*Regulating our Future*'<sup>1</sup> that outlines the stated vision as a regulator, and the rationale behind this. The programme is designed to improve the way we deliver regulatory controls for food and create a modern, risk-based, proportionate, robust and resilient scheme. As part of the programme, is the proposal to implement a 'permit to trade'<sup>2 3</sup>, which is the term adopted by the FSA to refer to a licensing scheme. The implementation of a 'permit to trade' would contribute, as part of the new proposed model of regulation. "The assurance standard will be set by the FSA and the new model will allow data from multiple assurance providers including official controls delivery bodies and voluntary private assurance schemes to be taken into account" (FSA, 2018)<sup>4</sup>. The aim of this report is to help better inform decisions regarding a permit to trade for food businesses based on a range of licensing schemes that have been in existence in England.

To support any decision-making in this regard, based on existing literature, this report helps to build a profile of licensing schemes in general, in order to meet the following three objectives: 1) provide details on how licensing schemes operate; 2) review the types of enforcement for non-compliance with respect to their effectiveness 3) review the strengths and weaknesses of licensing schemes. By addressing all three objectives this report provides the foundations for a list of recommendations regarding a potential food business licensing scheme - 'Permit to trade' (summarised in Table 1).

To achieve the first objective this report considers seven licensing schemes that were/or are currently implemented/trialled in the UK (Landlord licensing, Butcher's shop licensing, Alcohol licensing, Betting shop licensing, taxis and private hire vehicles, pedicabs, and park homes). The details of the licensing schemes are discussed according to the types of fee structures in place, the period the license covers, and other general features of the schemes that helps to later assess their general strengths and weaknesses (for summary see Table 2).

To meet the second and third objectives of the report, a more focused discussion is included that presents prior literature that has specifically examined three licensing schemes: Landlord licensing, Alcohol licensing, and Butcher's shop licensing. The discussion is organized around the difficulties faced with respect to implementing the schemes and meeting the objectives of the licensing schemes.

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<sup>1</sup> (FSA, 2017) <https://www.food.gov.uk/sites/default/files/rof-paper-july2017.pdf>

<sup>2</sup> <https://www.food.gov.uk/safety-hygiene/third-edition-of-regulating-our-future-newsletter>

<sup>3</sup> <https://www.food.gov.uk/safety-hygiene/fourth-edition-of-regulating-our-future-newsletter>

<sup>4</sup> <https://www.food.gov.uk/safety-hygiene/fourth-edition-of-regulating-our-future-newsletter>

Across the three different licensing schemes, when there is effective uptake of the licensing scheme by businesses, this has been linked to: 1) level of past experience the regulator has in implementing of licensing schemes in that sector, and 2) when financial incentive schemes are incorporated that reward those that apply for licenses. Also, 3) when the public is made aware of the licensing scheme, and crucially what the function of it is, for those businesses that are licensed, consumer confidence in the business increases.

Regarding the effective uptake of licensing schemes there are also important warnings that ought to be taken into account when considering how to implement a new licensing scheme. In particular, the evidence suggests that businesses are highly sensitive to the efficiency in the implementation of the licensing scheme. If there is a significant problem (e.g., very late processing of the applications) then this leads to negative attitudes towards the scheme, and negative behaviour around effective uptake of the license. Moreover, this in turn negatively impacts the motivation of local authorities processing applications that are faced with responding to negative attitudes and behaviours of businesses with bad experiences with the licensing scheme.

When it comes to the efficacy of the licensing schemes, as evaluated against their objectives, while there is some evidence to suggest that there are improvements to compliance after the introduction of a license, the evidence is weak. Moreover, the evidence base does not allow for clear causal inferences to be made between outcomes regarding efficacy and the licensing scheme itself. The weakness of the evidence base is either due to poor quality of data or poor methodology (e.g., not collecting data pre- and post-licensing scheme to make a comparison, reliance on qualitative methods from small samples). Where the methods and data seem of sufficient quality, it appears that there are many other background factors (e.g., legislative changes, demographic changes, impact on finances to maintain compliance by size of business) that contribute to explaining changes in business compliance behaviour, independent of the implementation of a licensing scheme.

Drawing on the work reviewed, for any licensing scheme to be effective, the critical message from prior evidence suggests that: 1) a clear rationale for why the scheme is in place needs to be communicated to all relevant parties (incl. Local Authorities, Businesses, Public); 2) the process of applying for a license and granting a license need to be as efficient and streamlined for there to be effective uptake of the license by businesses<sup>5</sup>; 3) the communication to support the application process needs to be as consistent and transparent as possible across all local authorities; 4) it needs to be made clear at the start what the objectives of the licensing scheme is to all relevant stakeholders, and how those objectives will be evaluated in relation to the introduction of the licensing scheme – without this, there is no reliable way to establish the efficacy of the licensing scheme; 5) introduce incentives for business as part of the license scheme application process.

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<sup>5</sup><http://webarchive.nationalarchives.gov.uk/20100407173247/http://archive.cabinetoffice.gov.uk/brc/upload/assets/www.brc.gov.uk/principlesleaflet.pdf>

Table 1. List of recommendations

Domain of recommendation	Recommendation	Rationale for recommendation
Application Process	<b>The FSA should standardize the application process across all Local Authorities</b>	To ensure efficiency and standardisation across local authorities to avoid the risks of standardising a poor process
Information provide to Local Authorities/Food Business Operators	<b>The FSA should standardise the information that all Local Authorities will provide on all Local Authorities websites to Food Business Operators applying for a license.</b>  <b>Only the information of the fee structure should vary by Local Authorities , not the standard content of the information provided regarding the licensing scheme itself and the application process.</b>	Standardisation across local authorities is needed to ensure a coherent and consistent process in order to countermand negative experiences and negative perceptions reported in various sectors regarding application procedures; with the proviso that Las could have a local section after the standard section, should they choose to have one
Fee Structure	<b>One approach could be to make it banded.</b>  <b>This would involve designing a fee structure that reflects the variation in size of Food Business Operators (i.e. banded by Micro, Small, Medium, Large) or other factors (e.g. Risk). Any proposals of this kind would require justification given the complexity and administrative costs for FBOS and the regulator</b>	As with the other licensing schemes (Gambling, Taxi and private hire vehicles, Alcohol), the fees are reflective of differences in the size of the business. For instance, the fees for the Alcohol licensing scheme is banded by "Rateable value" of the property calculated by the Valuation Office Agency (VOA). A similar scheme could be in place based on the same fee structure; though this needs to be balanced against the potential gains of adopting a scheme of this kind.
Discounts	<b>Where possible discounts for those applying early or within the application period (e.g. 28 days).</b>  <b>Any additional incentives or tax relief could be built into the licensing scheme to ensure maximal applications</b>	This serves as an additional incentive scheme for any new Food Business Operators applying for a license. For instance, the Landlord license includes mortgage tax relief, and reduced fees where accreditation has already been awarded, or else penalties for not having a license.
Period Covered by license	<b>3-5 years</b>	Based on the most common periods covered in 4 out of the 7 licensing schemes discussed in this report; though this time period is only a suggestion based on the available evidence considered in this report

# Objective 1: Licensing schemes and how they operate

Government licensing schemes are set in place to serve many functions. They define the criteria on which business/individuals can provide services, and help to monitor increases in business sectors. Moreover, they are an initial step to ensuring a means of tracking compliance with various safety standards, and ensuring greater controls.

The Food standards Agency (FSA) published a report in July 2017 '*Regulating our Future*'<sup>6</sup> that outlines the stated vision as a regulator, and the rationale behind this. As part of the programme, is the proposal to implement a 'permit to trade'<sup>7 8</sup>, which is the term adopted by the FSA to refer to a licensing scheme. The implementation of a 'permit to trade' would contribute, as part of the new proposed model of regulation. The aim of this report is to help better inform decisions regarding a permit to trade for food businesses based on a range of licensing schemes that have been in existence in England

## Licensing schemes: Rationale for their implementation

**Butcher's Shop License:** For instance, the introduction of the Butcher's shop licensing scheme came into force in 1<sup>st</sup> May 2000<sup>9</sup>, and was largely motivated by an E-coli outbreak in 1997, which prompted the Pennington Group report. The report found that the main cause of the outbreak was due to cross contamination between raw meat and ready to eat food, resulting from poor hygiene practices in butchers shops. The new licensing scheme required the annual licensing by food authorities of butchers shops and other retail outlets that handle raw meat and ready to eat cooked meat. Issuing licenses was conditional on appropriate food safety procedures, such as the Hazard Analysis and Critical Point (HACCP)<sup>10</sup>, and sufficient training and understanding of food safety and hygiene practices. The butchers' licensing requirement was enacted by an amendment to the Food Safety (General Food Hygiene) Regulations 1995. A public consultation launched by the Agency on 11 October 2004 indicated that several national hygiene regulations, including the General Food Hygiene Regulations, would be revoked on 1 January 2006 to make way for new EU food hygiene legislation. Revocation of the General Food Hygiene Regulations effectively removing the butchers' licensing requirement unless the UK made new national provisions to continue the arrangement beyond the end of 2005. The license ceased on January 1<sup>st</sup> 2006 and instead

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<sup>6</sup> (FSA, 2017) <https://www.food.gov.uk/sites/default/files/rof-paper-july2017.pdf>

<sup>7</sup> <https://www.food.gov.uk/safety-hygiene/third-edition-of-regulating-our-future-newsletter>

<sup>8</sup> <https://www.food.gov.uk/safety-hygiene/fourth-edition-of-regulating-our-future-newsletter>

<sup>9</sup> Walker, E., & Jones, N. (2002). The good, the bad and the ugly of butchers' shops' licensing in England—one local authority's experience. *British Food Journal*, 104(1), 20-30.

<sup>10</sup> HACCP is a way of managing food safety hazards.

butchers were subject to the specific hygiene requirements, supervision and training and/or instruction of food handlers of Regulation (EC) 852/2004.

**Private landlords license:** In 2004 the introduction of the selective licensing scheme for private landlords was implemented as a means of granting authorities a way of addressing poor quality private landlords and anti-social tenants. In addition, it was developed in mind of a need to tackle problems in areas of low housing demand<sup>11</sup>. Since 1 April 2015 local authorities, for which the conditions did not apply to Wales, had to seek confirmation from the Secretary of State for any selective licensing scheme covering more than 20% of their geographical area, or affecting more than 20% of privately rented homes in the local authority area. In an area subject to selective licensing, all private landlords are required to obtain a licence. If they failed to do so, or failed to achieve acceptable management standards, the authority would take enforcement action.

