



Select Committee on the Licensing Act 2003

Oral evidence: The Licensing Act 2003

Tuesday 22 November 2016

10.30 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 Smith of Hindhead; Baroness Watkins of Tavistock.

Evidence Session No. 15

Heard in Public

Questions 155 - 165

Witnesses

I: Nick Grant, Head of Legal Services, Sainsbury's Supermarkets Ltd; James Brodhurst-Brown, Manager, Regulatory Affairs and Trading Law, Waitrose; and Mark Bentley, Customer Operations Director, Ocado.

Examination of witnesses

Nick Grant, James Brodhurst-Brown and Mark Bentley.

Q155 The Chairman: Good morning, I welcome you most warmly. Thank you for participating in our inquiry and for coming to give evidence to us. A list of Members' interests relevant to the inquiry has been sent to you, and copies are available. I have two interests that are relevant to today's proceedings. I am a member of the All-Party Parliamentary Group for Food and Drink Manufacturing and of the APPG on Scotch whisky, and I receive hospitality in connection with both. I have worked with one of the directors from the Scotch Whisky Association, who was previously my researcher in Brussels. We meet for briefings and we have lunch and dinner, which apparently I am required to declare.

The session is open to the public. It is broadcast live and is subsequently accessible via the parliamentary website. A verbatim transcript will be taken of the evidence and will be put on the parliamentary website. A few days after the session you will be sent a copy to check for accuracy, and it would be immensely helpful if you could advise us of any corrections as quickly as possible. After the evidence session, if you wish to clarify or amplify any points you made, or if there are additional points you wish to make, it would be helpful if you could submit supplementary evidence to us as soon after today's session as possible.

How do you think the Act has worked over the last 12 years? Is it working as it was intended to do? Has it reached its objectives?

Nick Grant: On behalf of Sainsbury's, we regard the Act as broadly effective. If we think back to the regime that existed before, there was certainly a greater degree of inconsistency among licensing justices. Although there is still inconsistency in application, we none the less think the Act has been effective. The use of conditions helps to flex particular licensed premises towards the particular concerns and needs of a locality. That is important to Sainsbury's.

There are problems. The regime is still overly antiquated in its reliance on paper and formal notices. It still feels rather like the 1964 Act in some ways. Many businesses are digitalising and we think that many authorities could do more to make it easy for us to respond quickly to the full requirements of the Act. That is a practical concern. As a thematic concern, there is a tendency for blanket solutions. We are particularly concerned about the growth in use of cumulative impact policies and areas, because they do not sufficiently distinguish what we regard as the right direction for the retail industry—responsible retailing—and those who do not care so much.

James Brodhurst-Brown: I agree predominantly with Nick—there is a first time for everything. From the Act's introduction, its stated aims—one of the main ones is to protect children from harm—have been relatively successful. We have seen every statistic on children accessing alcohol go down significantly. I echo the point about the use of technology; updates and new applications can be quite laborious. We are seeing some moves,

but even with card payments and suchlike there is still a lot of inconsistency. On the whole, we are broadly happy with progress.

Mark Bentley: I agree. We have only three licensed premises and they are not open to the public. We have had no experience of inconsistencies.

Q156 **Baroness Grender:** A lot of witnesses say that there is a lack of consistency between different licensing committees. With stores and warehouses in different parts of the country subject to different licensing and planning policies, has that had an impact on you? What are your views on it?

Nick Grant: There is some inconsistency. It is better than it was under the previous regime. There is a balance. As a nationally based retailer with lots of outlets all over the country, it is obviously better for us that there is absolute consistency in decision-making. It occurs to me that the only way to get that is to have a national licensing committee, which would be inconceivable. Although it is occasionally irritating, and there will always be anecdotal examples of where it has gone wrong for a particular applicant or authority, in general the committees are well advised; they have a legal adviser and, broadly, in our view, they get things right. It does not always go our way but that's life. The balance is local flex, which we believe in, because one of our strong values as a company is to make a positive difference to the communities our shops are in. Broadly, we think the balance is correctly struck at the moment.

James Brodhurst-Brown: It is important that things that can be consistent are consistent but that things that need to be tailored to the locality are considered. The Act does that relatively well. We have seen an increasing trend in blanket approaches to retailers that is sometimes problematic for us, because we have varying levels of diligence and training. The problem from our perspective since the Act came into force is that as a responsible business we have spent millions of pounds on training and technology to assist us to make sure that we do not sell alcohol to anybody we should not, and on voluntarily changing labels to include various bits of information, but none of that is taken into account and we just get the standard list that anybody gets when they put in an application. That is sometimes problematic. It is not inconsistent; it is consistently applied to us, but the circumstances of our business are not taken into account.

Mark Bentley: I refer to my previous answer. We have only three licensed premises and we have never had any inconsistency.

Baroness Grender: It is interesting that you raised the blanket imposition of legislation. For instance, the 5p charge for a plastic bag was imposed by government, and there was some anticipation that it would have an adverse impact on retailers. The last time I checked, Tesco had made an £11 million profit. Sometimes, there might be anticipation of problems that in reality retailers can work with—for instance, food reuse and sell-by dates, where all of you have done great campaigns. Sometimes, government imposes things and the outcome is good. Is that

possible?

