



# Select Committee on the Licensing Act 2003

## Oral evidence: The Licensing Act 2003

Tuesday 8 November 2016

10.35 am

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Members present: Baroness McIntosh of Pickering (The Chairman); Lord Blair of Boughton; Lord Brooke of Alverthorpe; Lord Davies of Stamford; Baroness Eaton; Lord Foster of Bath; Baroness Goudie; Baroness Greender; Baroness Henig; Lord Mancroft.

Evidence Session No. 13

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Questions 133 - 143

### Witnesses

I: Chief Superintendent Gavin Thomas, Police Superintendents Association of England and Wales, Assistant Chief Constable Rachel Kearton, National Police Chiefs' Council and Alison Hernandez, Police and Crime Commissioner for Devon and Cornwall.

## Examination of witnesses

Chief Superintendent Gavin Thomas, Assistant Chief Constable Rachel Kearton and Alison Hernandez.

Q133 **The Chairman:** Good morning, ladies and gentlemen. I bid a very warm welcome to our witnesses. Thank you very much for being here today and for agreeing to give evidence to the Committee this morning.

A list of Committee members' interests relevant to the inquiry has been sent to you and is available to you this morning. The session is open to the public, it is being broadcast live and is subsequently accessible via the parliamentary website. A few days after the session, you will be notified of the transcript and a copy will be sent to you. Could you check it for accuracy and notify the Committee of any corrections as quickly as possible? After this session, if you wish to clarify, amplify or supplement any of the points you have made, if you could do so as soon as possible, that would be great.

I will ask a general question at the outset. Could you each give the Committee a general impression of the impact of the Licensing Act on the police and emergency services over the past 11 years? Is it working as well as it should be? Are there areas where you believe there is room for improvement?

**Alison Hernandez:** A number of areas of impact of the Licensing Act have become apparent to me, particularly since I was elected in May. I will highlight a broad range of things that have come to my attention. One is that last year policing was undergoing a police funding formula review, which was paused, and we are now under another police funding formula review of how money is allocated to police forces. The impact of bar density in an area of policing is recognised as having an impact on policing or crime and disorder in that area. It is interesting to highlight that, when looking at the police funding formula and how money is allocated to forces, the number of bars and bar density is definitely an element that was considered last year and is being considered as part of the review this year. It shows that there is an acceptance by government that there is a direct correlation between bars, crime and disorder and policing.

On general issues, I have been consulting on my police and crime plan for the summer. It has come out quite interestingly that the public feel that they would like more visibility of police officers where they live. The reality is that police officers spend a lot of time on shift in the night-time economy on Friday and Saturday nights in towns and cities, rather than in the communities where people live. Considering that domestic abuse is becoming a bigger and bigger issue to police, it is becoming a challenge for police forces to offer a response regarding the way the Licensing Act has impacted on towns and cities across our patch.

One of the other areas that is really critical and has really affected us is the increase that has come through in health and medical costs. Queues at A&E and things like that, which have been an impact of late-night

drinking particularly, have affected the cost to the NHS, to the extent that it has created streets triage, whereby people can get help on the street, rather than having to go to A&E. We have had to look at different processes with our health colleagues. That has created real effort from local communities. We have had volunteers such as street pastors, who see the effect of the Licensing Act particularly in the late-night economy, and I congratulate them on their efforts. They are well trained and well considered, and they play a great role in ensuring that those who are the most vulnerable, who are out drinking late, are supported. Those are some of the general things that I would like to set out for you. My colleagues will be able to answer for you on the more specific policing elements.

**Chief Superintendent Gavin Thomas:** Good morning, and thank you for the opportunity to speak to you today about a very important area not only for policing but for public services in communities. I consulted a number of my colleagues across the country before coming to you today, so I can support some of the things that I shall say. In direct answer to your question, we are broadly supportive of the intent of the Licensing Act, which was brought in in 2005, but there are areas where I think the Act can be strengthened to support communities. The three broad areas I would focus on are consistency, training or development of those involved in this through their knowledge and approach, and partnership working.

**The Chairman:** Do you mean consistency in decision-making?

**Chief Superintendent Gavin Thomas:** Consistency in decision-making and, from what I see, consistency in application of licensing matters, particularly within an area. To amplify that point, a policing area may operate under six local authorities, for example, and those six local authorities may apply a different interpretation or a different application of the licensing legislation. That produces some complexity in how we apply the law to communities within that policing area.

The strengths are—certainly from the feedback I have had from my colleagues—that the Act is seen as an enabler. A good example is that, in a big city area, a nightclub that holds in excess of 2,000 people was badly managed over a period of 18 months, and was high risk in that city area. That resulted in firearms incidents and stabbings. In excess of 40 officers were deployed during some peak periods to police it by way of high-visibility policing. I emphasise high-visibility policing, because demand goes beyond just visibility on a Friday or Saturday night. The legislation allowed an expedited review, the premises were closed down and the demand has been zero, not only on police resources but, as Alison has just said, on other public services as well. There are positives in what the legislation is delivering across the country.

**Assistant Chief Constable Rachel Kearton:** Thank you for the opportunity to speak to the Committee today on behalf of the National Police Chiefs' Council. I will reinforce a number of the points that have just been made by the other two. Some of the positive impacts of the

Licensing Act 2003 are that it has given the opportunity for a number of responsible authorities to come together and share responsibility. It is not just a police-focused approach. It is a combined consideration of the impact on the community and on the commercial opportunities that an application for a licensed premises might have. It is a bringing together, and there has been some extremely positive partnership working.