**Alcohol License:** After several reviews of liquor licensing laws that were carried out in 1998, in particular the report “*Licensing Legislation*”<sup>12</sup> prepared by the sub-group Better Regulation Task Force (BRTF), the recommendation was that the Government reform the alcohol and public entertainment licensing laws, deregulate licensing, allow greater flexibility, and transfer responsibility from the magistrates to local authorities<sup>13</sup>. The Alcohol Licensing Act came into force on 24<sup>th</sup> November 2005 in order to meet the following four objectives: 1) the prevention of crime and disorder; 2) public safety; 3) the prevention of public nuisance; 4) and the protection of children from harm. Personal licences authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol, for consumption on or off premises for which a relevant premises licence is in force. Premises licences set out the operating conditions relating to the use of the premises for licensable activities which include the following: the sale by retail of alcohol; the supply of alcohol by or on behalf of a club to a member of the club; the provision of regulated entertainment; and the provision of late night refreshment (hot food and hot (non-alcoholic) drink between 11pm and 5am).

**Betting Shop license:** Under the Gambling Act 2005, a betting shop needs an operating licence, issued by the Gambling Commission, and a premises licence, issued by the local licensing authority<sup>14</sup>. The Act’s three licensing objectives are: 1) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime; 2) ensuring that gambling is conducted in a fair and open way; and 3) protecting children and other vulnerable persons from being harmed or exploited by gambling.

**Park Home license:** Under the Caravan Sites and Control of Development Act 1960 park home sites are required to be licensed by local authorities. The legislation was originally designed to cover just holiday and mobile caravan parks, but now allows local authorities a way of ensuring that park home sites are also safe, and fit for habitation. Under the 1960 Act local authorities can attach conditions to a licence, which can cover the following: 1) the

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<sup>11</sup> <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN04634>

<sup>12</sup> <http://webarchive.nationalarchives.gov.uk/20100407173247/http://archive.cabinetoffice.gov.uk/brc/upload/assets/www.brc.gov.uk/principlesleaflet.pdf>

<sup>13</sup> <https://publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/146.pdf>

<sup>14</sup> <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06919>

permitted number of caravans (that is park homes) on the site; 2) their spacing, density, size and siting; and 3) the amenity of the land, health and safety issues and facilities on the site.

**Taxis and private hire vehicles license:** In 2012-14 the Law Commission published a comprehensive overview of the Taxi and PHV industry. A number of licensing authorities across England have adopted conditions of fitness of people and vehicles identical or similar to those imposed in London and only allow drivers and vehicles that meet the conditions of fitness to be licensed in their areas. This can involve the following: 1) a criminal record check; 2) a comprehensive topographic examination; 3) a medical; 4) a driving test; and/or 5) a check on the financial standing of prospective proprietors. There is no statutory requirement for local authorities to carry out a criminal record check before issuing a licence to a taxi driver. As they are, however, required to ensure that the applicant is a 'fit and proper person', many authorities do, in fact, require such a check.

**Pedicab license:** Pedicabs (i.e. cycle rickshaws) are a feature of London for the last 18 years, and with approximately 400 pedicabs in London<sup>15</sup>, there have been attempts to introduce licensing and or registration schemes in response. Outside of London, in England and Wales pedicabs are treated as taxis and regulated in the same way, but within London under the Metropolitan Public Carriage Act 1869 they are not. The introduction of the Pedicabs (London) Bill <sup>16</sup>has now paved the way for Transport for London to issue licenses to pedicabs using a similar procedure to that which applies to taxis. In summary, licensing assesses the 'fitness' of both vehicles and riders on the following aspects: Vehicles: 1) suitability for the role; 2) condition of the vehicle. Riders: 1) age; 2) character; 3) medical fitness; 4) topographical skills (an appropriate Knowledge of London assessment); and, 5) driving / riding ability. A means of identifying licensed vehicles and riders enables TFL, as well as London local authorities, with records of those who own licensed vehicles and fares, to be cross checked on a data base.

### Licensing Schemes: Similarities and Differences

It is worth highlighting that while the sectors vary considerably, the basic objectives of the license schemes that have been implemented/trialled in these sectors broadly overlap. In general, the licenses are designed to ensure public safety, to determine fitness (i.e. fit to carry out the service, e.g., Pedicab, Taxi and private vehicle hire), increase quality of service, and ensure the protection of vulnerable populations from harm.

However, given the wide range of sectors in which licensing schemes have been implemented/trialled, the aim of this section is to identify more specifically the similarities and differences between the schemes (see summary Table 2). These are discussed according to the types of fee structures in place, the period the license covers, the enforcement procedures, and other general features of the schemes that helps to assess their general strengths and weaknesses here and in the latter part of this report.

In all but one (Alcohol License) of the license schemes reviewed in this report the local authorities set the level of the license fee with the intention that the rate should be transparent and should cover the actual cost of the scheme's administration. This is also conditional on

<sup>15</sup> <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0154/en/18154-en.pdf>

<sup>16</sup> [https://publications.parliament.uk/pa/bills/cbill/2017-2019/0154/cbill\\_2017-20190154\\_en\\_1.htm](https://publications.parliament.uk/pa/bills/cbill/2017-2019/0154/cbill_2017-20190154_en_1.htm)

the fact that the fee income cannot be used to raise additional revenue for local authorities; the reason for this being that local authorities cannot generate additional income from licenses and can only charge according to the administrative costs associated with implementing them and the costs of running and enforcing them<sup>17</sup>. In addition, fines for breaching licence conditions which are designed as a deterrent, are also determined by local authorities, for which there is no upper boundaries, only that that the imposition of fines is in proportion to the scale of the offence that has been committed (for an example see details from the Law Commission regarding Taxi and Private Hire Vehicles<sup>18</sup>).

Table 2. Details of Licensing schemes trialled or implemented in England

Domain of service	Licensing scheme	Legislation	Fee structures <i>(in some cases details of fees are based on those provided by a single Local Authority, and not representative of other Local Authorities)</i>	Period covered by license	Discounts available	Supporting documents with application
Landlords	LAs set their own fees	Housing Act 2004	Gateshead Council Early application fee (before the 28 notice period)- £500 Standard Fee £700 (received within 28 days) Standard Fee plus - £850 (received after 28 days with a reminder) Late Application fee £1,000 (received after 28 days with multiple reminders) (for full details see <sup>19</sup> )	5 years, though this varies by council, where some set an annual fee from 1 <sup>st</sup> April 2018, but no charge prior to that <sup>20</sup>	Yes, Variable by local authorities. Discounts apply if you are an accredited landlord or are well-trained in HMO management	Yes
Alcohol	Set by central Government	Licensing Act 2003 (fees) Regulations 2005.	The fees are banded by "Rateable value" of the property calculated by the Valuation Office Agency (VOA). Band A = £100 Band B = £190 Band C = £315 Band D = £450 Band E = £635 D Primary Alcohol = £900 E Primary Alcohol = £1,905  There are also additional annual charges	Originally a renewal every year, but was later extended to cover a period of 3/5 years, now it is not time limited	No	Yes
Butchers	LAs set their own fees  <b>[no longer in place]</b>	Food Safety (General Food Hygiene) (Butchers shop) Amendment Regulations 2000	Most councils set the fee of £100 <sup>21</sup>	12 months, and renewed annually	No	Yes and conditional on HACCP training

<sup>17</sup> <https://www.ftbchambers.co.uk/news/european-court-justice-decision-hemming-and-others-v-westminster-city-council>

<sup>18</sup> Law Commission, Taxi and Private Hire Services (Law Com No 347), Cm 8864, May 2014, p24, paras 3.31-3.32

<sup>19</sup> <http://www.gateshead.gov.uk/DocumentLibrary/housing/Private/SLL-Fees.pdf>

<sup>20</sup> <https://www.woking.gov.uk/housing/landlords/selectivelicensing/fees>

<sup>21</sup> <http://webarchive.nationalarchives.gov.uk/20110405202531/http://www.food.gov.uk/consultations/consulteng/2005/generalfoodhyregs>

Betting Shops	LAs set their own fees	Gambling Act 2005	<p>The licences are issued with respect to specific premises, a few are presented here (for a full list see Appendix 1)</p> <p>For a Yorkshire council (2016)<sup>22</sup></p> <p><b>Application fee</b> Bingo Club = £800 Tracks = 950 Adult gaming centre = £800</p> <p><b>Annual fee</b> Bingo Club = £700 Tracks = 750 Adult gaming centre = £700</p>	Indefinitely, there are additional annual fees.	No	Yes
Taxis and private hire vehicle	LAs set their own fees	Outside London LAs issue licences under the Town Police Clauses Act 1847 or that Act as amended by the Local Government (Miscellaneous Provisions) Act 1976. <sup>23</sup>	<p>For London TfL (2018).<sup>24</sup> For a taxi vehicle license are issued for a period of 12 months. The application fee is £66, and an additional £44 for granting the license</p> <p>For Cornwall Local Authority (2017-2018)<sup>25</sup> For a taxi vehicle license the fees are set for a 3 year period</p> <p>1 Year £122 2 Year £155 3 Year £205</p>	There is variability between local authority, most drivers to be licensed every 3 years, and the rest of the local authorities licensed every year.	No, but some exceptions are set in place.	Yes
Park homes	LAs set their own fees	Caravan Sites and Control of Development Act 1960 <sup>26</sup>	<p>For North Somerset Council (reviewed annually)</p> <p>New licence application fee £505.24 plus £33.31 per pitch Fee to accompany an application to transfer a licence = £222.75 Fee to accompany an application to alter conditions = £280.46 Annual Fee = £12.74 per pitch Hourly rate for enforcement costs = £40.00 Fee to deposit, vary or delete site rules = £82.01 each</p>	Indefinite period	No, but some exceptions are set in place.	Yes
Pedicabs	LAs set their own fees	London Cab Order 1934 <sup>27</sup> and Metropolitan Public Carriage Act 1869	<p>Costs Applied in 2006 TFL<sup>28</sup></p> <p>£185 including the cost of the CRB check (if required). The applicant would also incur a charge for the external medical examination which is expected to be £60, should this be required.</p> <p>£100 annual vehicle license including the cost of the application, examination for compliance, grant of licence and production of the vehicle identification plate</p>	3 years	No	Yes

<sup>22</sup> <http://www2.eastriding.gov.uk/business/licences-and-registrations/available-licences/gambling/betting-shops/>

<sup>23</sup> <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN02005>

<sup>24</sup> <https://tfl.gov.uk/info-for/taxis-and-private-hire/licensing/apply-for-a-taxi-vehicle-licence>

<sup>25</sup> <https://www.cornwall.gov.uk/advice-and-benefits/licences-and-street-trading/private-hire-vehicle-licence/>

<sup>26</sup> <https://publications.parliament.uk/pa/cm201213/cmselect/cmcomloc/177/17706.htm>

<sup>27</sup> <https://www.london.gov.uk/moderngov/documents/s67450/Appendix%20a%20-%20Pedicab%20Consultation.pdf>

<sup>28</sup> <https://www.london.gov.uk/moderngov/documents/s67450/Appendix%20a%20-%20Pedicab%20Consultation.pdf>

For the Alcohol license the intention is that the fee should cover the cost of administering the licensing function. The logic being that, as with fees set by Local authorities, the licensing fees are levied on the basis of cost recovery, as set out in HM Treasury's Managing Public Money. This means that the fees local councils may charge are set nationally by the Licensing Act 2003 (Fees) and Regulations 2005 (the Fees Regulations). Before this report considers in more detail the broad similarities shared by the licensing schemes reviewed, it is worth providing a more detailed account of the implementation and enforcement procedures of the Alcohol license scheme, given that it differs substantially from the other schemes.