Nick Grant: Is it possible for the Government to do good things?

Baroness Grender: Can there be a blanket imposition that it is sometimes anticipated will have an adverse effect on your industry but in fact has a good one?

Nick Grant: The answer must be yes. In general, the approach of business will be slightly nervous about change, because, as James said, we invest a huge amount of money in a particular direction, and we get used to a particular regime. I was not involved at the time, but anecdotally, under the 1964 Act, it was very patchy with justices all around the country, but we understood. We hired people and trained them. We developed expertise in the nooks and crannies of the system as it was, so when the new Act came in, business was bound to take a step back and ask what it really meant. Would it be—the usual refrain from business—the law of unintended consequences? Time after time after time, with the best will in the world, a Government will legislate in a particular way and we as a business then have to adapt and change. It will cost us money and may cost jobs. Yes, you could argue that the reaction is often overdone, and good things happen, but it is the obligation of a well-run business to consider the full ramifications of a proposal. We adjust. We implemented duty plus VAT on alcohol. We did that quickly and wholeheartedly, and it is in force. No complaining, no whingeing: we just got on with it. But we have a duty to shareholders, employees and colleagues to say what we think might be some of the unintended consequences in all proposals.

Q157 **Lord Brooke of Alverthorpe:** Could you tell us how many full rejections of applications for licences your companies have had in the last 10 years—not Ocado? If you do not have the evidence with you, could you send it afterwards?

Nick Grant: We will send it to you.

James Brodhurst-Brown: I am happy to send that too.

Lord Davies of Stamford: Have you ever lost a licence? The question probably does not apply to Ocado. At Sainsbury's and Waitrose, what were the circumstances in which your licence was taken away, and what lessons or conclusions did you draw from the experience?

James Brodhurst-Brown: We have had no licences taken away.

Nick Grant: We have not had any removed. We have had applications where we could not come to terms on the conditions.

Lord Davies of Stamford: That I understand; it is part of the planning process and part of the licensing process, too.

Nick Grant: One of the points I want to get across to the Committee is that I think much more could be done to enforce the existing regime. We

believe that we invest a lot in responsible retailing. I personally have invested quite a lot of my career in the idea of responsible retailing and have been allowed to do so by my company. If a group of responsible retailers operates at a high standard, it is only right that those with the obligation to enforce should pay more attention to the retailers that do not care so much.

Lord Davies of Stamford: In answer to my question, you are saying that you have not lost licences, but you think there are people around who ought to have lost licences and have not.

Nick Grant: I think that is right. I do not want to come across as making a fairly mean-spirited point about anyone else, but it must be true, in a world in which we are prevented in certain areas from obtaining a licence, where we would bring to that licensed area all our investment in skills, training and responsibility, that existing licence holders are not scrutinised to a sufficiently high standard. Some of them do not care; some of them might be persuaded to care.

Lord Davies of Stamford: That is a clear point and we take it on board. On responsible retailing, do any of the three of you sell white cider or any equivalent high-alcohol product?

Nick Grant: No.

The Chairman: Can we hold off from that? Those questions are coming later. May I go back to your point about enforcement, Mr Grant? It goes to a key part of the Act. Are you saying that, when you and others have received a licence, the conditions attached are not properly scrutinised and that councils just accept them and let them run unless there is an objection from residents or a competitor?

Nick Grant: Yes. I do not want to get too anecdotal, but there are examples where we have to fight like mad to get a licence and there are a lot of conditions, some pointing to local problems. That is what we do. We negotiate local conditions that we think are evidence-based and reasonable. That is a fair balance, but once we have fought to get a licence, it is undoubtedly true that there are existing licensed premises that could be more closely scrutinised. There is a failure of understanding. Our view is that the police do not really understand the full extent of their powers to review. That is where we start to get the emergence of cumulative impact policies; they are adopted as an overall approach to damp down volume in an area, whereas we say that the responsibility of individual premises should be the goal.

The Chairman: I hope we will be able to pursue that further. It was very helpful.

Q158 **Baroness Henig:** I hear the points about nervousness about change and so forth, so I am a bit nervous about asking this question, but I will anyway. The law governing the granting of on and off-licences is the same at the moment. One of our witnesses told us that the price

differential, which is often a pretty big one, between on and off-sales has turned us into a home-drinking nation and therefore a different approach is needed to licensing the off-trade. Do you agree and how would it differ?

James Brodhurst-Brown: I do not agree. The retail world is very different from when the Act came in. There have been lots of changes. People shop more often; it is all about convenience, whereas historically they would have done a couple of big shops. There are lots of different elements. I do not think it is purely down to price. Responsible retailers will always take into account the price of their products and will not market them irresponsibly. I do not think price is the point.