On the other side of that, the intention was, as I understand it, to be more flexible in the opportunities available for licensed premises. It was intended to stretch the hours of operating and to give much more flexibility in the issuing of licences. In reality, it is a competitive and commercial environment, and when a licence for extended hours has been applied for, it has encouraged other licensees, quite naturally, to apply for one, too.

There has been a concentration in hours. In the policing context, we have had a reduction in police officers over this period, with an increase in the complexity of what we work with. The social environment is important. People's drinking habits have changed over the period; we can probably cover that in more detail later. All of that, taken together, has complicated the picture. There are opportunities. It is a matter of working within the context of the Licensing Act. With more rigour, we can develop it further for the benefit of communities to keep them safe.

**Q134 Baroness Greender:** I want to talk to you about the late-night levy. It was introduced in 2011 and was taken up by only seven local authorities, and 70% of the income raised goes to the police. It does not specify that the 70% should be spent on late-night issues. Do you think that the late-night levy should be changed in some way to ensure that the money is spent in that area?

**Assistant Chief Constable Rachel Kearton:** Do you want to direct that to one of us specifically?

**Baroness Greender:** No.

**Assistant Chief Constable Rachel Kearton:** I will kick off. Policing is a 24-hour, seven-days-a-week business across 365 days of the year, and the impact of alcohol can be felt throughout that whole period of time. Late-night hours and the night-time economy extend over the night time, but the policing impact is often picked up the next morning when people are sober. Witness statements can be taken, victims come forward, and so on. People find damage on premises that they own next door to licensed premises, or whatever it might be. First and foremost, we are looking at the totality of the impact of alcohol and what may come from licensed premises.

On the other side, if the late-night levy had more rigour in its conditions, to give confidence to licensing authorities that it would be spent on policing, which it does not have at the moment, that would be an opportunity, because, as I said, the strongest part of the Act is the partnership working that we have seen develop over the period. It would

give confidence to other authorities that the levy would be focused on challenging the impact of alcohol and on the licensing objectives to deal with that.

**Chief Superintendent Gavin Thomas:** To amplify that point, when the late-night levy was introduced, it was at a time when we did not really understand what the implications of the legislation were. What do I mean by that? In the night-time economy, the demand on policing has shifted significantly. The ONS statistics show that alcohol-related violent crime in the early part of the evening is about 23%. It goes up to 84% between midnight and 6 am. Manchester—GMP—has done a lot of work around this. Between 3 am and 6 am, 21% of all recorded crime is alcohol related. That has risen from 8% in 2003. There has been a significant change in demand as regards the timescale for violent crime over the 24-hour period.

The other point, to which I alluded in my opening statement, is that things have become more complex. A violent incident that takes place in a licensed premises or on a street is not just a straightforward investigation about somebody who has been assaulted, for example, and the perpetrator and witnesses. There is now a large amount of digital evidence, with people who have photographed it and downloaded it. It is a more complex investigation than we were perhaps used to between 2003 and 2005. There is a focus on high-visibility policing in the late-night environment, but the complexity of policing goes beyond that. The resource implications for policing go beyond that pinch point on the street outside licensed premises during dark hours.

**Alison Hernandez:** Some of the reasons why late-night levies have been challenging to implement are that, if there is a business improvement district in the area, people are already paying a levy for business costs, and it becomes a bit more complicated. There are lots of business improvement districts. I thank the businesses that are running those and contributing to policing some of the night-time economy through their funds.

I do not think that the legislation needs to change. In my view, it is about how the police and crime commissioner and the chief constable lay out, with the local authorities in the area for which they are responsible, how they would spend the money. It could be different in different local authority areas, depending on their needs. I would not want to be restricted; I would want the flexibility to have a conversation about how it would work for us in a local area. For example, it might be different in Torbay, in my patch, compared with Barnstaple. It is a matter of thinking about what we want to do differently. Would we want to spend it all on policing or all through a community safety partnership, which would be my personal preference—looking at how we use the money for prevention rather than for enforcement? I am really keen to see the inclusion of food establishments in the late-night levy, so that it is not just alcohol premises. An opportunity to expand it to other premises for the whole evening and night-time economy would be helpful.

**Baroness Grender:** Do you see the necessary rigour that you talked about in reporting, and therefore trust between the two parties—the 30% and the 70%—as a necessary evil in order to get higher uptake of late-night levies? Would you want local authorities to increase the number that adopt the late-night levy?

**Assistant Chief Constable Rachel Kearton:** I would personally like to see an increase in the number that adopt the late-night levy. That rigour will give confidence to the other parties involved that it would be spent on a more community perspective. It would be a multiagency objective to provide the assurance that it was directed at managing the night-time economy better.

**Lord Blair of Boughton:** I want to pull something out of what you said, Mr Thomas, about the Manchester data. You were talking about a very large amount of alcohol-related violent crime in the early hours of the morning.

**Chief Superintendent Gavin Thomas:** Yes.

**Lord Blair of Boughton:** Geographically, is that in and around licensed premises, or are you talking about people going somewhere else and getting into alcohol-related violence?

**Chief Superintendent Gavin Thomas:** I do not know that level of detail.

**Lord Blair of Boughton:** Otherwise, you would suddenly have a huge increase in violence in a city centre, if it was all in the city centre. This is very much Rachel's point: the spread of the impact on policing goes on into the early morning and then the next day.