### ***Alcohol licensing scheme – the exception***

**Application process:** The Alcohol license application process<sup>29</sup> requires the following steps in which applicants need to publish a notice locally (e.g. newspaper, newsletter) as to where their premise is located, and which provides summary details of the application (e.g., licensable activities such as the proposed opening hours). In parallel licensing authorities need to place a notice on their website that also include critical summary details of the application (e.g., name of applicant, postal address, internet address, when the record of the application may be inspected).

Once an application for a premises licence has been made with the licensing authority, authorised persons and responsible authorities have 28 days starting on the day after the application is lodged to make "representations". "Authorised persons" are bodies empowered by the 2003 Act to carry out inspection and enforcement roles. Authorised persons include: officers of the licensing authority; fire inspectors; inspectors with responsibility in the licensing authority's area for the enforcement of the Health and Safety at Work etc. Act 1974; officers of the local authority exercising environmental health functions.

**Fee structure:** The schedule for fees (see Table 3 and Table 4) divides properties into "bands"—the term "band" in this context differs from council tax bands or any other banding scheme. Specifically, the fee bands are calculated on the basis of the "rateable value" of the property the subject of the application. "Rateable value" is a reference to business rates, as calculated by the Valuation Office Agency (VOA). For instance, the lowest rateable values fall into band A (£4,300 and below), and the highest into Band E (£125,001 and above) (see Table 3 and 4). Thus, there is a scaling of fees to the size of the property in order that the fees are fair and proportionate in respect of licence and certificate holders operating in different ways and on different scales.

**Period covered by the license:** In general, a premises licence has effect until the licence is revoked or surrendered, but otherwise is not time limited unless the applicant requests a licence for a limited period. There have been some changes regarding the period covered by the license. Under the Licensing Act 1964 the licence had to be renewed every year, this was then extended to three years, and now under the 2003 Act is extended such that it is now indefinite.

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<sup>29</sup> [researchbriefings.files.parliament.uk/documents/SN03788/SN03788.pdf](https://researchbriefings.files.parliament.uk/documents/SN03788/SN03788.pdf)

Table 3. Application fees for Alcohol License

Rateable Value	Premises Value	Fee
A	No rateable value up to £4,300	£100
B	£4,301 to £33,000	£190
C	£33,001 to £87,000	£315
D	£87,001 to £125,000	£450
E	£125,001 and above	£635
D primarily alcohol	2 x multiplier	£900
E primarily alcohol	3 x multiplier	£1,905

Table 4. Annual charge for Alcohol License

Rateable Value	Premises Value	Fee
A	No rateable value up to £4,300	£70
B	£4,301 to £33,000	£180
C	£33,001 to £87,000	£295
D	£87,001 to £125,000	£320
E	£125,001 and above	£350
D primarily alcohol	2 x multiplier	£640
E primarily alcohol	3 x multiplier	£1,050

**Enforcement of non-compliance:** “Responsible authorities” are the bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. For all premises, there are several examples of what constitutes a responsible authority<sup>30</sup>. It is worth also noting, as detailed in the House of Lords review 2017, that at any stage following the grant of a premises licence (or club premises licence), a responsible authority or any other person can ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives (see Page 8 of this report). In addition, there are other conditions under which the licensing authority must review a licence. These include situations in which the premises to which the license relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates’ court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.

Based on any one of the conditions specified, if a license has been reviewed, the licensing authority may pursue one of three actions: 1) It may decide that no further action is needed, 2) It may decide to issue an informal warning and/or recommend improvement within a particular period of time, 3) It may take any of the following steps:

<sup>30</sup> The relevant licensing authority and any other licensing authority in whose area part of the premises is situated; the chief officer of police; the local fire and rescue authority; the local enforcement agency for the Health and Safety at Work etc Act 1974; the local authority with responsibility for environmental health; the local planning authority; a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm; each local authority’s Director of Public Health (DPH) in England and Local Health Boards (in Wales); the local weights and measures authority (trading standards); Home Office Immigration Enforcement.

- a. modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- b. exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- c. remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- d. suspend the licence for a period not exceeding three months;
- e. revoke the licence.

### ***Other Licensing Schemes***

**Application process:** All the licensing schemes set conditions under which the application process can proceed which are specific to services that the licensee is providing. For instance, the Landlord licensing scheme authorities have discretion to set the precise conditions of the licence as regards anti-social behaviour and general management of the property for the Landlord licensing scheme. These can include conditions relating to the use and occupation of the house, and measures to deal with anti-social behaviour of the tenants or those visiting the property. However, the conditions imposed must be ones which relate to the residential use of the property, they cannot, for example, place responsibilities on landlords to act where, for example, tenants may be committing crimes unrelated to their occupation of the property. More to the point, there are certain mandatory conditions which must be included in a licence. For example, licensees are required to: present a gas safety certificate annually to the Local housing authority, if gas is supplied to the house; keep electrical appliances and furniture (supplied under the tenancy) in a safe condition; keep smoke alarms in proper working order; supply the occupier with a written statement of the terms of occupation; and demand references from persons wishing to occupy the house<sup>31</sup>. For instance, as another example, for Taxis and Private hire vehicles, licensing authorities across England have adopted conditions of fitness identical or similar to those imposed in London and only allow drivers and vehicles that meet them to be licensed in their areas. This can involve: a criminal record check; a comprehensive topographic examination; a medical; a driving test; and/or a check on the financial standing of prospective proprietors<sup>32</sup>.

What is evident across all the licensing schemes discussed in this section (Butcher's shop, Private Landlord, Betting Shops, Taxis and private hire vehicles, Pedicabs, and Park homes) is that the licensing conditions that are applied can vary, because they are up to each local licensing authority to decide. None the less, there are basic shared conditions which all local licensing authorities must adhere to, which require fulfilment of the objectives of the license, as well as relevant codes of practice and guidance provided to local authorities.

**Fee structure:** It is hard to infer much from the figures presented in Table 2 (column 4) or draw any meaningful comparisons, for the reason that: 1) the fees that are set for each type of licensing scheme vary significantly by sector, 2) the figures do not take into account

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<sup>31</sup> [researchbriefings.files.parliament.uk/documents/SN04634/SN04634.pdf](https://researchbriefings.files.parliament.uk/documents/SN04634/SN04634.pdf)

<sup>32</sup> <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN02005>

changes in inflation, they simply refer to the charges made at the time the licenses have been introduced (i.e. the case for the Butcher's Shop license the charge of £100 but this was set in 2000, and is no longer in existence as a licensing scheme); 3) fees that are set by different local authorities vary in their charges, which means that not only do fees vary by sector, they will vary across local authorities by sector; with the exception of the Alcohol licensing scheme which is set by HM Treasury.

Despite the limitations as to what is possible to infer from the charges, there are some aspects of the charges that are shared across licensing schemes. As with the conditions for granting a license, which are principally the same across local licensing authorities, but that have the flexibility to vary the conditions to some extent, the same applies to the schedule for fees, for good reason. The rationale for this flexibility is that all licensing authorities are entitled to charge a "reasonable" fee to cover the cost of administration and issue of a license. For instance, the guidance regarding what fees are charged for issuing a license to Taxis and Private hire vehicles is as follows "*... a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.*"<sup>33</sup>. The same basic guidelines are offered to local licensing authorities for Butcher's shop, Private Landlord, Betting Shops, Pedicabs, and Park homes licensing schemes.

As can be seen in Table 2, some licensing schemes scale the fees to the size of the business, such as the Betting Shop licensing scheme. While not banded in the same way, the Betting Shop licensing scheme<sup>34</sup> is similar to the Alcohol licensing scheme, in that the fees are in proportion to the premise type (i.e. Gaming Machine, Club Gaming/Machine, Bingo Club, Betting Premises (excluding Tracks), Tracks, Family Entertainment Centres, Adult Gaming Centre, Unlicensed Family Entertainment Centre). The other five licensing schemes (i.e. Butcher's shop, Taxis and Private hire vehicles, Private Landlord, Pedicabs, and Park homes) set flat fees irrespective of size or type of premise; though there is a differentiation made between Taxis and Private hire vehicles – based on size of vehicle.

**Period covered by the license:** Table 2 (column 5) presents the details for the period that the license covers. Again, there is considerable variability in length covered, and also whether or not annual charges are also included. So long as the conditions for the license are continually met, some licenses cover an indefinite period (Alcohol, Betting Shops, Park Homes), others cover a 12-month period (Butcher's shop), 3 year period (Pedicabs, Taxi and Private Hire Vehicles – though some local authorities set the period covered by the license at 12 months), or 5 year period (Landlord). As mentioned, there is variability between schemes, such that, along with the fee for the license, some schemes also include annual charges (Butcher's Shop, Alcohol – this has since been changed, but originally the license had to be renewed on an annual basis); though it is worth noting that for both schemes, annual charges no longer apply because in the former case the license no longer is in place, and in the latter case, the review of the scheme subsequently lead to the removal of annual charges. Though

<sup>33</sup> section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976, as amended

<sup>34</sup> <http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx>

more specifically, annual fees are required for certain types of licences under the Gambling Act 2005 and Licensing Act 2003 where there is no renewal application process. Annual fees are payable each year and cover the costs associated with the on-going maintenance and development of these licensing regimes and for ensuring compliance with the Act (for example see<sup>35</sup>).

**Enforcement of non-compliance:** The fees for licenses not only cover the cost of administration, they should also cover the cost of compliance and enforcement as specified for each type of license; compliance is determined according to the conditions set by the license, which concern demonstrating adherence to the objectives of the license, codes of practice, and other guidance provided to local authorities. In this section details regarding enforcement will cover three licensing schemes (Betting Shop license, Landlord License, Taxi and Private vehicle hire license) as cases in point, for the reason that the general processes of enforcement are largely the same across the different sectors.

For the Betting Shop license scheme “*The annual fee will cover the reasonable costs of compliance and enforcement work, including the cost of dealing with illegal gambling in a licensing authority’s area*”<sup>36</sup> The statutory principles of good regulation and the Regulators’ Code (paragraph 5.27) apply to licensing authorities. Generally, what this means is that inspection and enforcement is carried out in a way that is transparent, accountable proportionate, consistent and targeted, and promotes efficient and effective regulatory approaches which improve outcomes without imposing unnecessary burdens on business.

The Gambling Act (2005) gives licensing authorities in England and Wales, “the police and the Commission the power to prosecute the offence of using premises for gambling without the requisite permissions. In exceptional circumstances, such as repeated deliberate breaches of premises licence conditions, licensed operators or permit holders may be prosecuted without any prior regulatory action, such as warnings, suspension or revocation of licence or removal of permit. Most prosecutions will be against those illegally providing gambling without a licence or permit”<sup>37</sup>.