Nick Grant: Home drinking is a pejorative term, is it not? It implies a whole set of images about what it means, but the last time I had a dinner party with a bottle of wine, or there was a barbecue, I did not regard myself as home drinking. We have to be wary of overloaded terms. I agree with James that the world has changed since 2003. Home entertainment is a totally different thing. On the train this morning, I was wondering what the average size of a television screen is now compared with 10 years ago. People invest in their homes; we are all Netflixed and networked. People learned some behaviours about drinking at home slightly more in 2008. There was an enormous crunch and recession, and people changed their behaviour. That has all happened since the Act came in, and we are in a very different world. On the other hand, to put the balance point, there is evidence, with some sign of the economy picking up, that people are starting to go out again, so I counsel against snap judgments as to whether a thing that happens at home is bad and that people will always be at home drinking. It is flexible; people are going out to restaurants more. It will change over time.

Baroness Henig: I think our figures are that more than two-thirds of alcohol are off-sales, not from sales on licensed premises. That is quite a significant amount. The suggestion that there could be two different regimes is not that outrageous. Earlier, you drew the line in a different place; you said it was between responsible retailers and those who were not responsible. That is a different way of drawing the lines.

Nick Grant: You would have to ask why you would change the regime. It is possible to romanticise the on-trade. Not all pubs are on a village green with responsible adults taking care of the young guns. It is not like that. To say home drinking in a pejorative way is too simplistic. There should be one regime that fairly reflects in the way it incentivises new licences the people who have the most responsibility to execute the licence.

The Chairman: Does anybody else wish to comment?

Mark Bentley: I agree, but I might broaden the observation. Pubs and clubs do not sell non-alcoholic drinks or food at the same price as supermarkets. Consumers might be up in arms if we decided to change our pricing strategy to that of a restaurant. From Ocado's perspective, we are lucky in that our average basket tends to be the traditional weekly

shop. We hear that is fading in sales, but we still maintain a traditional weekly shop. Our customer base tends to be families. We are lucky in that respect and are not perhaps as exposed as some competitors.

Baroness Grender: The question is driving towards the issue of pre-loading.

The Chairman: We are just coming to that. Baroness Goudie has some questions about it.

Q159 **Baroness Goudie:** A major cause of excessive drinking, especially among young people, is said to be pre-loading with cheaper alcohol bought from off-licence premises before going to the pub. Do you see different patterns in sales of alcohol, and particular types of alcohol, at weekends? More importantly, what could be done to prevent pre-loading?

James Brodhurst-Brown: From a Waitrose perspective, we have no evidence to suggest that our sales of alcohol change throughout the week. There are no trends. The volumes are greater purely because more people do their shopping at the weekend, but there is no evidence that they buy different things or larger amounts, percentage-wise.

Nick Grant: I support that. I have asked the question, and it is difficult to pull out from sales data anything that would support the contention that weekends are a focus for pre-loading at Sainsbury's. The vast majority of our sales are with food. Our mission is universal appeal, which is people from all walks of life, families, et cetera, so it is not possible to pull anything out to support that in particular. Where there is a particular example, where police come to us and say that we have a shop close to a club, say, and there is evidence of a certain type of product being bought before going into that club, we work with them. On one occasion, we took a product out, because of that link, but you cannot universalise those things.

Mark Bentley: I agree, and I refer to my last answer.

Baroness Watkins of Tavistock: To some extent, Nick, you have just answered my question. There is some evidence that some small local stores, particularly in university towns, are used quite extensively to purchase alcohol on Friday and Saturday nights. Although I can understand that your big data would not show that, you are saying that if you have clear evidence of something like that happening you work with the police to try to resolve the problem.

Nick Grant: Yes, we would need clear evidence, and evidence of harm. This is where we need to switch the debate to education. Over the last 10 years, the industry has done a huge amount to support Drinkaware and community alcohol partnerships, to educate younger people about some of the harms of drinking. It seems to me that that is a better way to go. My son is in his first year at university and, like it or not, I imagine that he would economise and budget by buying alcohol in one place rather than in an expensive club. It is rational behaviour. He would be buying it lawfully. It would be very difficult for a retailer to control that at the point

of sale, because it is a lawful sale. If there was collaboration locally on what to do about it, I would say that Drinkaware should be in the university doing an education event about the harms of drinking, but there must be limits on how we can control a lawful sale.

Baroness Goudie: We now have a huge change that affects you all, with Deliveroo or Amazon, for example, able to deliver alcohol at short notice, without food; quite often people just get it delivered, at offices and so on, before going out. Do people get in touch with you for such deliveries? I know that you are online, but have you found that there are more deliveries of alcohol only? Is more of that happening?

Nick Grant: I do not think so. We do some alcohol-only deliveries, but they tend to be around promotions; people buy a number of bottles of wine. We would not identify that as supplying a party. Last week, I was made aware of a website called Party Hard Party On; the clue is in the title, I submit. There is a growth in such organisations and a particular type of need is being fulfilled. I shall not cast doubt on their ethical position, but you might want to get them in and have a chat with them about their business model. That is what I mean about the increasingly important division between responsibility of approach and volume of approach. It is a red herring. It is about how you sell the bottle and what you invest in educating the people who might buy it.