**Chief Superintendent Gavin Thomas:** All I can say is that there was a stark rise—8% in 2003 to 21% now—for Manchester city. To reinforce that with evidence, the ONS supports that stark percentage increase. Demand on police resources, which is what I am talking about today, has shifted from what we were traditionally used to pre-2003 or 2005 to later in the morning.

I support the preventive element in the measure. If the levy is to be applied consistently, there is an opportunity to look at the partnership element; instead of unilaterally making a licensing decision, we could have wider understanding of the implications of that decision on the health and well-being of the community in the longer term and the impact that it has, not only on policing but on other partners in the community, too.

Q135 **Baroness Henig:** I want to pursue further the issue of violence. The evidence that we have had so far is that there has not been greatly increased violence but that it is being pushed further back into the night. Now the suggestion is coming forward that there is increased violence, too. Anecdotally, I have been told by some door supervisors that they think there is more violence, but we have not seen that in the evidence

that has been presented to us. Could I push you a little further on that?

**Chief Superintendent Gavin Thomas:** I think there has been a change in alcohol-related violence from what we would understand as public space to the private space. What I mean is that people are buying alcohol and consuming it at home. We are seeing a demand on policing—in fact, we were talking about this before coming into the Committee today—such that if you went to the high street on a Friday or Saturday night, where it is well managed and well policed and you have professionally trained door staff managing licensed premises, you would see high-visibility policing, probably just engaging but not actually running to incidents. Where you see the actual demand is when police are attending private premises, where there is domestic violence and violence within the private space.

**The Chairman:** From a policing point of view, if you have to move people from daytime duty to night-time duty, what are the cost implications? Are you paying overtime?

**Chief Superintendent Gavin Thomas:** Quite probably. I cannot answer that specifically, Chairman. There is some strong context. To remind the Committee, the measure was envisaged in 2003 and it came into action in 2005. A lot has happened in policing since 2005. We have had significant cuts in resources, with 19,700 fewer police officers across England and Wales. There is an impact, given the available resources, on managing the new and complex demands that I have just detailed. For context, in my association alone there are 28% fewer superintendents and chief superintendents since 2012. There are a lot fewer of us now than there were when the legislation came in.

**The Chairman:** I have grasped that, but are you allowed to pay overtime? I thought one of the reforms was that you cannot pay overtime. How are you incentivising police officers to go out and do night-time duty?

**Assistant Chief Constable Rachel Kearton:** On the back of what Chief Superintendent Thomas said, yes, there is flexibility to respond to an unforeseen incident by adapting to pay some overtime. That has not disappeared. Of course there is an increased cost. It is not a particularly efficient way to run the business. I would argue that, working with the on-licence premises, most of the time we can predict what happens; for example, on New Year's Eve. We all know that New Year's Eve is a national celebration, and it is a time when licensed premises tend to stay open. Traditionally, we would have had reflective jackets and police officers standing outside licensed premises to deal with the impact at those on-licences. This year—I was there to experience it personally—a number of police officers were standing outside extremely well-run on-licence premises. What most of my staff were actually doing, either single-crewed—double-crewed, if they were lucky—in individual cars, was buzzing around responding to domestic assaults.

Now, unfortunately, we are in a situation where 20% of my staff respond to domestic assaults as their daily bread-and-butter business. More often than not, they are alcohol fuelled. As for where that alcohol comes from, we need to look at this in the whole, at the off-licences and the on-licences. There is the whole question of pre-loading, where people drink from an off-licence and go to an on-licence. In a sense, does it matter? If it is the alcohol that is causing the vulnerability, that is what we need to target.

**The Chairman:** That leads neatly to Lord Brooke's question.

**Q136 Lord Brooke of Alverthorpe:** As we know, there has been a big shift in the sale of alcohol from the on-trade to the off-trade. Those in the on-trade claim that the police unfairly target pubs and clubs because they find it easier than dealing with the off-trade, which, as you have just been advancing, is arguably responsible for fuelling a significant proportion of alcohol-fuelled crime and disorder, yet is significantly less targeted by the police. Is that a fair assessment? With more alcohol now sold through the off-trade than the on-trade, should the police be rebalancing their efforts to focus more on the off-trade? If so, how could we facilitate that?

We have had evidence indicating that some people do not see a problem in this area, but listening to you this morning and reading some of the other evidence, I am aware that people have recognised that things are changing with the off-trade. How would you see changes being effected to help you in that regard? Also, could you answer the allegation that you focus too much on the on-trade rather than the off-trade?

**Assistant Chief Constable Rachel Kearton:** I can start the answer, and I am sure that my colleagues will have something to add. Going on from what I was just saying, to some degree we have dealt well, in partnership, with on-licence premises. There are a number of very successful initiatives, many of which are run and supported by the business and the industry, such as Pubwatch, Best Bar None and various other initiatives, which work very well in on-licence premises.

One of the issues in this area is evidence and research. It is incredibly difficult to research the impact of somebody buying a crate of alcohol from one of the corporate supermarkets and the impact it has two months later when they decide to drink it. We need to do some work in this area to build the evidence base so that we are better informed. That is something that I have been looking at from a national perspective, as I hold the national portfolio for policing in this area. There is a lot of anecdotal evidence to suggest that alcohol impacts on behaviour whether in the home or outside the home. Probably the healthiest approach is to consider the successes we have had in partnership in some of the previous initiatives and see how we can apply them to the off-licence trade to work together to instil a better sense of corporate social responsibility around its sales and commercial approach.