Take another example such as the Landlord licensing scheme. In an area subject to selective licensing, all private landlords must obtain a licence and, if they fail to do so, or fail to achieve acceptable management standards, the authority can take enforcement action. Here also, the guidance indicated “Once the schemes have been set up, they will be self-financing. Running costs of licensing schemes including costs of further training and development and enforcement costs will be covered by licence fees.”<sup>38</sup>

The most important sanction will be refusal or revocation of a licence or the threat of such action – preventing the landlord from letting the property unless the local authority was

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<sup>35</sup> [https://www.westminster.gov.uk/sites/default/files/licensing\\_fees\\_list.pdf](https://www.westminster.gov.uk/sites/default/files/licensing_fees_list.pdf)

<sup>36</sup> <http://www.gamblingcommission.gov.uk/pdf/licensing-compliance-and-enforcement-policy-statement.pdf>

<sup>37</sup> <http://www.gamblingcommission.gov.uk/pdf/licensing-compliance-and-enforcement-policy-statement.pdf>

<sup>38</sup> Explanatory memorandum to SI 2006/373, para 8.2

satisfied that suitable alternative management was put in place. Landlords letting their property without a licence constitutes a criminal offence, and so are subject to fines of up to £20,000.<sup>39</sup>

In addition, the Explanatory Memorandum to the licensing and management of houses in multiple occupation and other houses (miscellaneous provisions) (England) Regulations 2006 also stipulates the following. “Where a landlord is deemed not to be fit and proper or the property and a licence is not granted or has been revoked, the authority would be able to put an alternative manager in place, for example, a local management agent if they were satisfactory to the local authority. Where no licensee can be found or the property cannot be made suitable for licensing the local authority will have to make an interim management order to ensure the property is properly managed until a longer-term solution can be found – this order can last for up to 12 months. Where this is not possible they can make a final management order which places the longer-term management of the property in the hands of the local authority. The local authority can deduct reasonable management costs from the rental income that is passed on to the property owner. In practice, however, it is likely to be in the interests of both the landlord and local authority to find a suitable manager of the property without having to take action in this way. Local authorities will also be able to place conditions on the management of the property in the licence. Such conditions would have to be reasonable and a landlord would be able to appeal to the Residential Property Tribunal against the imposition of a condition. Breach of conditions could lead to fines of up to £5,000”<sup>40</sup>.

The third example considered is the enforcement processes concerning the taxi and private hire vehicle licensing scheme. There are a number of offences associated with taxi and PHV licensing and operations, largely enforced by local licensing authorities. The Law Commission explained: “Under current law, responsibility for enforcement of the taxi and private hire licensing regime lies with the licensing authority that issued the relevant licence. In particular, authorities have powers to suspend or revoke licences, or to refuse to renew them. Licensing authorities can also bring criminal charges against a suspected offender. Where breaches of licensing conditions also constitute offences, the police can also take enforcement action. Crucially, licensing officers are unable to undertake enforcement against vehicles, drivers and operators licensed in another area”<sup>41 42</sup>.

The Government’s guidance to licensing authorities states that they should actively seek out operators who are evading the licensing scheme. It acknowledges that resources devoted by

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<sup>39</sup> Explanatory Memorandum to the licensing and management of houses in multiple occupation and other houses (miscellaneous provisions) (England) Regulations 2006

[http://www.johnpullen.co.uk/uploads/1/9/3/0/19305517/explanatory\\_memorandum\\_to\\_si\\_373.pdf](http://www.johnpullen.co.uk/uploads/1/9/3/0/19305517/explanatory_memorandum_to_si_373.pdf)

<sup>40</sup> [http://www.johnpullen.co.uk/uploads/1/9/3/0/19305517/explanatory\\_memorandum\\_to\\_si\\_373.pdf](http://www.johnpullen.co.uk/uploads/1/9/3/0/19305517/explanatory_memorandum_to_si_373.pdf)

<sup>41</sup> *op cit.*, Taxi and Private Hire Services (Law Com No 347), p180, para 13.2; touting was made a separate criminal offence under section 167 of the Criminal Justice and Public Order Act 1994, as amended, and is enforceable by the police

<sup>42</sup> For the sake of comparison to the Taxi and PHV license, and to draw attention to the details regarding enforcement with respect to a new licensing scheme to be introduced in 2018, the details of enforcement of the Pedicabs (London) license is presented here to aid discussion regarding the range of enforcement options available, for the new licensing scheme for Pedicabs, these include: (1) enabling Transport for London to prosecute drivers or operators who provide false or misleading information in connection with licensing applications or decisions, or that fail to comply with the requirements imposed by the regulations; (2) drivers and operators can only be prosecuted in a Magistrates’ Court and cannot be punished with imprisonment. They can only be punished with a fine which does not exceed a prescribed statutory maximum (currently £2,500). (3) enabling Transport for London to impose civil penalties - Civil penalties may be a more effective method of enforcing the regime because they may be imposed more promptly for minor contraventions (such as not displaying a licence) and will avoid the need to pursue a prosecution in a Magistrates’ Court. (4) vehicles to be immobilised, seized, retained and disposed of where they are used in contravention of the regulations. Transport for London may need to take such action if a vehicle is found to be unsafe, unroadworthy, unlicensed or uninsured. (5) enabling Transport for London to enter into arrangements with the Metropolitan Police.

licensing authorities to enforcement will vary according to local circumstances (e.g. if there is a particular problem with touting). It recommends that: "... it is desirable to ensure that taxi and PHV enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise [...] Some local licensing authorities employ taxi marshals in busy city centres where there are lots of hirings, again perhaps late at night, to help taxi drivers picking up, and would-be passengers queuing for taxis." <sup>43</sup>It also highlighted the change to the law in 2007 which permits licensing authorities to suspend or revoke a taxi or PHV driver's licence with immediate effect on safety grounds<sup>44</sup>.

In its 2014 report, the Law Commission recommended that enforcement powers should be improved in the following areas: 1) a new power for licensing officers to stop licensed vehicles; 2) touting; 3) power to impound vehicles; 4) fixed penalty notices; and 5) cross-border enforcement<sup>45</sup>. The issue of cross-border (i.e. across England-Welsh Border) hiring and its enforcement is worth discussing in some detail<sup>46</sup>. "...Any taxi and PHV firms that operate across the English-Welsh border would have to work within, and comply with, different regimes if the Assembly legislates to introduce a different licensing regime in Wales"<sup>47</sup>; which would add costs to a business operating in both.

In its December 2017 report the Urban Transport Group argued that local licensing officers should be able to undertake enforcement action against any taxi or PHV operating within their authority area, no matter where the vehicle is licensed and, in the longer term: Introducing a requirement that taxis and PHV journeys start or end in the area for which the driver and vehicle are licensed, in order to reduce problematic cross-border hiring. Under the current legislation, cross-border hiring creates challenges for enforcement, as well as undermining the local licensing regime which may have more stringent vehicle and driver licensing requirements.

**Summary of enforcement processes:** To complement the discussion here, for the three licensing schemes which were taken as case studies in order to discuss the general similarities (and potential differences) in enforcement procedures, a summary of the outcome of the impact assessments conducted for each of them is presented in the next section in order to gauge the factors on which the costs and benefits were evaluated.

**Costs and benefits.** The summary table below (Table 5) details the costs and benefits based on impact assessments that were carried out for each scheme discussed here.

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<sup>43</sup> 3 op cit., Taxi and private hire vehicle licensing: best practice guidance, p20, paras 85-6

<sup>44</sup> section 52 of the Road Safety Act 2006

<sup>45</sup> op cit., Taxi and Private Hire Services (Law Com No 347), p180, para 13.3

<sup>46</sup> Cross-border hiring poses a concern that might potentially extend to a licensing scheme for food businesses for the reason that, if there are no imposed restrictions on the ordering and delivery of food across borders, then if an online platform was used to order food from a food business in a different local authority (England) to where the food is delivered (Wales), and there was potentially a food safety concern, the question arises as to which *local authority should be in a position to exercise their enforcement power over the Food Business, assuming that the food business and the online delivery platform was responsible?*

<sup>47</sup> 6 Op cit., Taxi and Private Hire Services (Law Com No 347), para 1.15

Table 5. Costs and Benefits outlined from three impact assessments

Licensing Scheme	Costs	Benefits
<b>Landlord<sup>48</sup></b>	<p>Economic cost to local authority of processing licence application and finding and prosecuting landlords who have not applied for a licence.</p> <p>Cost to landlord of obtaining a licence.</p> <p>Cost of good property management (this should not represent an extra cost to those who already manage their properties well).</p> <p>Cost of finding a licence holder (e.g. agent) if the landlord is not suitable.</p> <p>Scope for increased rents for tenants as landlords reclaim costs of management.</p> <p>Costs to anti-social tenants of eviction and finding new accommodation.</p> <p>Scope for local authority costs from increased homelessness as anti-social tenants are evicted. However, local authority must have considered the decision to introduce selective licensing in association with their homelessness strategy so such costs can be managed.</p> <p>Scope for costs to neighbouring areas as problem tenants are displaced elsewhere.</p>	<p>Responsible landlords will benefit from increased demand for their properties.</p> <p>Support to landlords from local authorities, particularly in tackling anti-social behaviour.</p> <p>Increased property values as the area improves.</p> <p>Tenants able to easily identify licensed properties via register.</p> <p>Tenants benefit from improved management of properties.</p> <p>Reduced environmental costs and costs of crime to neighbourhood.</p> <p>Increased demand for services from local shops and businesses as area becomes more desirable.</p>
<b>Taxi and PGV<sup>49</sup></b>	<p>The monetised costs of the Commission's proposals given in the impact assessment were £10.99 million in total costs (NPV).</p> <p>Costs included things like training of licensees and licensing officers; and displaying complaints information.</p>	<p>The monetised benefits of the Commission's proposals given in the impact assessment were £252.87 million in total benefits (NPV).</p> <p>Benefits include things like reduced regulatory burden; reduced driver assaults; improved safety standards; and reduced enforcement costs.</p>

<sup>48</sup> BRIEFING PAPER Number 4634, 9 June 2017 Selective licensing of private rented housing in England and Wales

<sup>49</sup> BRIEFING PAPER CBP 2005, 29 January 2018 Taxi and private hire vehicle licensing in England

<p><b>Betting Shop</b><sup>50 51</sup></p>	<p>The application fees will include the cost of administration associated with the licence application, including receiving and responding to representations from responsible authorities and interested parties, hearings and appeals.</p> <p>The Department for Culture, Media and Sport considers that certain types of premises are likely to give rise to a higher level of objections and representations from interested parties and responsible authorities in some areas than others and this would increase the cost of providing the service.</p> <p>The Department for Culture, Media and Sport considers that the greater the amount of relevant representations received by the authority, the greater the cost to the authority in providing the administrative element of the service. Where relevant representations are received in relation to an application these need to be acknowledged and considered. A hearing may be necessary, and if the application is turned down, there may be an appeal. The licensing authority will need to recover the costs associated with all these stages in the process</p> <p>The more conditions included in the license scheme, the greater the costs in administration and enforcement.</p>	<p>The move to cost recovery improves overall economic efficiency because it means that the costs more accurately reflect the true cost of regulating the gambling industry</p> <p>Combating illegal gambling also benefits licensed operators, as the provision of illegal unregulated gambling has both a reputational and economic impact on the gambling industry as a whole</p> <p>The fees will permit the development of a comprehensive risk-based regulatory regime for gambling for the first time. As a result, many of the inefficiencies and inequalities in the current scheme will be removed. This should help increase competition and the gambling industry is likely to become more cost-effective.</p> <p>An efficient and properly resourced licensing regime will assist in reducing crime and thereby produce safer town and city centres</p> <p>The fee regulations should ensure that licensing authorities are able to fulfil their new obligations under the Act and contribute effectively to the delivery of the licensing objectives, including taking enforcement action as appropriate. Depending on the licensing option taken this can lead to the reduction in gambling harm that is the main aim of regulation here.</p>
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### **Summary of costs and benefits of the licensing from three specific licenses in which the outcome of impact assessments was discussed.**

Looking across the different licensing schemes for which impact assessments were conducted, the identified benefits common to all are: 1) that there will be improvements for customers, 2) licensed businesses provide an indicator of reputation that would increase demand, 3) keeping records of businesses through licenses will reduce the regulator burden in the long run. The costs that were identified that are common to all are: 1) increases in effort and money in terms of administrative activities (e.g. processing license applications in time), 2) increases in effort and money in terms of enforcement, 3) cost in effort that is required for training purposes (i.e. training of licensees, training licensing officers).