The Chairman: Is there anything you could be doing to prevent pre-loading, which, from the evidence we have heard, is increasing? I am not advertising, but Marks & Spencer does a special rate with a bottle of wine included.

James Brodhurst-Brown: I have seen no evidence to suggest that pre-loading is actually an issue. I am not denying it if the evidence is there, but it has never been brought to my attention. It is one of those terms, like home drinking, that becomes standard for anybody who buys something to drink before they go out. From the responsibility perspective, and echoing Nick's point, it is difficult at the point of sale to know why people are buying alcohol and when they are going to consume it. It remains a legal way to purchase a product.

Nick Grant: I have been confused about the concept, because it seems to be based on the idea that someone would buy alcohol from the off-trade and drink enough of it that they would not have to drink much in the pub or club. We are then talking about the most unenforced law in the country, which is the law against serving people who are already drunk. There were five prosecutions of that offence in 2013. It seems slightly unfair to blame the retailer for making a lawful sale to a person who is sober, and at the same time say that every day of the week people can be admitted to pubs and clubs and—let us face it—served while drunk. It may be true that we have come to a cultural acceptance of the unenforceability of that law, but it still needs to be said.

Lord Smith of Hindhead: I imagine that intoxicated people go to a supermarket and buy alcohol as well.

Nick Grant: But they will not get served.

Lord Smith of Hindhead: I am sure that would be the case in yours. The Act is about licensing management rather than social engineering, and we have to work out what we will recommend, knowing that the amount of off-sales has increased dramatically and is now higher than on-sales, and that people drink a significant amount of alcohol before they go out in the evening. They cause trouble in the night-time economy and somebody else is left to pick up the tab. I accept that pre-loaders probably do not go to Waitrose to buy their product of choice, because you, and Sainsbury's and Ocado, are not in that market. I know you said that Ocado has only three depots, but you are nevertheless a significant player in alcohol delivery. Do you think that the off-trade generally has a responsibility to try to help on the issue of pre-loading and the trouble caused in the night-time economy by people who have purchased and consumed drink earlier?

Nick Grant: We are happy to accept responsibility in the sale of alcohol. It is difficult to know what that would look like practically in a policy or training programme that we could implement in stores. We have invested a lot of money in Drinkaware, which is an educational charity. I was a trustee for the first seven years of its existence; we worked hard to take money from those who made and sold alcohol, and we tried to connect with the key groups. As I understand it, the key group you are thinking about are the 18 to 21 year-olds. One would think intuitively that it is that area. Drinkaware has outreach to the National Union of Students, so there are things we can do, but in practical shop-operating procedure it is difficult.

Lord Brooke of Alverthorpe: I come back to Lord Smith's point. The entire focus of Drinkaware, which is funded 87% by the drinks industry, is on education and making people aware of the facts relating to alcohol and abuse. You support that, which is good, but it is all about the responsibility of the individual. We now have a very big change—a different world, to use your phrase—where two-thirds of the alcohol being sold is sold by yourselves in off-sales, rather than by pubs, the on-trade. What responsibility, if any, do you accept that the supermarkets have in that? For example, in the last quarter, Tesco made a profit by selling cheap champagne for three months, to boost its profits. You sell at a much lower price than the on-sales. Do you not see a connection with the change that has taken place, and why?

Nick Grant: With respect, I am not clear what your remedy is in this case.

Lord Brooke of Alverthorpe: I am asking whether you accept that there is some responsibility on you. For example, we have an increase of well over 100% in the number of people now being admitted to hospital with alcohol problems of one sort or another, compared with 10 years ago. That is a big change. Who is responsible? Yes, the individuals, but how do they become ill in the way they have? How were they supplied? Do you accept that there is responsibility on the retailers? I know that

you are good retailers. I had quite extensive correspondence with Justin King previously and I have corresponded with one of your colleagues. I am not criticising you; I am asking about the whole of the retail operation. What can be done? Do retailers accept some responsibility? If so, what should happen?

Nick Grant: Everyone who is engaged in manufacturing and selling alcohol has a responsibility to take steps to ensure that they behave responsibly in the way they do it. We do. We take numerous actions, invest a lot of money and take a lot of care in how we sell; but you are talking about a lawful sale to an individual.

Lord Brooke of Alverthorpe: I am not disputing that.

Nick Grant: If the Committee has ideas and evidence about how it might be done differently, there are lots of organisations. My company would work collaboratively to improve a situation where we thought we had a part to play. We have a very open mind. We invest and we take many steps to do this thing responsibly. I am still not clear about whether you think that people's health will be better if you drive them to drink in the on-trade.

Lord Brooke of Alverthorpe: I am not saying that you drive them to drink in the on-trade; I am saying that we should try to persuade people not to abuse alcohol. Part of the way they might abuse it is that it is extraordinarily cheap compared with what it was. It is cheaper than it was in 2000, but that is another question.

The Chairman: Can we move on? We will tease out some of those issues.