**Alison Hernandez:** I would add to that the real importance of the consideration of a public health objective in licensing terms. Obviously, it is indirect. There is not as immediate an impact from a sale from an off-licence as there is from one in on-licence premises. How do we ensure corporate social responsibility on the part of those establishments? The public health objective will make a huge difference. Let us be frank about the pre-loading that happens in the night-time economy. All the effort is seen and exploded at the pub and club end of the spectrum. That is where all the effort goes, but the impact actually all comes from the pre-purchase and the pre-effort that happened before, and we cannot show that direct link, even though we know it. If we put the public health objective into licensing, it will help to bring that responsibility to those establishments, so that they have to do things to educate the people who are buying from them, and it will make sure that effort is going in at those levels. Businesses and the industry in my area are very proactive, and they are very happy with the police response. I have not had any complaints about that. They are very supportive and work very well in partnership with the police to deliver a successful evening and night-time economy, but the public health objective would make a huge difference.

**Chief Superintendent Gavin Thomas:** To answer the question directly and to add to what has already been said, and in the context of where we are—our resources and the cuts that have been made in policing—I think policing absolutely works in partnership with the licensing trade. Where it works well, it is very effective in ensuring a safe environment for people to go out in and enjoy. It is a great economy within the local community as well. Let us be frank, however. There will be licensed premises that are not being run appropriately or properly, and they will have the focus of policing resources to ensure that they are brought back in line with the requirements of the legislation and that they are safe places that do not have an impact on local communities. If premises continue to be detrimental on those two points—I fundamentally support health and well-being as a fifth objective in the legislation—rightly, policing will focus on those premises. I gave the example in my opening statement about a club—a big licensed premises—that started to experience firearms incidents and stabbings. That gets to the point where policing has to step in and police it.

**Baroness Greender:** If resources are limited—as they are everywhere—but this is a source of income, and if more than a paltry seven local authorities are to take up the late-night levy, why have you not tried to maximise that system of income since 2011?

**Assistant Chief Constable Rachel Kearton:** Regarding the late-night levy specifically, applications have been made to have it brought about, and they have been unsuccessful. It is a joint decision. We are one of nine responsible authorities, and the police put across their approach. Those are the benefits and knock-on effects of a partnership approach. We do not always win. We are not a single voice on this.

**Baroness Greender:** But you are saying that you do not want it to

change; you think it can be changed if there is further integrity in the reporting between relevant parties, but all evidence suggests that that is not going to happen, because it has not been taken up, yet it is a source of income for you.

**Assistant Chief Constable Rachel Kearton:** Going back to your previous point, the reason it has not been taken up is that we have not been able to persuade the other authorities that we will spend it on the night-time economy. There is naturally concern that it may go to other areas of policing. It would not come to the police officers—the chief constable. It would go to the PCC, who was not in place, of course, when the late-night levy was designed under the original Act.

**Baroness Greender:** Why not push for the legislation to be changed, just so that we are really clear on that?

**Alison Hernandez:** It comes down to the strength of relationships with PCCs and their local authorities. If they believe it is the right thing to do, they will work hard on it. In my area, we have a lot of business improvement districts. The businesses in those areas are already levied and are already paying towards policing in some areas as well. Perhaps some of the research around the late-night levy needs to consider business improvement districts as well. I cannot speak fully on behalf of PCCs—I have been in post only since May—but I am aware that my predecessor, who was very much a lead for alcohol in the area and was pushing with PCCs for late-night levies, struggled to do it, but there were lots of other things to be done as well. It may not always have been a focus, because it was not a priority in the police and crime plans that they produced.

Q137 **Lord Mancroft:** We have thought about and looked at the idea of adding a public health objective, so it is interesting to hear you talk about it. For various technical reasons, my nightclubbing days are quite a long time ago, so I am not familiar with how clubs work nowadays—my children tell me, constantly and horrifyingly—but I cannot see many of the nightclub owners of my day being able to implement a public health objective. How would it actually work in practice? If it does not work in practice, it is pointless.

**Alison Hernandez:** We have piloted in my area something called the Drinkaware crew. They were called club hosts at one point. The licensed premises employ people to go around the pubs and clubs with information and leaflets, looking after people, checking that they are okay and starting some interaction. That was led by the industry, rather than by the police. The Drinkaware pilot has been quite interesting, and we will get our evaluation of it soon. We did it in about five pilot areas across Devon and Cornwall. We are getting it next month, so, if you would like, we can feed it into the process, if you have not finished. That might be helpful.

Schemes such as Best Bar None are starting. If we could get to the point of having better-quality food in premises while they are serving alcohol

as well, it helps with the public health objective—ensuring that people are properly refreshed, rather than just drinking alcohol. There are some opportunities that will aid a better, pleasanter environment for those sales.

**Chief Superintendent Gavin Thomas:** I think it will help directly, referring to what I said at the outset, with the element of partnership working across the piece; not only policing but health and education, concerning not only the short-term implications of alcohol in the community but the longer, more sustainable interventions that can be done to reduce demand on finite resources. Without that objective, I cannot see how you can introduce and deliver that partnership.

**Assistant Chief Constable Rachel Kearton:** I fully agree with the health and well-being objective. For me, it is about individual responsibility and understanding the impact on the individual—the individual’s understanding of the impact that it is having on them. That is a really important point. It is health and well-being: “What is it doing to me if I choose to partake and have alcohol?” This has been done incredibly successfully in other areas—for example, the cigarettes and smoking campaigns. We can learn lessons from elsewhere. People want that information, and they want a really good experience. To be honest, I believe that, if they were better informed and better educated about the impacts of alcohol and what impact it has on their behaviour, we would have a better overall experience for everybody concerned.