It is worth highlighting that the administrative effort involved in implementing the license appears under both costs and benefits. One reason for this could be that the benefits for the authority issuing the license is in obtaining information which has subsequent value, but that there are potential costs in the effort in collecting this information.

<sup>50</sup> Proceedings of the Committee. The published report was ordered by the House of Commons printed 12 July 2012 <https://publications.parliament.uk/pa/cm201213/cmselect/cmcmds/421/42107.htm>

<sup>51</sup> [http://www.legislation.gov.uk/ukxi/2007/479/pdfs/ukxiem\\_20070479\\_en.pdf](http://www.legislation.gov.uk/ukxi/2007/479/pdfs/ukxiem_20070479_en.pdf)

Another basis on which to consider the merits of licensing schemes is to look to the evidence base that has examined the extent to which changes in business compliance and other outcomes have resulted from the implementation of licenses. The evidence base is considered in more depth in the next section of this report in which Objectives 2 and 3 are addressed.

## Objective 2 & 3: Strengths and Weakness of licensing schemes, and their impact

To meet the second and third objectives of the report, this section focuses on empirical evidence that has examined three licensing schemes: Landlord licensing, Alcohol licensing, and Butcher's shop licensing. The discussion is organized around their reported strengths and weakness, particularly in relation to their impact on improving compliance. The discussion also draws on work that reveals the difficulties faced with respect to implementing the schemes.

### Landlord Licensing Scheme

Overall, the evidence regarding positive improvements that meet the objectives of the licensing scheme (i.e. to target anti-social behaviour, improve the standard of living for tenants in areas of deprivation) are at best mixed.

A review of the implementation of the landlord licensing scheme in Swalwell 2013<sup>52</sup> (which then ran for 3 years) by Gateshead council was based on a questionnaire on their website. This was designed to enable landlords and tenants to volunteer feedback on the consultation process regarding the implementation of the scheme. The response rate was low, only 44 out of the 485 households, and an additional 44 responses from landlords returned responses to the questionnaire.

In summary, of the landlords that responded to questions 66% responded to questions regarding improvements carried out to the properties during the licensing period (over 3 years), common improvements included complete refurbishment and redecoration, installation of new kitchens, bathrooms, windows, central heating schemes and loft insulation. Of the 30% of private tenants that were willing to comment on whether their landlord had carried out repairs to the property during the period of the implementation of the licensing scheme, 62% had indicated that their landlord had carried out improvements, and the remainder said no repairs had taken place or they did not know. When asked, of the 75 residents that responded to questions regarding awareness of the landlord licensing scheme, 75% indicated that they were aware, and the rest were not aware. Looking at the pattern of responses to questions regarding the impact of the new landlord licensing scheme, the findings generally indicate that there were either no efforts to improve the property (internally and externally) or the changes were unsuccessful (see Appendix 2 for the full details of the responses).

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<sup>52</sup> Swalwell selective landlord licensing consultation feedback analysis October 2016

In an open-ended section of the questionnaire in which tenants and landlords could comment on their general views towards the scheme, there were as many positive as there were negative comments from both tenants and landlords regarding the impact of the licensing scheme. However, what should be noted is that the response rate was low, and no detailed analysis on the qualitative data was conducted, so there is no basis on which to infer the frequency of positive and negative comments volunteered in the open-ended section, as gauge of attitudes towards the scheme.

In addition<sup>53 54</sup> in collaboration with Landlord Accreditation Wales (LAW), the author of the research paper conducted a survey nationwide which issued 2,000 landlords and agents that were part of the accreditation scheme, of which 286 landlords and agents replied (a 14.3 % response rate)<sup>55</sup>. In response to the question “Do you approve/disapprove of a mandatory registration and licensing scheme?” 42% were positively disposed (strongly approved, or approved), and 34% were negatively disposed (strongly disapproved, or disapproved), with the remainder unsure.

General reasons for the negative responses centred around the concern that a mandatory registration and licensing scheme would add an unnecessary administrative as well as financial burden on landlords, and unnecessarily penalize good landlords at the expense of a few “rogue” or bad landlords, that would circumvent the scheme, whatever that scheme would be.

Moreover, the concern was that good landlords would follow the new procedures, thus burdening them further, and that bad landlords would avoid the new procedures and operate outside the law. Furthermore, some indicated that, in their opinion, there were already adequate powers in place to deal with “rogue” landlords and agents, and more needed to be done to operate within existing legislative powers that might be under-utilized and this was preferable to the new proposed mandatory scheme.

Consistent with this, findings from the Scottish Landlord Accreditation Scheme<sup>56</sup>, which is a voluntary scheme, suggests that the accreditation indeed improved the quality of landlords within the Sector, but did not remove the worst landlords from it. Though, additional work by Lees and Boyle, (2011)<sup>57</sup> examining the national registration of landlords suggest that this has not been proven to have a comprehensive effect on property management standards, due to difficulties in monitoring landlord behaviour and ensuring compliance. One difference between the two schemes here is that one is voluntary and the other is mandatory.

Another concern by those indicating their disapproval, was that the new scheme would interfere with the commercial market. This argument rests on the idea that bad landlords that rent uninhabitable properties will be run out of business because of low demand. Market forces

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<sup>53</sup> Jones, G. A. (2015). Perspectives of landlords and agents on landlord accreditation in Wales. *International Journal of Housing Markets and Analysis*, 8(2), 223-238.

<sup>54</sup> Welsh Government (2012a), “Proposals for a better private rented sector in wales – consultation document”, available at: <http://wales.gov.uk/docs/desh/consultation/120706betterprivaterentsectoren.pdf> (accessed 20 November 2013).

<sup>55</sup> The profile of respondents is as follows: 29% Business landlords, 56% Sideline investor landlords, 13% Sideline non-investor landlords, and 2% Institutional landlords.

<sup>56</sup> DTZ (2011), “Evaluation of the impact and operation of landlord registration in Scotland”, available at: [www.scotland.gov.uk/Publications/2011/07/13111732/3](http://www.scotland.gov.uk/Publications/2011/07/13111732/3) (accessed 5 February 2014).

<sup>57</sup> Lees, F and Boyle, J (2011) Evaluation of the impact and operation of landlord registration in Scotland. Edinburgh: Scottish Government. Available at: <http://www.gov.scot/resource/doc/353982/0119289.pdf> [accessed 24 March 2017]

don't quite operate in this way. In fact, low income, and vulnerable sectors of the population will continue to rent properties that are poorly maintained and often uninhabitable because they have next to no other alternative<sup>58 59</sup>.

Respondents also voiced their concerns with respect to the new mandatory registration and licensing scheme and the impact it would have on the number of landlords operating in the private rental sector. The most common concern being that the financial costs and bureaucratic burden places on landlords would put off any new potential landlord moving in the private rental sector.

Based on claims made in the paper, the authors suggested that efforts should be made to improve public and private sector perception of landlords, as well promoting the registration and licensing scheme. They also proposed that the registration and licensing schemes should be mandatory, for the reason that compulsory schemes are a way of indicating quality assurance, and in the long run provide greater market access to landlords. In addition, they also claimed that efforts need to be directed towards targeting misperceptions that any new registration and licensing scheme is bureaucratically burdensome, and that the overall financial costs of registration and licensing are actually relatively low in contrast to the overall long term benefits (i.e. better quality tenants, better relations between tenants and landlords, better market access).

Finally, an empirical<sup>60</sup> report by Moore and Dunning (2017) that examined the regulation of the private rented sector in Ireland as a comparator to the registration and licensing schemes in England, that highlight the benefits of a comparable licensing scheme. The uptake of the new registration scheme in Ireland has been extremely successful (approx. 85% of tenancies have registered), though this is partly due to the fact that there already existed a registration scheme even though it wasn't aggressively enforced. The fact that landlords had some knowledge and awareness of a registration scheme made the implementation of a new mandatory scheme easier to adopt taken together with the fact that a number of other regulatory changes were also being introduced into the private rental sector at that time; thus, there was a coherent context for uptake of the scheme because there was a clear message being communicated as to the need for change. The general positive approach to the scheme is possibly tied to the fact that once a landlord is registered they are entitled to mortgage interest relief, which provides a clear financial incentive to register.

The details gathered on landlords contribute to a data base (Rent Index) which contains information about rent charges at local, regional and national levels, which means that current and potential tenants can make informed decisions; in fact, this data, along with other detail collected on the register, also helps policy makers make better evidenced decisions. Moreover, this has also helped draw general public attention to the scheme which in turn promotes interest in the scheme by public and private sectors.

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<sup>58</sup> Whyley, C., Finney, A. and Muspratt, D. (2013), "Helping private tenants achieve financial inclusion", available at: [www.nationwidefoundation.org.uk/SlicedBreadNwidereport.pdf](http://www.nationwidefoundation.org.uk/SlicedBreadNwidereport.pdf) (accessed 29 November 2013).

<sup>59</sup> Moore, T., & Dunning, R. (2017). Regulation of the private rented sector in England using lessons from Ireland.

<sup>60</sup> The data collection involved 12 interviews in Ireland (stakeholders included statutory agencies, local councils, landlord and tenant organisations, housing and real estate experts, and housing charities), and an additional 24 interviews with low-income tenants in Dublin. 16 interviews in England (stakeholders include landlords, letting agent bodies, housing charities, tenant groups, landlords and local authorities). Four workshops in England (with a total of 39 participants) in four different local authorities: Birmingham, Blackpool, Newham (London) and Plymouth.