Q160 **Baroness Watkins of Tavistock:** The availability of cheap super-strength alcohol, normally defined as 6% by volume, is said to be one of the main causes of street drinking, which harms local communities and damages businesses near the point of sale. Can that be tackled by voluntary agreement with local authorities to restrict the alcoholic products that can be sold in areas experiencing particular trouble with street drinking? Is it appropriate for licensing authorities to impose conditions on the strength of the alcohol that can be sold? Is it the responsibility of the retailer to control it at all? I note that the written feedback from Sainsbury's contains some of that; for example, you do not sell white cider. The big question is how we get the balance right in particular areas. Most of us recognise that they exist.

James Brodhurst-Brown: When approached, Waitrose, like Sainsbury's, always wants to work collaboratively with communities where we have a branch. On several occasions, we have been approached and have looked at evidence of some kind of link with accessing higher-strength products. We do not sell white cider. The majority of our higher-strength products are traditional ales and more premium products. When authorities come to us with evidence to back up what they are asking us for, we are quite happy to look at it.

Baroness Watkins of Tavistock: Do you think that is how it should be managed, or do you think that licensing authorities should have the opportunity to restrict?

James Brodhurst-Brown: I hope never to get to the point where we have anything imposed upon us. It is difficult to imagine a scenario where we would get to the point where we needed a condition, because we are always happy to work collaboratively. In the past, we have done so. We have shown that.

Baroness Watkins of Tavistock: What about online? I have never tried to buy white cider online, but perhaps you can.

Mark Bentley: I am sure you can somewhere, but not from Ocado. I asked the question and then had a look at the website myself. Sometimes you ask a question and find something else when you look yourself. I looked at super-strength beer. We sold one particular item of super-strength beer—Special Brew.

Lord Davies of Stamford: What beer is that?

Mark Bentley: Carlsberg Special Brew. It is a high-percentage-alcohol beer. I cannot remember what the percentage is, but it was the only one I could find. We sold 88 units last week, for a grand total of £642, which is actually quite expensive, in weekly sales in excess of 25 million. We do not see a problem.

Lord Smith of Hindhead: Weekly sales in excess of 25 million units?

Mark Bentley: Sorry—pounds. It is £600, on the back of £25 million. We have a minimum basket of over £40. We deliver only to known customers. They register with us and have to commit to being over 18. We have a follow-up policy—Challenge 25—so we check customers' identity.

Lord Davies of Stamford: You check that.

Mark Bentley: We will. If customers look under 25, our drivers are trained to ask them to prove that they are over the age of 18 by identity cards, passports or driving licences. If they do not or cannot, all the age-restricted items are removed from their shopping. We warn customers that, if they are lucky enough to look under 25, they will be approached and asked to prove that they are over the age of 18.

The Chairman: We will come to that.

Lord Blair of Boughton: Chair, why do we not just finish that? I want to ask the other two witnesses the same question. What do you do about underage drinking as regards deliveries?

Nick Grant: Our system is based around doing the Think 25 check on the doorstep. The slight difference from Ocado is that, if the delivery driver is not satisfied that the person is the right age, they remove the entire

shop. That puts in quite a deal of jeopardy for somebody who leaves their child to accept the delivery, but it is the simplest and cleanest way for us to do it.

The Chairman: Before we leave the issue, what about older siblings purchasing strong or even ordinary cider in a supermarket or online for younger ones? When I was MP for Thirsk, it was a particular issue. They could still run faster than the police, who were trying to catch them.

Nick Grant: Do you mean a proxy sale?

The Chairman: Yes.

Nick Grant: It is a lawful sale to a person who goes on to provide the product to somebody who is underage.

The Chairman: Particularly if it is delivered. It is a problem in market towns. I have seen it for myself on a Friday night patrol in Thirsk. There is a legitimate, lawful sale, as you would call it, to an 18 or 22 year-old. As soon as they get out of the supermarket and are at home, they allow their younger sibling or friend to drink it.

James Brodhurst-Brown: That is a difficult one from our perspective, because we would not know. The policy we follow is part of the Retail of Alcohol Standards Group guidance in relation to proxy sales. If any of our partners in a branch knew, they would refuse the sale. If it is delivered, the problem is that there is no way for us to know what will happen to it once it has been legally purchased.

The Chairman: Are you arguing that the guidance could be reviewed?

James Brodhurst-Brown: It would be difficult to put in place regulation to deal with that. It would need to come from an education and an enforcement perspective, things like asking somebody who is found to be underage where they accessed it.

Nick Grant: This area of the law is difficult. As I understand it, it is lawful for an adult to buy alcohol for themselves and, in the home, for the child to have some. It is unlawful for someone merely to act as an agent for somebody. It is quite tricky. We have "how to go about" guidance on it, because it is quite tricky for shop staff—forget deliveries. If an adult presents, and there is a 15 year-old behind them, what level of scrutiny do you require of your checkout operator? Should they eavesdrop on the conversation? According to the last research that I saw, the biggest source of alcohol for those who probably should not have it is parents, I am afraid. It is just a fact—again, from research that I recall—that parents have clung to the view—

The Chairman: It is not parents behaving badly in market towns. Mr Grant, earlier you made a great point of talking about education. I remember as a youngster in school being told about the dangers of smoking, and it scared the living daylights out of me. What education is there at the moment? Are you involved in advising under-18 students of

the dangers of irresponsible drinking?