**Lord Davies of Stamford:** I do not think that the panel has actually addressed the question. It may be desirable to have public information campaigns about alcohol and its dangers, but that is not the issue of adding a fifth public health criterion to the licensing committee’s obligations when it is giving licences to off-licences or licensed premises. You are asking people to decide whether one additional licence for a supermarket to sell beer or wine, or an additional licence for someone to open a pub, is a threat or not a threat to public health. It is not clear to me how they could possibly take that decision. It is easy to say that we do not think that a particular individual, given his or her background, is suitable to have a licence. That is something that the police have done for many years quite successfully, and it is important that they should do it. It is easy for the police to say that, for a nightclub in the middle of the town, there ought to be metal detectors so that they can pick up daggers or knives going into nightclubs, or that there ought to be CCTV cameras. Again, that is a responsibility that the police have, and expertise that the police have—

**The Chairman:** Could we keep the questions short?

**Lord Davies of Stamford:** But to say that one particular licence is going to reduce public health or increase public health seems to me something that a licensing committee cannot really do.

**The Chairman:** Would anyone like to comment?

**Chief Superintendent Gavin Thomas:** This is something that I feel fairly strongly about. It is around public policy. I go back to my opening statement. We make unilateral decisions as a licensing committee to grant licensing to a community to sell alcohol in that community but have no cognisance of the wider effect it may have on the community itself and on society. To give a very practical example, if I am policing an area where a high number of women are being attacked because they are making themselves vulnerable because they are drinking large amounts of alcohol within that area, there is a more systemic, longer-term initiative, not only in the decision by the licensing committee but more widely, with the partnership, on how to mitigate that risk to those vulnerable young women, so they are not drinking alcohol and placing themselves at risk. There is a fundamental—

**The Chairman:** But that does not go to the health question.

**Lord Davies of Stamford:** No, it does not. You have not understood either.

**The Chairman:** Who are you asking to implement the health objective? That is my concern. You have already rehearsed before the Committee this morning how you have the powers to do exactly what you suggest should be done to stop certain types of behaviour. To pursue Lord Davies's question, how would adding a fifth objective progress matters?

**Lord Davies of Stamford:** Chief Superintendent, you have not understood my question. How is a licensing committee to know whether an additional licence—on-licence or off-licence—is going to take market share away from existing suppliers, whether it is not going to increase the consumption of alcohol at all, or whether it is going to increase the consumption of alcohol by adding to total consumption? That is the sort of decision that you are asking the licensing committee to take. How is it going to decide that?

**Alison Hernandez:** Local authorities are now responsible for public health—it has moved from the NHS. Local authorities should be considering that in their day-to-day decision-making anyway, so it makes sense to add it as an objective, in my view, to licensing. It adds strength to the corporate responsibility for public health that local authorities hold.

**Lord Davies of Stamford:** But how do they apply it to the licensing regime?

**Alison Hernandez:** I do not know if you have received a report from Public Health England before, or as part of your input into this. Public Health England is keen to look at and accept that things such as domestic abuse and child protection are part of public health. This is about what the drivers—

**Lord Davies of Stamford:** Ms Hernandez, this is about a licensing committee taking a decision on a particular licence. How is it going to interpret that?

**The Chairman:** I will allow Lady Eaton to come in.

**Baroness Eaton:** As with many things in strategies and policies, it is just a statement, but it does not tell me how the practicalities of a licensing committee can make any difference by adding the statement that you make to that decision. How do they know?

**Assistant Chief Constable Rachel Kearton:** I believe, Lord Davies, that there is a central part around public health information. It is about individuals understanding what they are doing to themselves, to their bodies and to their health. There is a responsibility on the licensees, I would argue, or there should be under this objective, to make people aware; just as we have put on cigarette packets exactly what happens to you if you choose to smoke, we should say what happens to you if you choose to drink and, if you choose to drink a certain amount, what effect that might have. That might be calories. It might be to indicate the number of calories that you are taking in. It might be a public health information service that describes the impact of sustained drinking over a period of time. It may be that it affects the cost of the alcohol sale, because if you have cheap alcohol and you can buy so much at a certain price, and come under the effects of alcohol over a shorter period of time for that amount of money, it will have that effect. It is about information to the individual, which they then take into account to make a decision as to whether they choose to partake in excess drinking or whatever it might be.

**Lord Davies of Stamford:** You have still not quite grasped the point I am making. You are talking about public health campaigns. You have referred to calorie intake and to smoking, for example. We have had very successful public information campaigns on those two things, but they have nothing to do with licensing. You do not have to get a licence in this country to sell sugar or tobacco, but you do for the sale of alcohol. That decision is taken by a quasi-judicial committee, a licensing committee, which has to follow the legal rules involved robustly and strictly. It has to decide whether one particular individual has a right to a licence or not. It is quite unclear to me how the committee would apply a public health criterion in doing that.

**Assistant Chief Constable Rachel Kearton:** I believe that those committees have a responsibility to have a public health information service. That is where I believe that responsibility lies.