The limits to the scheme have largely been communicated by the tenants that were interviewed, the take home from the interviews suggest that registration in and of itself, did not improve outcomes in terms of property standards, and with compliance. Unlike the licensing scheme in England, the registration scheme in Ireland doesn't require that landlords demonstrate compliance with standards, which may contribute to this finding. Though it is also worth noting that other studies have also reported either no improvements in outcomes, or at least muted positive effects as a result of the licensing scheme in England<sup>61</sup> <sup>62</sup>, Wales<sup>63</sup>, and Scotland<sup>64</sup>.

### **Butcher's shop licensing**

Overall, the evidence regarding positive improvements that meet the objectives of the licensing scheme (i.e. to ensure appropriate food safety procedures such as HACCP and sufficient training and understanding of food safety and hygiene practices) are at best mixed.

Following the introduction of the licensing scheme, several studies examined the extent to which there were steps taken to ensure that there was sufficient training in food safety and hygiene. Worsfold and Griffin (2003)<sup>65</sup> conducted a survey on 66 SMEs in South Wales in the period between May 2001 and July 2002, the sample included equal numbers of caterers in hotels/cafeterias and nursing homes and retail butchers. There was little evidence to suggest that retail butchers had more hygiene awareness than the comparison groups. A substantially higher number of managers and supervisors from hotels/cafeterias had taken full-length accredited hygiene courses at higher levels compared to those in the care and butchery sectors. In fact, for several key measures, there was little evidence to suggest that there was sufficient improvement in training in butchers relative to the other comparison groups, the same also applied in measures gauging active attempts to improve training (i.e. refresher courses). The authors provide an explanation for this by suggesting that, unlike other countries, the guidelines are not as prescriptive. For instance, training standards in Ireland identified the specific food safety skill that much be demonstrated, the length of time for implementation, and the training was assessed by enforcement officers for compliance with standards on routine inspections. Moreover, in the other sectors, the training guidelines were in place for some years, but the guidelines for butchers were only recently implemented (at the time of study), and in fact only a third of butchers were aware of the relevant guide.

In England, the findings from a study conducted on 29 butchers' shops by Derby council<sup>66</sup> suggest that there was a positive impact of the licensing scheme a year into its introduction. A comparison of before and after the scheme was introduced showed that the butchers' shops included in the study all minimized the risk of cross contamination from raw to cooked meat. However, after licensing, there was still considerable variability in HACCP plans that premises

<sup>61</sup> Swalwell selective landlord licensing consultation feedback analysis October 2016

<sup>62</sup> BRIEFING PAPER Number 4634, 9 June 2017 Selective licensing of private rented housing in England and Wales

<sup>63</sup> Jones, G. A. (2015). Perspectives of landlords and agents on landlord accreditation in Wales. *International Journal of Housing Markets and Analysis*, 8(2), 223-238.

<sup>64</sup> Lees, F and Boyle, J (2011) Evaluation of the impact and operation of landlord registration in Scotland. Edinburgh: Scottish Government. Available at: <http://www.gov.scot/resource/doc/353982/0119289.pdf> [accessed 24 March 2017]

<sup>65</sup> Worsfold, D., & Griffith, C. J. (2003). A survey of food hygiene and safety training in the retail and catering industry. *Nutrition & Food Science*, 33(2), 68-79.

<sup>66</sup> Walker, E., & Jones, N. (2002). The good, the bad and the ugly of butchers' shops' licensing in England—one local authority's experience. *British Food Journal*, 104(1), 20-30.

had in place, and the adequacy of these plans also varied, this also partly the result of the lack of specific training levels to be achieved. 14 out of 18 premises that responded in a follow up to the study reported that one of the main difficulties in adequately implementing HACCP was the financial costs, and continuing lack of knowledge. The council did take formal action in one case, with a trader being fined for selling raw chicken alongside ready to eat food stuffs, and without a license. The estimated cost to the council in implementing and enforcing the license (for the first year of implementation) for the 29 premises included in the study was approx. £22,200, with only £2,900 coming from actual license fees. The shortfall was found to impact hygiene inspection figures. In addition, when asked, the cost to butchers, for implementing HACCP ranged between £100 to £5,000 for that year; studies at the time in other regions reported similar estimates<sup>67 68</sup>. None the less, the butchers that agreed to take part in the study reported that food hygiene was under greater control as a result of the HACCP scheme.

Another report also evaluated the effectiveness of the licensing scheme shortly after it had been introduced, this time in Scotland<sup>69</sup>. The report describes the outcome of empirical work conducted on all 32 Local authorities, butchers (a sample of 150 independent butchers' shops and 48 supermarkets) and consumers (1,893 meat consumers in Scotland). In summary, the local authorities indicated that they had observed improvements in food safety standards, though they also suggested that it was hard to directly connect this to the licensing scheme; there was 80% of uptake by butchers of training course and workshops. Though the respondents claimed that this was because of the provision of additional funds made available to local authorities in Scotland prior to the licensing scheme to support the recommendations from the Pennington Expert group. The gap between guidance provided from FSA Scotland and implementation of the scheme made it difficult to ensure that the licensing scheme was introduced efficiently, and the findings from the survey indicated inconsistency in the implementation of the scheme across Scotland.

The butchers that were surveyed indicated that the training requirements specified in the legislation did not provide all the necessary information for preparing for the license. Moreover 27% of large FBOs said they had taken formal training in HACCP, and 25% of SMEs had taken the training; bearing in mind the HACCP was a condition of the licensing scheme. The butchers also reported their own experiences of inconsistencies between local authorities in the requirements expected in order to be granted a license. As might be expected, there were differences between SMEs and Large FBOs when it came to the difficulty in preparing for the licensing as a result of available resources (staff, time and finances); 47% SMEs reported difficult compared to 15% large FBOs. When surveyed about the cost in achieving their food safety standards, just under 50% of Large FBOs reported costs ranging between £1,000 to £10,000, while 85% of SMEs reported costs ranging between £1,000 to over £50,000.

When butchers were asked about the proportion of consumers who were aware of the license, SMEs reported it was 74%, and large FBOs reported it was 40%. When asked if the license improved customer confidence in the products sold, 48% of large FBOs reported improvements in consumer confidence, and 38% of SMEs reported improvements in

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<sup>67</sup> EHN (2001). Crackdown on butchers flouting food safety laws. *Environmental Health Journal*, 16, 1.

<sup>68</sup> Mortlock, M., Peters, A., & Griffith, C. (2000). HACCP in the raw. *Environmental Health Journal*, 15, 186-189.

<sup>69</sup> Evaluation of Butchers' shop licensing initiative in Scotland, FSA Final Report (Project code S01011) Wheelock.

consumer confidence. When corresponding these responses to actual consumer responses, 94% when asked revealed that they had not asked their butcher if they had a license; it is unclear whether this reflects a lack of knowledge of the license and/or a reluctance to ask. However, 55% did not know, when asked, if butchers required a special license to sell both raw and cooked meat. Nevertheless, 59% did indicate general to strong agreement that they were more confident in buying meat now (at the time of the survey 2001) than in the past (not specified).

As noted in the report, without measuring outcomes to establish baselines before the implementation of a licensing scheme it is hard to establish relative improvements following the implementation of the scheme. Many of the studies discussed have failed to do this. As a result it is often difficult to determine precisely what the impact of the licensing scheme was on food safety and hygiene behaviour in butchers close to, and long term after its introduction<sup>70</sup> <sup>71</sup>. To this end, one empirical study was able to conduct longitudinal work (and over approx. 1 year [sample of 22 Butchers which is rather small]<sup>72</sup>) and did find meaningful and significant improvements (i.e. audit scores and environmental sampling) in food hygiene, and attributed the improvements as a direct consequence of the licensing scheme.

### Alcohol licensing

Overall, the evidence regarding positive improvements associated with the objectives of the licensing scheme (i.e. 1) the prevention of crime and disorder; 2) public safety; 3) the prevention of public nuisance; 4) and the protection of children from harm) are at best mixed.

The House of Lords report 2016-2017 “The Licensing Act 2003: Post Legislative Scrutiny”<sup>73</sup> provides a detailed evaluation of the act itself, the enforcement of it, and the evidence examining the consequences of its introduction (and the multiple amendments to it). The report and in particular the conclusions drawn are not entirely positive. In fact, though it is hard to determine the exact causal relationship, the trend in findings suggest that since the introduction of the license<sup>74</sup>, the volume of alcohol has increased between the period 2000 to 2015, the vast proportion of it being sold through off-trade (e.g. off-licenses and supermarkets) compared to on-trade (e.g. restaurants, bars) establishments.

This is off set with a more complex picture from empirical studies that the proportion of drinkers vs. abstainers hasn’t changed over the period of 1990 to 2010<sup>75</sup>. The profile of consumption rates by UK customs data suggests that average per capita volume rose from late 90s to early 2000’s. Then, along with other converging metrics which suggest the same pattern, from about 2004 average alcohol consumption has been steadily decreasing, most notably in young adults under the age of 25. Drawing a direct link with the introduction of the licensing act is

<sup>70</sup> Evaluation of Butchers’ shop licensing initiative in Scotland, FSA Final Report (Project code S01011) Wheelock.

<sup>71</sup> Cree, L., House, R., & Cowden, J. M. (2001). Has licensing improved hygiene in butchers’ shops?. *Epidemiol Infect*, 126(3), 335-41.

<sup>72</sup> Smith, M., Hussain, S., & Millward, J. (2002). Effect of the licensing process on hygiene in retail butchers’ premises in the West Midlands, United Kingdom. *Journal of food protection*, 65(9), 1428-1432.

<sup>73</sup> House of Lords Select Committee on the licensing act 2003, Report of Session 2016-2017

<sup>74</sup> [www.healthscotland.com/documents/27345.aspx](http://www.healthscotland.com/documents/27345.aspx)

<sup>75</sup> Meier, P. S. (2010). Polarized Drinking Patterns and Alcohol Deregulation: Trends in alcohol consumption, harms and policy: United Kingdom 1990–2010. *Nordic Studies on Alcohol and Drugs*, 27(5), 383-408.

difficult for the reason that, the same trends found in England and Wales, were also found in Scotland, around the same time, and yet the introduction of the alcohol license didn't come into force until 2009. In fact, at least two of the many factors that do account for the decline in average alcohol consumption over the period of 2004 to 2010, outside of the introduction of the licensing act, are the impact of educational campaigns<sup>76</sup>, especially those targeting young adults, and changes in policy to smoking in public places<sup>77</sup>. Whether or not there are substantive decreases or not, what is clear is that it is hard to draw any direct causal link between changes in consumption rates and the introduction of the licensing act. If it has had any influence, it needs to be considered in the context of changing trends in the drinking patterns by age that predate the introduction of the act, and the conditions, such as pricing, which may account for the shift in the frequency with which alcohol from bought off-trade compares to on-trade establishments.