Nick Grant: There are two routes to that. One, for the over-18s, is support for Drinkaware and its work with the NUS, et cetera. It is very effective. The other route, for the under-18s, is our work in community alcohol partnerships. I have an impact report—one copy for each of you—that I can leave with you at the end. I will hand it round. That is all about local collaboration to try to work out what the problem is with kids in an area. Do they need some diversion? Where are they getting alcohol? Can we support smaller independent retailers to up their game to prevent those sales? The results are pretty impressive. Those are the two channels.

Baroness Watkins of Tavistock: Can I come back on one issue? It is very clear to me that the three of you restrict your own sales of super-strength alcohol, and because you are very big companies, it probably does not affect your margins. It also probably keeps out of your shops some people you would rather did not linger in them, to be honest, so I can see the benefit. Because of your voluntary approach, do you think the problem is pushed into small shops, which become very dependent on that income and therefore do not control in the way that some of us might like to see? I live in a city in the south of England, where I know exactly which are the three or four shops.

Nick Grant: One unfortunate effect of having responsible retailers in an area may be to incentivise cashing in by people who do not care about the products. I do not think that is our fault because we are being responsible; it is just an effect. It links to one of my overall themes, which is that we must take the opportunity to raise all the boats and get all the responsibility up as much as we can. One thing that we do in CAP is to help to train small shops in Think 25. They may not have the resource or the understanding to do it. We supply a manager or trainer who will train them, to bring them up as well; all the supermarkets involved in CAP do that. That is useful, because if they say no to joining in, it is a big clue to the enforcement community that it is a shop that may be profiting from high-strength drinks, White Lightning, et cetera. Incidentally, I was told the other day that White Lightning contains no apple. It is a chemical concoction. Do not think that it is cider.

The Chairman: That is anecdotal, so we cannot accept it as evidence.

Baroness Grender: Do you report outlets that say no to a responsible authority?

James Brodhurst-Brown: It will be apparent in the CAP areas. When the CAP is set up, it probably defines a geographical area and invites all the retailers. The bigger retailers that are CAP members and funders are usually the main supermarkets. It will then look for and access all licensed premises in the area, to try to bring them on board. That is done in partnership with enforcement, so people will be quite aware if somebody does not participate.

Baroness Greender: If they do not participate, the authorities know.

James Brodhurst-Brown: It is almost like putting your hands up and saying—

The Chairman: The Committee has heard the term “CAP” before. We just cannot quite remember what it stands for.

Nick Grant: Community alcohol partnership. Shall I pass some of these reports round now, so you have some light reading?

Q161 **Lord Smith of Hindhead:** I have a sneaking suspicion that I will probably be able to write the minute for the answer to this already, but let us go through the motions. In 2012, the former Prime Minister, David Cameron, said that the Government would introduce minimum unit pricing. In 2013, the present Prime Minister, then Home Secretary, said that the introduction of MUP would be delayed until there was conclusive evidence that it would work. Would minimum unit pricing be effective in tackling the abuse of cheap super-strength alcohol, as well as in helping problem drinkers?

Mark Bentley: I am not sure that we have seen enough evidence to suggest that minimum unit pricing would help. I have read through some of the evidence presented to the Committee, and there are conflicting opinions. Until we see evidence, I cannot comment on that.

Lord Smith of Hindhead: You would like to see the outcome of more evidence.

Mark Bentley: I think so.

Lord Smith of Hindhead: You can look at the evidence once it is put in place, can you not?

Mark Bentley: Having read through some of the evidence that was presented to the Committee—

Lord Smith of Hindhead: We have to introduce it somewhere to get the evidence, do we not?

Mark Bentley: Yes. I agree with you, but it has been conflicting.

Lord Smith of Hindhead: Where do you think that we could introduce it?

Mark Bentley: Introduce the evidence?

Lord Smith of Hindhead: Introduce MUP to get the evidence to see whether we should roll it out.

Mark Bentley: I see. Sorry, I misunderstood. I am not sure that introducing minimum pricing and then seeing what happens is the best approach.

Lord Smith of Hindhead: So we will not get the evidence.

Mark Bentley: By doing what you are doing now, you will flush it out, hopefully.

The Chairman: Can I pursue this a bit further? Mr Brodhurst-Brown, you said that pricing is not driving behaviour, that it is not the driving force behind what people buy at Waitrose. That begs the question of what does drive behaviour in purchasing alcohol from Waitrose.

James Brodhurst-Brown: I would like to clarify that. I said that it was not the only driver.

The Chairman: What do you believe is the main driver?

James Brodhurst-Brown: Various factors drive the responsible purchasing of alcohol. It can be preference or quality. There are various things. We have no evidence of it in our stores, although that does not mean that it does not exist. We retail and promote our alcohol as part of a bigger offer, to do with food and entertaining. It is never just about slashing prices and saying, "Come and buy it". We have alcohol promotions—they are a part of the industry we work in—but we only ever seek to do them responsibly.