**The Chairman:** We have made it more difficult, but you do not stop newsagents selling cigarettes and tobacco, so how would adding a fifth objective—

**Lord Davies of Stamford:** It is the wrong instrument.

**Alison Hernandez:** Cigarettes are now hidden behind a screen, and there are now very clear warning signs on the packets that you will die if you smoke them. Let me just give you an explanation of my Saturday night out this week, to show how well controlled the night-time economy

was, but it is an example that shows the need for the public health objective. While I was out in a city in my patch, I witnessed late-night drinking in a very large public house, which had professional door staff. It was a very busy evening. As I walked into the premises, somebody was being sick outside.

**The Chairman:** I think we are going to have to—

**Alison Hernandez:** I sat in the premises and witnessed two men being ejected for violence.

**The Chairman:** Could we stick to the question?

**Alison Hernandez:** I watched a woman pass out in the street.

**The Chairman:** We are looking at the Licensing Act.

**Alison Hernandez:** The issue is that the effect of how those premises, in terms of the sale of the alcohol—

**Lord Davies of Stamford:** It is nothing to do with public health. Violence is nothing to do with public health. If a pub has a reputation for violence, you can close it.

**Alison Hernandez:** But to help people recognise what they are drinking and have it more in their face, there is a really good opportunity, through licensing.

**Lord Mancroft:** I do not think that the Committee needs any persuading about the dangers and the potential damage, and about the great effect that public health campaigns of various sorts could or could not have. Those are all desirable things. We have some difficulty in grasping how a licensing body, a group of people who have to decide whether they are going to dish out a licence, can make that decision based on the possible pros or antis or the advantages or disadvantages to public health of a particular licensee having a licence or not. Even if they are given the criteria—even if it says you have to take into account public health when giving Mr Smith the licence, it would be very difficult to judge whether Mr Smith could do that or not, and what particular steps he could take. Although everything you say is deeply desirable, I cannot see how you can implement it in issuing licences. That is the difficulty we have.

**Alison Hernandez:** I have not been on a licensing committee, to know the subtle nuances of how it works, but conditions could be put on a licence, ensuring that information is available or about the way things work in the establishment. Local authorities are responsible for public health in all their decision-making. Why do we exclude it from this particular area when we can strengthen it?

**Lord Brooke of Alverthorpe:** This goes back to what you were just observing. A licence can be granted, but is it not possible that conditions can be attached to the licence that can educate and change? Is that what you are seeking?

**Chief Superintendent Gavin Thomas:** Yes. You could have a local community running a campaign around alcohol reduction and the impact of alcohol on the community, yet the licensing committee would be acting unilaterally and not taking cognisance of those facts and would be granting more licences to sell alcohol. If it is not taking cognisance of how to apply those conditions, what is the impact on the local community?

**Lord Davies of Stamford:** There might be better premises that are run better, providing a better appeal to the community.

**Chief Superintendent Gavin Thomas:** They could be.

**The Chairman:** We could do it by conditions.

**Chief Superintendent Thomas:** Yes.

Q138 **Lord Blair of Boughton:** I do not normally say that I have any particular interests to declare, but obviously I have 35 years of police service, so I had better declare it now.

I want to get to a couple of bits of practicality. The first—I do not mind who answers this—is about police licensing officers and their existence. Are they in decline? Why do we have no national accreditation of standards for police licensing officers? Secondly, when we are targeting rogue premises, why are we not using some of the simple powers against people being drunk on licensed premises? Why are we not doing anything about the supplying of alcohol to people who are obviously already drunk? We are looking to partnership working, but we are missing some of the obvious things that the police should be doing. When you ask the Home Office how many people were arrested for being drunk on licensed premises, it cannot tell you.

**Chief Superintendent Gavin Thomas:** I can probably assist you on the first part of your question, around training standards. This falls fairly and squarely to the College of Policing. There is a space or gap at the moment in knowledge, education and standards around licensing, not only regarding police licensing officers but around the licensing committee members. My understanding is that, before the legislation changed, there were licensing magistrates, who had knowledge of the legislation in some detail, and who were able to make informed decisions on licensing matters. From what I have been told, that is not necessarily the case now in the committees meeting and making those decisions. It is wider than just licensing policies; it is about responsible authorities, too.

To assist the Committee, the current Bill that is going through, the Policing and Crime Bill, which will allow a chief constable to designate authority to people within his or her organisation—apart of course from arrest and stop-and-search powers—could be part of the approach to professionalising them, if I may use that expression. Rather than having a warranted police officer per se, they could recruit or train somebody who has that specialist level of knowledge, and who can apply their licensing knowledge and powers in policing.

**Assistant Chief Constable Rachel Kearton:** There is a national standard, which I have recommended with my national lead, in the British Institute of Innkeeping. I encourage all forces to aspire to that for the standards of their licensing officers. You are well aware of some of the changes in make-up of force employees—who is a police officer and who is a member of police staff. The addition that Chief Superintendent Thomas refers to will, hopefully, allow a police staff member to enter licensed premises, which they currently cannot do if they are not a police officer. If they do not have warranted powers, they cannot go into licensed premises unless they are invited. Bizarrely, when we are trying to develop people with expertise and the continuity of knowledge and level of detail that we have referred to this morning, we need specialist police staff—employees—for those roles.

As regards the national picture, there is development to be done. That is recognised. I have set standards, but, as you are aware, the fact that there are 43 different police forces across England and Wales means that they are recommendations, not requirements. That is my position at the moment.

**Alison Hernandez:** I do not have anything to add.

Q139 **Baroness Goudie:** It has been suggested by other respondents that the introduction of police and crime commissioners has led to the politicising of licensing, in particular on whether or not to implement late-night levies or early-morning restriction orders. Do you believe that PCCs are able to consider those issues fairly and impartially, especially when they may face considerable pressure from the local residents they are answerable to?