In addition, changes in the license allowed for later opening hours as well as 24-hour opening, about 4% of total licensed premises adopted 24-hour opening, and 10% of premise licensed for night refreshment<sup>78</sup>. Taken together with evidence provided by the British Medical Association<sup>79</sup>, the view is that there is a direct relationship between the availability and affordability of alcohol, and the rate of alcohol consumption. In the view of the British Medical Association, and based on supporting evidence, increased accessibility and the extension of, as well as later opening hours, has only lead to more alcohol-related problems<sup>80 81</sup>, and other reviews of empirical studies examining precisely this issue also report the same pattern of outcomes<sup>82 83</sup>. Moreover, not only has the connection been made between availability and consumption, which in turn has negative health impacts, the availability, particularly resulting from later opening hours<sup>84</sup>, or extended opening hours, has been associated with increases in activities that are a public nuisance (e.g. public urination, swearing, shouting)<sup>85 86</sup>.

There are other studies suggesting that, overall, violent incidents, at least over the immediate period of the introduction of the licensing act, did not fundamentally increase, in fact they

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<sup>76</sup> Young, B., Lewis, S., Katikireddi, S. V., Bauld, L., Stead, M., Angus, K., ... & Ashie, A. (2018). Effectiveness of mass media campaigns to reduce alcohol consumption and harm: a systematic review. *Alcohol and alcoholism*.

<sup>77</sup> Nielsen (2007): Notable Decline in Scottish On Trade Alcohol Sales Since Smoking Ban. Accessed 1 May 2010 on [uk.nielsen.com/news/SmokingBan.shtml](http://uk.nielsen.com/news/SmokingBan.shtml) (last accessed 1 October 2010)

<sup>78</sup> Figures concern England and Wales for the period Jan 2016 to Dec 2016

<sup>79</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/licensing-act-2003-committee/licensing-act-2003/written/36511.html>

<sup>80</sup> Babor T, Caetano R, Casswell S et al. (2010) *Alcohol: No ordinary commodity*. Oxford: Oxford University Press.

<sup>81</sup> Rahn RA, Kuzara JL, Elder R et al (2010) Effectiveness of policies restricting hours of alcohol sales in preventing excessive alcohol consumption and related harms. *American Journal of Preventive Medicine* 39(6): 590-604

<sup>82</sup> Hahn, R. A., Kuzara, J. L., Elder, R., Brewer, R., Chattopadhyay, S., Fielding, J., ... & Lawrence, B. (2010). Effectiveness of policies restricting hours of alcohol sales in preventing excessive alcohol consumption and related harms. *American journal of preventive medicine*, 39(6), 590-604.

<sup>83</sup> Plant, E. J., & Plant, M. (2005). A "leap in the dark?" Lessons for the United Kingdom from past extensions of bar opening hours. *International Journal of Drug Policy*, 16(6), 363-368.

<sup>84</sup> Crucially any extension of the opening hours by 1 to 2 hours appears not to have any adverse effects on consumption (see Hahn et al, 2010).

<sup>85</sup> Roberts, M. (2006). From 'creative city' to 'no-go areas'—The expansion of the night-time economy in British town and city centres. *Cities*, 23(5), 331-338.

<sup>86</sup> Roberts, M (2005). Transformations in the night-time economy in English town centres: challenges to management, in: Kungalos et al. (Eds.), *Sustainable Planning and Development 2005*, vol. 2, pp. 1567–1577

remained mostly stable<sup>87</sup>. But what did change is the profile of specific types of violent incidents associated with alcohol at different times. For instance, while there was no overall change in the number of assaults without injury after the introduction of the license, there were observed changes in the rates between the early evening till midnight suggesting a fall in rates, but an increase in rates between hours of 3am to 6am. Also, some work examining alcohol-related demands across 2000 to 2004 on Accident & Emergency (A&E) departments suggested that overall demand is stable, but that there are differences by region; some hospital services have seen increased demand, others have fallen<sup>88 89 90</sup>.

Nevertheless, when it comes to crime, disorder and public safety, the House of Lords report suggest that, while violent incidents where the victim perceived the perpetrator acting under the influence of alcohol has stayed approximately at the 48% to 55% level across 2005/2006 to 2014/015, actual numbers of offenders that were likely to have been under the influence of alcohol at the time of the violent incident taking place has fallen in that period by 36%<sup>91</sup>. This would suggest that the license has met some of its key objectives. Though it is worth highlighting two other factors that are important in connection to these findings. First that overall incidents of recorded violence in the same period have been decreasing<sup>92</sup>, and that there have been corresponding changes in police powers. For instance, police licensing officers are responsible for promoting best practice in the context of crime, disorder, and public safety. In many cases, the report highlights the need to collect precise records of outcome, such as, figures on use of serious police powers which would help determine the extent to which enforcement of particular types of powers occur, and whether there are in fact emerging trends over time. Though the House of Lords report draws attention to this as an issue regarding lack of data, and/or a lack of precision in the context of records of enforcement, it makes the same point several times over in relation to other objectives that the license was designed to achieve. This is not an isolated point, in fact the very same issues are also raised in academic circles in which concerns about quality of the evidence base has been made<sup>93</sup>, and which in turn restricts what can be inferred, and what can be used to support evidence based policy decisions.

Nevertheless, a more general point about the impact of the licensing act on reducing harm, and reducing crime, is that the act, and any amendments to it, are one of many factors that has impacted crime rates. Any substantive changes in the general profile of crime (i.e. what crimes are committed, and when, and how many) as well as specifically around the time of

<sup>87</sup> Babb, P. (2007): Violent crime disorder and criminal damage since the introduction of the Licensing Act 2003, Home Office Report 16/07. Available from <http://rds.homeoffice.gov.uk/rds/pdfs07/rdsolr1607.pdf> (last accessed 1 Oct 2010)

<sup>88</sup> Sivarajasingam, V., Morgan, P., Matthews, K., Shepherd, J., & Walker, R. (2009). Trends in violence in England and Wales 2000–2004: an accident and emergency perspective. *Injury*, 40(8), 820-825.

<sup>89</sup> Hough, M. & Hunter, G. & Jacobson, J. & Cossalter, S. (2008): The impact of the Licensing Act 2003 on levels of crime and disorder: an evaluation. Home Office Research Report 04. London: Home Office

<sup>90</sup> Newton, A. & Sarker, J. & Pahal, G. & van den Bergh, E. & Young, C. (2007): Impact of the new UK licensing law on emergency hospital attendances: a cohort study. *Emergency Medicine Journal* 24: 535–538

<sup>91</sup> <https://www.ons.gov.uk/file?uri=/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/yearendingmarch2015/bulletintablesfocusonviolentcrimeandsexualoffencesyearendingmarch2015/%0A03natureofcrimetablesyearendingmarch2015violencetcm774326921.xls>

<sup>92</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/2015-02-12/chapter1violentcrimeandsexualoffencesoverview>

<sup>93</sup> Holmes, J., Guo, Y., Maheswaran, R., Nicholls, J., Meier, P. S., & Brennan, A. (2014). The impact of spatial and temporal availability of alcohol on its consumption and related harms: a critical review in the context of UK licensing policies. *Drug and alcohol review*, 33(5), 515-525.

the introduction of the licensing act need to take into account the interactive nature of the multiple factors that contribute to explaining trends in crime rates as well as other objectives used to assess the efficacy of the license it meetings its objectives<sup>94</sup>.

### Summary of strengths and weaknesses

Two of the three licensing schemes discussed in this section have been implemented in England and Wales for over 10 years, and so there should be a reasonable evidence base on which to determine efficacy (in terms of uptake of the licensing scheme) as well as impact (improving compliance, and meeting the objectives of the licensing scheme); however, as can be inferred from the review, the evidence base carries with it some concerns. The other licensing scheme si no longer in effect, but again during the period in which it was enforced there is some empirical work available to determine efficacy and impact.

**Strengths:** Looking across the three different licensing schemes, where there are reported strengths, they can be summarized as follows:

1. Effective uptake of the licensing scheme has been linked to prior experience of licensing schemes in place, along with a direct financial incentive scheme that rewards those that apply for licenses
2. When the public is made aware of the licensing scheme, and crucially its functional purpose, for those businesses that are licensed, consumer confidence in the business increases

**Weaknesses:** Looking across the three different licensing schemes, where there are reported weaknesses, they can be summarized as follows:

1. Efficiency in the implementation of the licensing scheme is a significant problem and that leads to negative attitudes and behaviour of businesses applying for a licenses, and negatively impacts motivations of local authorities processing applications.
2. Based on the objectives of a licensing scheme, while there is some limited evidence to suggest that there are improvements subsequent to the introduction of a license drawing a direct link between license and positive outcomes has been hard without clearly specifying from the outset the indicators of success, in order to conduct before and after studies.

### Conclusions and Reflections

The aim of this section is to draw some conclusions from the literature in order to map out some practical ways of building on potential strengths and avoiding weaknesses. This is dealt with in the first part of this concluding section '*Ways of responding to strengths and weaknesses*'. The second part of this concluding section will present some reflections on additional factors that ought to be considered when implementing a licensing scheme '*Tracking efficacy and impact of licensing schemes*', though this part is more speculative, since the evidence base is limited and so any reflections here ought to be considered with more caution.

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<sup>94</sup> Hough, M. & Hunter, G. & Jacobson, J. & Cossalter, S. (2008): The impact of the Licensing Act 2003 on levels of crime and disorder: an evaluation. Home Office Research Report 04. London: Home Office

## Ways of responding to strengths and weaknesses

### 1. Increasing the efficiency of the application process.

Not only is it important to provide local authorities enough lead time to implement the licensing schemes, and provide enough information so that it is clear what the licensing schemes is for, there are other simple procedures that can improve efficiency which has been discussed previously in the reviewed literature.

- a) There is no standard format of information presented regarding licensing schemes across local authority websites for most of the licensing schemes that are currently in operation. The level of detail presented varies, and the clarity of information regarding fee structures and payment processes also varies. Local authorities should be provided with a standard format regarding the details of the licensing scheme with clear and easy to follow guidelines, FAQs that business are likely to have, and how the application process can be completed. The only aspect that need vary between LAs is their own specific fee structure (if a standard fee is not used across all LAs), not the content of the information on the application procedures, which should be standardized throughout. Below are a few choice questions that have consistently emerged that would require responses in the guidelines and as FAQs.
  - i) Across the reviewed work, a question to provide an answer to is: *Approximately how many days did it take to obtain this operating license from the day of the application to the day it was granted?*<sup>95</sup>
  - ii) When it comes to enforcement, a simple list of answers to the question *What are the consequences of non-compliance?* would be invaluable to lay out the different stages that follow (e.g. frequency of reminders, late fees, fixed penalties) not only for local authorities but to business as well.<sup>96</sup>
  - iii) Across the reviewed work, a question to provide an answer to is: *What are the benefits of being licensed?* Answers to this would be invaluable for local authorities but to business as well, because a response to this anticipates likely resistance to the licensing scheme and motivations to apply for a license.

With regards to the last question, the behavioural rational for introducing any new licensing scheme for businesses should be framed from the point of view of the potential benefits of the scheme, because businesses will perceive any changes in current practices in relation to regulators as impacting their resources (i.e. in effort, time, human resources, financially) [for more detail on this see a recent report by the FSA<sup>97</sup>].