The Chairman: Do you think that taxation could drive more responsible drinking? Mr Grant, you are nodding, which we cannot record.

Nick Grant: It could help. It could be used to incentivise and promote lower-alcohol products, for example. It could be used sensibly to achieve that. There are some other requests that we have with the Government at the moment to try to work on the definitions of lighter alcohol, because you are very restricted in what you can say when you promote. There are very technical terms that are allowed. A wine stops being a wine at a certain percentage and you have to call it something unattractive. There are lots of practical things the Government could do to get the lower-alcohol market going.

Lord Smith of Hindhead: To go back to the question, do you think that minimum unit pricing could be an effective way of tackling that?

Nick Grant: I agree with you, Lord Smith, that it would be an experiment and we would not know the outcome. It would be a big step to take. I think you are right; until it is put into practice, no one will have the evidence. Scotland said it will review after six years. It will be tricky to disentangle the effectiveness from wider population trends. Over the last 10 years, most of the alcohol metrics on harm and consumption have gone down, without minimum unit pricing, as a result of education and wider cultural changes, so it will be tricky to see whether it has worked. There is certainly no way of knowing now whether or not it would.

From our point of view, we remain sceptical that a whole-population approach will do much to change the behaviour of very committed problem drinkers. On the other hand, we know that it will raise prices for what are now called JAMs—just about managings, on a budget, in difficult times. Perfectly responsible drinkers will have a higher cost of living as a

result. We know that. As a retailer with universal appeal—all walks of life come into a Sainsbury's—we do not think that is right and we are sceptical about its efficacy.

The Chairman: But you believe that tax could work from day one, if the Government were looking at a way of—

Nick Grant: Government could do more to help to stimulate the lower-alcohol market.

Lord Brooke of Alverthorpe: When we had representatives of the on-trade here, I asked them about variations in pricing around the country. They freely conceded that they practised differential pricing in different parts of the country, because they sold better more cheaply in some places and could sell at higher prices in others. Do you have a standard price for the same product throughout England and Wales, or do you vary your prices?

Nick Grant: We have a national pricing approach. There is one price.¹

Lord Brooke of Alverthorpe: National?

James Brodhurst-Brown: We do the same.

Lord Brooke of Alverthorpe: Do all the supermarkets have that?

The Chairman: I do not think you can answer for other supermarkets.

Nick Grant: I suspect so.

The Chairman: Do you use alcohol as a loss leader in any shape or form, to bring people in?

Nick Grant: No. In fact, when duty plus VAT as a proxy for cost came in, we had to make no changes to any retail prices, but we had to change our colleague discount scheme. Our colleagues get a discount by virtue of being employed by Sainsbury's. I am sure they do in other companies, too. That, on occasion, might have brought the cost of alcohol below duty plus VAT, so we took it out of their scheme, which they were not terribly pleased with. For actual shelf prices, the answer is no, we do not. There is a floor at which we work.

James Brodhurst-Brown: It is the same for us.

Q162 **Baroness Eaton:** We now have a change of topic area. A number of consultees gave the opinion that it was quite ridiculous that it was possible to obtain a premises licence before planning permission had been secured, and a number of witnesses criticised the lack of co-ordination between the licensing and planning functions of local

¹ The witness subsequently explained that Sainsbury's operated two national pricing policies, one for supermarkets and one for smaller format convenience stores ('Locals'). This was due to the differences in operational requirements and running costs associated with the two types of retailing.

authorities. Has that caused you any problems in your business?

James Brodhurst-Brown: No, it has not caused us any problems.

The Chairman: Mr Grant, are you more exposed to this, as the legal adviser?

Nick Grant: Mercifully, I have avoided planning issues in my job. Planning officers are able to input to the licensing process, so there is a connection, but we think they are different processes. They should communicate sensibly with each other, but they do different things. We have not had huge problems.

Baroness Grender: You do not have problems, for instance, if there is a Sainsbury's Local with flats on top of it, and a bit of a night-time economy naturally builds up because there may be one or two other off-licences in the area. Does that not impinge on planning at all? You have not come across that as an issue.

Nick Grant: No. It has not been raised with me ahead of today's session—let us put it that way.

Q163 **Lord Davies of Stamford:** This follows directly from the previous question. A number of our witnesses have expressed—as you have this morning—general satisfaction with the present system, but some have compared it unfavourably with the planning system. They suggest that the planning system is better resourced and has strengths, in that it has inspectors and so forth. It is proposed that the two systems might even be merged—that the licensing function would be carried on with the same kind of committee structure, inspectors and appeals process that currently apply in planning. Do you see any advantage or disadvantage in that? Have you thought about it? Do you have any views on it?

Nick Grant: We regard licensing committees as increasingly well run. They are accruing expertise. We understand the way they work, so we would be nervous of merging them with the planning process. We would be particularly nervous about delays, et cetera. People have said that the appeals around licensing are difficult, but in general we think they are well run, and we do not have objections.

Lord Davies of Stamford: Do the other witnesses agree?