**Alison Hernandez:** I suppose I had better answer that one.

**Baroness Goudie:** There is control by the council, too.

**Alison Hernandez:** Yes. Because the local authority has the power and responsibility for pushing it forward, it is at that level where the political challenge may be. In my area, chairmen of licensing committees have spoken to me about needing better support from the police as regards the evidence base, and helping them a bit more. On politicisation, PCCs will do what they need to do to raise funds, but I have not witnessed that. The power and control is with the local authorities.

**Chief Superintendent Gavin Thomas:** I do not think that I can add to that.

Q140 **Baroness Henig:** The Commissioner of the Metropolitan Police has repeatedly suggested that the number of licensed premises in central London should be actively reduced in order to reduce alcohol-related crime. The police were closely involved in the closure of Fabric, and many pub and nightclub owners across the country claim that they are being unfairly burdened with expensive conditions, which are making their businesses financially unviable. How can the night-time economy and the right of individuals to enjoy themselves be reconciled with the need to

control crime and disorder?

**Assistant Chief Constable Rachel Kearton:** I will not go into detail about Fabric—I do not work for the Metropolitan Police—but I am aware that six people lost their lives in those premises.

**Lord Blair of Boughton:** I think the matter is still sub judice.

**The Chairman:** Could we keep to general points on that?

**Assistant Chief Constable Rachel Kearton:** I will happily keep to general points. In a number of premises where we have reached the point of closure, some serious crime is being committed. That is not just a police decision; it is a total decision. We go through a number of processes before we get to that position. To put it into perspective, in excess of 200,000 licensed premises exist in the country and of those, in the last year, 73 were closed. That is nationally. Only 25 of those closures were brought about by the police. Putting it into perspective, that is 25 police-brought-about closures in the context of more than 200,000 licensed premises. We are on the side of having a responsible, well-run, licensed business in a community, which benefits that community, is safe and prevents crime and disorder from happening. That is the approach of the police service.

**Chief Superintendent Gavin Thomas:** I am not sure that I can add much.

**Alison Hernandez:** In my area of Devon and Cornwall, the establishments work closely with the police. I have not had any complaints from them that we are overburdening them with anything. They are very happy to work in partnership, and we have some excellent, industry-led initiatives, such as Best Bar None, which has just been relaunched in a number of areas in my patch. The actual industry is taking responsibility for some of this. As I said, I have no complaints in my area. We have a very large number of bars in our area because of our coastal towns. We are a leisure and holiday area. At any one time, we might be closely watching between only four and seven pubs or bars. It is a minority that we are talking about, which we really need to be tackling.

**Lord Davies of Stamford:** And they do not know that you are watching them.

**Alison Hernandez:** Usually. I do not know; it is not me watching them.

**Baroness Henig:** I am sure that the panel will be happy to hear that our Chairman will be engaging in more research in that area, in due course.

**The Chairman:** In a private capacity. Do you want to ask any more questions?

**Baroness Henig:** No, I have asked my question.

**Lord Mancroft:** If there are 200,000-plus premises and you have closed down 23, is that more premises than there used to be, or fewer? Are

there more closures than there used to be, or fewer? Does it mean that the closure system is working, or is it a complete disaster? Should you be closing more? Should you be closing none at all? Could you elaborate a bit?

**Assistant Chief Constable Rachel Kearton:** Those are very good questions. The total number of licensed premises is on the increase. We have more now than we did before. On the trend, which I believe is what you are really asking about, I do not have that level of detail at the moment. I cannot compare that with previous figures, because I do not have the information to hand.

I return to the point that this is not just about the police service. Even when I talk about 25 police-brought-about closures, it may be that the police have brought it to the licensing authority, and everybody else then brings about the closure. It is a combined approach with the other responsible authorities that makes that decision, not just the police service.

**Lord Mancroft:** Do the three of you think that the system is working, or is it a system that is not working?

**Chief Superintendent Gavin Thomas:** I lead a staff association. I have had fed back to me some context around that. The legislation requires that, when there is concern about a premises, a senior officer in that policing area can place a review on that premises to mitigate the risk there and then, and they should then go through a process. That might mean that the premises turns around and improves its management; it does not necessarily denote that it ends up being closed in the longer run. I do not have detail on the numbers, but there may be a far larger police interaction with licensed premises using the legislation to improve them, rather than de facto closing them in the longer run.

**Alison Hernandez:** In Plymouth some time ago, they developed what they called a cumulative impact or saturation policy, because they wanted to stop having more licensed premises in a particular area, but they could not turn them down just because of numbers. They tried to create a cumulative impact zone, which they could utilise as part of their evidence for licensing committee decisions. The number of premises has grown over time; we have so many that bar density was considered in the police funding formula review last time, and it is still on the cards for this time. There is acceptance that it has an impact on policing.

**Lord Mancroft:** I am sorry, but could you just—

**The Chairman:** I think we need to move on.

**Lord Mancroft:** But we have not really had an answer to the question, Lord Chairman.

**The Chairman:** Lord Foster.

Q141 **Lord Foster of Bath:** Assistant Chief Constable Kearton said earlier that

one of the great benefits of the Act was the partnership working that had been created. We have heard about industry-led partnerships, and obviously one of the big partnerships is the coming together of the responsible authorities. You said earlier in your evidence that there are some good examples—indeed, some very good examples. Collectively, could you share your thoughts on how we could spread that good practice and what improvements are needed? Perhaps you could use the three headings that we were given at the beginning: consistency, training and partnership working.