### 2. Introducing an incentive structure

One issue to raise here is that there is next to no empirical work that directly compares licensing schemes in different sectors over time. The factors that indicate effective uptake of a licensing or, for that matter, a registration scheme, in one sector would not necessarily lead to the same effective uptake of a licensing scheme in another sector. It may be the case that what is effective in one sector simply doesn't generalize to another sector, because the conditions for up take are context specific.

<sup>95</sup> Hallward-Driemeier, M., & Pritchett, L. (2015). How business is done in the developing world: Deals versus rules. *Journal of Economic Perspectives*, 29(3), 121-40.

<sup>96</sup> <http://www.respublica.org.uk/wp-content/uploads/2015/03/Out-of-the-Cold.pdf>

<sup>97</sup> Osman (2018). FSA report "How can we make business more compliant?"

However, drawing from the work that was reviewed, of the three licensing schemes discussed at length in this section, the most obvious success story is the Landlord licensing scheme. Where there is evidence to suggest effective uptake of the scheme it has been where financial incentives are tied to receiving a license; the mortgage relief interest in connection to registration of landlords in Ireland.

To complement this, work in the decision sciences [for more detail on this see a recent report by the FSA<sup>98</sup>] would suggest that efforts from regulators to encourage more compliance requires some understanding of what would motivate business to comply. Complying in and of itself is not the end goal for businesses, even when there are obvious penalties for non-compliance. If there are no direct financial incentives attached to a licensing scheme, indirect financial incentives could be factored in<sup>99</sup> as a way to signal to businesses the merits of a licensing scheme. The findings from this review reveal that businesses can build negative attitudes and expectations towards new licensing schemes, especially if they believe them to be an administrative burden with little by way of an upside. If positive views towards compliance are lacking, taken together with inefficiencies in processing license applications, could lead to further disincentivisation. One way to address, as well as correct, misapprehensions around the scheme and negative attitudes towards it is to make it clear in communication around the introduction of the licensing schemes as well as the information accompanying the application process itself what the benefits to business are could be. This also needs to be accompanied by efforts to communicate the introduction of the scheme to the public. When included as part of the empirical research, responses to questions regarding the level of public awareness of the licensing schemes suggested that, for the most part, it was low. If a business were licensed and compliant, and if consumers are aware of the high standards of safety associated with both, then this may well lead to reputational benefits as well as financial benefits (i.e. increased trade) for the business. However, it is worth stating that this is speculative, because this is based only on support through a single empirical study of the effects of the Mandatory tenancy registration in Ireland<sup>100</sup>.

### **Tracking efficacy and impact of licensing schemes**

A significant challenge when introducing a licensing scheme is how to establish its success against the objectives that it was designed to meet. A further challenge that is faced is that each objective will likely have multiple indicators of success, and so what is also needed is a way to establish what indicators ought to take priority, in particular, if the conditions of the licensing scheme change. On this latter point, two examples to illustrate this are: 1) the variation in the period the license covers (e.g. Landlord licensing Scheme, Alcohol licensing scheme), and 2) the inclusion of an annual fee to then discontinuing the annual fee (e.g. Landlord licensing Scheme).

Based on the literature reviewed here, the major issues around assessing the efficacy and impact of a licensing scheme are the quality of the data collection, the range of metrics

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<sup>98</sup> Osman (2018). FSA report "How can we make business more compliant?"

<sup>99</sup> For instance, the Food Hygiene Rating Scheme was introduced in England in 2000. It is a rating scheme that food businesses signal to customers as to their level of compliance in food hygiene standards which has indirectly impacting business financially. The uptake has been successful, and makes a meaningful impact on the food businesses customer base, because greater customer trust in the food business increases the reputation of the business. <https://search.proquest.com/openview/32fa1214a59065ad4c88d24e566ea5db/1?pq-origsite=gscholar&cbl=2029995>

<sup>100</sup> <https://www.jrf.org.uk/report/regulation-private-rented-sector-england-using-lessons-ireland>

included, and methodology used to evaluate success. Even if the conditions of the licensing scheme change, so long as the metrics stay the same, and the methodology is rigorous enough, then any empirical work, or accompanying computational modelling work, that is used to determine the efficacy and impact of the licensing scheme will not be effected.

The limitations in the evidence base restrict what can be inferred when trying to draw a direct casual relationship between the implementation of a licensing scheme and changes in business behaviour. One common limitation that appears in the reviewed evidence that needs to be addressed in any future licensing scheme is the need to establish the baselines on which changes in behaviour are evaluated. As highlighted in the work that examined consumer awareness of the Butcher's shop licensing scheme, consumers could only make retrospective judgments about confidence in purchasing behaviour as a result of the license, because there were no metrics to do a before and after comparison. For instance, if confidence in consumer behaviour is a relevant assessment of the impact of a license scheme, then identifying metrics (existing or developing new ones) to determine level of confidence in consumer behaviour prior to introducing the licensing scheme needs to be outlined.

The trialling of a licensing scheme can serve many benefits, not least because it is in and of itself a data gathering exercise. National surveys of businesses, such as the ones used to assess the success of the landlord licensing scheme, carry many advantages, the most obvious being that the sample is bigger than more bespoke qualitative methods. Also, the same survey used at the start of trialling the scheme, can also be used again at multiple points of the trailing period to gain some insights into possible changes in attitudes. This could be used along side behavioural data, in order to track whether attitudes and behaviours are aligned or misaligned. In addition, because different stakeholders need to be aware of the introduction of a new licensing scheme, the evidence gathered during trailing can be used in the promotion of the scheme. For instance, if there is evidence to suggest that there are improvements in compliance of business behaviour, and that in turn, this increases trade for businesses, then this evidence can be communicated to different stakeholders as a meaningful way of promoting the benefits of the licensing scheme. As mentioned in the previous section, correcting misapprehensions that businesses may have about the introduction of a licensing scheme could be addressed by providing information accompanying the application process itself; this could communicate what the benefits to business actually are, rather than could be in principle. For instance, if there is preliminary evidence from the trialling of the licensing scheme to show that it meets the objectives on key metrics which were *a priori* identified in relation to the objectives of the licensing scheme, then the stated benefits would be presented with evidence, which would make the communication much more compelling to prospective businesses applying for a license.

Also, developing a national register has also been a useful data gathering approach to assess efficacy of a licensing scheme, such as the Rent Index in Ireland. It only serves as a partial indicator of sector trends and effectiveness of the Mandatory tenancy registration in Ireland. Nevertheless, the register provides useful information to the public, which in turn raises awareness of the licensing scheme it self, and enables business to assess rental prices in their locale<sup>101</sup>. If, for instance, a national register of this kind were developed when introducing

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<sup>101</sup> It is possible that a register of this sort can lead to price competition, assuming that the supply of rental properties is high and demand is high – as noted in the report by Moore and Dunning (2017), in densely

a licensing scheme for new food businesses that are licensed, then this could be coordinated with other national registers such as the Food Hygiene Ratings Scheme (FHRS)<sup>102</sup>.

The FSA website includes the FHRS inspection results given to a business reflecting the standards of food hygiene found on the date of inspection or visit by the local authority, and the details of the last date of inspection are also provided on the register, as well as awaiting update of the FHRS score based on a recent inspection. Perhaps a combined metric could be developed in a national register that lists all newly licensed businesses, along with their FHRS scores, while taking account of the last date of inspection (which can vary). Though some method of this kind would mean that all new businesses that receive a license would have to be inspected in order to appear on the register with an accompanying FHRS score. The point to take away from this is, as with the Rent Index national register in Ireland, a simple and frequently updated set of national metrics that are available for the public to make informed decisions is useful on a number of grounds. The advantage of the illustration here is that the metrics are a way of determining impact of the licensing scheme, and even if at some later stage the conditions of the scheme change, as long as the metrics stay the same, efficacy and impact can be evaluated.

The points suggested in this final section are speculative, in the main because the evidence base restricts the possibility in making firm conclusions. Nonetheless, there are several ways in which the literature discussed here provide vital indicators as to what to consider when introducing a new licensing scheme.

- 1) present a clear rationale for why the scheme is in place needs to be communicated to all relevant parties (incl. Local Authorities, Businesses, Public);
- 2) ensure that the process of applying for a license and granting a license are as efficient and streamlined as possible;
- 3) ensure that the communication to support the application process is as consistent and transparent as possible across all local authorities;
- 4) ensure that right from the start of the introduction of the licensing scheme the objectives of it are communicated clearly to all relevant stakeholders, as well as how the objectives are going to be evaluated; without this, there is no reliable way to establish the efficacy of the licensing scheme;
- 5) introduce incentives for business as part of the license scheme application process.

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populated cities, there can be high demand, but low supply, which drives up rental prices, which also isn't taken account of or reflected in the register.

<sup>102</sup> <http://ratings.food.gov.uk/>

## Appendix 1

### Yorkshire council Betting shop Fees 2016

Premises Type	Application Fee	Annual fee	First Annual fee (30 days after licence grant)	Application to Vary	Application to Transfer
	£	£	£	£	£
Gaming Machine Notification (Upto 2 machines)	50	-	-	-	-
Gaming Machine Permit (more than 2 machines)	150	50	50	100	25
Club Gaming/Machine Permit	200 (100 if CPC holder)	50	50	100	-
Bingo Club	800	700	250	500	550
Betting Premises (excluding Tracks)	800	600	250	600	550
Tracks	950	750	250	650	550
Family Entertainment Centres	600	450	250	300	450
Adult Gaming Centre	800	700	250	600	450
Unlicensed Family Entertainment Centre	300	-	-	-	-
Temporary Use Notice	250	-	-	-	-

	Application for Re-Instatement	Application for Provisional Statement	Licence Application (Provisional Statement holders)	Copy Licence	Notification of Change
	£	£	£	£	£
Bingo Club	500	1,200	400	25.50	50
Betting Premises (excluding tracks)	500	1,200	400	25.50	50
Tracks	400	1,200	400	25.50	50
Family Entertainment Centres	400	1,000	300	25.50	50
Adult Gaming Centres	400	1,000	400	25.50	50

## Appendix 2

Gateshead Council survey response data<sup>103</sup>

	Successful		No Change		Unsuccessful	
	Residents	Landlords	Residents	Landlords	Residents	Landlords
Improving external property conditions	37%	41%	33%	33%	30%	26%
Improving internal property conditions	41%	47%	31%	43%	28%	10%
Improving landlord management	37%	33%	36%	46%	27%	21%
Improving tenant behaviour	32%	15%	45%	54%	23%	31%
Reducing anti-social behaviour	24%	28%	45%	48%	31%	24%
Reducing empty properties	36%	41%	38%	33%	25%	26%
Reducing turnover of tenancies	27%	24%	57%	53%	15%	23%
Resolving specific problems such as overgrown gardens through proactive campaigns	23%	40%	39%	28%	38%	32%

<sup>103</sup> [http://www.legislation.gov.uk/uksi/2007/479/pdfs/uksiem\\_20070479\\_en.pdf](http://www.legislation.gov.uk/uksi/2007/479/pdfs/uksiem_20070479_en.pdf)