James Brodhurst-Brown: I agree from Waitrose's perspective.

Mark Bentley: I concur.

The Chairman: You will accept that possibly you are not subject to the same frequency of objections as licensed bars and clubs. You tend to have a licence application that lasts for some time.

Nick Grant: It may be partly functional. We have a licensing team that understands licensing and the best way to communicate with licensing authorities, and we have a very effective planning team. At the moment, both understand each other's expertise.

Lord Davies of Stamford: They work together.

Nick Grant: They work together as they need to.

Lord Davies of Stamford: There are suggestions that the licensing sub-committee and the planning committee do not always work together on the other side. You have not come across that.

Nick Grant: No. I can believe it.

Q164 **Lord Brooke of Alverthorpe:** Witnesses have suggested that the promotion of health and well-being should be an additional licensing objective. Mr Grant, in your evidence, you point out the difficulties of correlating “the impact of one licensed premises with health issues”. Earlier you spoke about your unease over cumulative impact assessment approaches. Do the other panel members share that view?

Mark Bentley: I have the same view.

Lord Brooke of Alverthorpe: I thought you might.

James Brodhurst-Brown: I do as well, predictably.

Lord Brooke of Alverthorpe: That is that question out of the way. To go back to what we were talking about earlier—the responsibility of the retailing industry—I have been encouraged by some of the suggestions that you made. Are there any other points? Earlier, you mentioned the use of conditions, and that they could be better implemented than they are at the moment, which is something we will no doubt look at. Are there other areas where you feel that conditions might be usefully applied that might have a relationship with health and well-being? You do not have to answer now. You might want to think about it.

Nick Grant: We think that the existing four licensing objectives are the right ones, because there can be meaningful discussion about the role that a licensed premises plays in each of those four. Our concern with the fifth objective, public health, is that it becomes a general, quite expensive abstract debate; for example, trying to attribute general ambulance data to a shop where people buy and consume at different times and in different locations. It is very difficult, as a matter of standard and burden of proof, for applicants.

In general, if there is energy and initiative to be had, we would prefer it to be put into the idea of enforcing greater responsibility among the widest possible group of retailers. My ambition when I was part of the groups that work on responsible retailing of alcohol is that every shop that sells alcohol should have a Think 25 policy, for example. I was on the committee, X years ago, that designed the Think 21 policy, which became Think 25. We still do not have universal coverage of Think 25 in every type of shop around the country. That would be a good practical thing to do. If there is energy to be had, that is what I would urge you as a Committee to look at—how we spread responsibility and best practice around.

Lord Brooke of Alverthorpe: It is a voluntary approach, of course.

Nick Grant: It is a voluntary approach, and an approach that has worked well.

Lord Brooke of Alverthorpe: What do we do when we get good ideas if there is a voluntary approach? Asda, for example, changed the display of alcohol in many of its shops, but then discovered that nobody else had changed, so put it all back, and now it is right in your face. What do you do when you find that the voluntary approach is not working because others take advantage of it?

Nick Grant: I suggest that we build on all the good voluntary work that is taking place—there are lots of examples, from lots of companies—and use that to shine a light on retailers that are not so responsible. That is the entry point for enforcement, or the non-voluntary approach.

Lord Brooke of Alverthorpe: What if they still say, “No, we are not doing it”?

Nick Grant: Then you have to look at licence review and removal, in the end.

Q165 **The Chairman:** When the 2003 Act went through the House of Commons, we were told that it would lead to a café culture and 24-hour licensing. It does not really seem to have happened. Do you believe that you, in your trade, have benefited from the fact that the café culture and 24-hour licensing have not taken off?

Lord Davies of Stamford: You have quite a lot of 24-hour licences.

James Brodhurst-Brown: No, Waitrose does not open 24 hours. We would apply only for the relevant hours. It is difficult to comment on that one. I do not know what it was like before, so I cannot really comment. We have seen no discernible shift in patterns, when we have looked into it.

Nick Grant: The 24-hour thing has been a bit of a red herring. It has been used as a symbol for the excesses—

Lord Davies of Stamford: Do you have 24-hour licences? Tesco does, does it not?

Nick Grant: There is a slight disconnect. Sometimes we apply for them, to give ourselves some flexibility, but we never operate them. We are not currently operating a 24-hour, buy alcohol at 2 o'clock in the morning type of thing.² It just does not happen. The effects of the café culture have been overstated.

² The witness subsequently explained that out of Sainsbury's 1,385 stores across the UK there were 14 that opened 24 hours a day, and were licensed to sell alcohol during this time.

One of the achievements of the Act was for the first time to enable the off-trade to engage in detailed work with communities around conditions. That is something that has worked well and has helped to foster voluntary responsibility. It is not necessarily always an out-of-the-blue charitable act; it is a complicated system of incentives. Responsibility needs to be more heavily incentivised across a wider spread of retailers.

The Chairman: Thank you very much for being with us today, and for sharing your thoughts and being so generous with your time. Could you vacate the chairs for the next group of witnesses?

Nick Grant: Do you all have your CAP impact reports now?

The Chairman: We will have them.