**Assistant Chief Constable Rachel Kearton:** In terms of those three headings, consistency is as with any relationship: the better we know each other, the better we work with each other. It is about recognising the difference in role. The police are primarily concerned with the crime and disorder approach. Other people are concerned with the public nuisance and child protection issues, and the other objectives. It is about understanding those roles, yet coming together. Joint training adds opportunities to develop, as does learning from other partnerships that have been successful. I see communication as a large part of my role—communicating good practice that has occurred across the country. It is like building on any good relationship, learning from experience and thinking about where we want to go in the future.

**Chief Superintendent Gavin Thomas:** I will start off with the three key areas of consistency, training and a partnership approach. To add to what has already been said, one of the areas that affects consistency when applying the legislation, from what I have been informed, is a risk-averse approach, to a degree, in some areas. If you are a small local authority, there are significant cost implications if you lose an appeal. From what I understand of the application of the legislation itself—I am not talking from a level of expertise on this, Chairman, so please bear with me—the de novo process means that, where the local authority puts in an appeal against a premises, the appeal allows the licensee to adduce evidence or facts after the appeal has started. Effectively, they can bring in improvements that were not prevalent at the time of the original appeal. Small local authorities are losing appeals and are starting to say that it is not cost-effective to apply the legislation. Whether that is an area that the Committee has looked at in its deliberations I do not know, but I offer it as an observation from what has been fed back to me by my colleagues.

**Lord Davies of Stamford:** Is it not a good thing if there are improvements?

**Chief Superintendent Gavin Thomas:** Absolutely, but in the appeal process, the costs of the appeal go back on to the local authority.

**The Chairman:** We need to speed up, because we have another panel.

**Chief Superintendent Gavin Thomas:** We are talking about tens of thousands of pounds of public money.

My last point is about partnership. There is an element that goes back to my original point about where decisions are made, which fundamentally relates to the wider impact on local public services and on communities themselves—the consideration of joint outputs and outcomes, with decisions made in those communities. Legislation accommodates that up to a point, but it could be addressed a bit more than it is now. We have touched on that already.

**Alison Hernandez:** In my area, across the two counties that we police, I have identified inconsistency in how we support licensing committees. Some people say, “You are really good. You support us loads”, but then I find that the police are not supporting them as well in another area. As part of a police force and as a PCC, I have a responsibility to ensure consistency within our local policing area. We will not get it nationally until we can get it right ourselves in-house.

- Q142 **Baroness Henig:** One of the licensing objectives is public protection, on which police advice is obviously significant. Given that we are told about the high likelihood of terrorist attacks, which may be targeted at late-night venues, should the objective of public protection be expanded explicitly to include measures to combat terrorism, such as target hardening, for example? Is that something that should be looked at?

**Assistant Chief Constable Rachel Kearton:** I have not had it brought to my attention, but clearly a late-night economy can be the target of terrorism. We have seen that happen elsewhere in the world, and we would be naive to think that it would not be a viable target. In our approach to the whole of licensing, focusing on the objectives that we have, we are going pretty well towards that. If it happens to be terrorism or some lone individual who is going to cause harm, by sticking to our licensing objectives we will meet the needs of communities and of licensed premises. The danger of looking at one particular type of crime is that we become overfocused in that area and underfocused elsewhere.

- Q143 **Baroness Eaton:** We have heard from some members of the industry that they feel that there is lack of scrutiny by licensing committees of police evidence. Paragraph 9.12 of the Section 182 guidance is often taken by licensing committees to mean that police evidence to licensing committees is given an enhanced status, which it may not deserve, particularly when police data is presented in a way that is unfiltered or misleading. Do you believe that prioritising police evidence is justified? If so, why? Could steps be taken to improve the quality of police evidence to licensing committees more generally?

**Assistant Chief Constable Rachel Kearton:** I would like to start on this area—I know that we are short of time. First, I operate in the world of evidence, as do my staff and the people I lead, so I expect there to be rigour around the evidence that is presented. Putting that into the context of our partners and the other responsible authorities, it goes back to my point about recognising the role and responsibilities of each of those responsible authorities. That is not to give us a bigger position around the table than anyone else. I have stressed that point throughout

the last hour. It is about equal partnerships working together in a multiagency approach. I would not expect there to be overemphasis on the police evidence.

Training and expertise fall within the national portfolio, and there is a programme of development for people working in this area, which brings people up to speed and keeps them up to scratch and knowing what is expected of them. The last conference was held just at the point when I took over this portfolio, and, from having been there, I am well aware that the level that is delivered is very high. It emphasises the points that are required on the gathering of evidence and what is required to go through the licensing process. I am comfortable that we have a system in place to deliver that professionalisation, but I am not naive enough to think that there are not areas and gaps that need further development. That is why there is a national programme that runs on an annual basis to deliver that.

**Alison Hernandez:** People's safety and security is obviously paramount, which I would say as an elected police and crime commissioner. As for how the evidence is supplied to licensing authorities to make those decisions, that certainly needs to be much more consistent and clear.

**The Chairman:** On behalf of the Committee, I thank each of you for giving up your time so generously and for being with us today. We really appreciate it. If there is anything supplementary that you would like to say, please let us know; there may be a couple of extra questions that we feed through as well. Thank you very much indeed for being with us.