

## What does the future hold?

### David Clifton, director of Clifton Davies Consultancy Limited, glances into his crystal ball to look at how potential future developments will affect your industry

#### Personal licences

The government has decided to keep personal licences, but to abolish the need to renew them. However, that measure has got bogged down in the parliamentary process and Norman Baker, the minister for crime prevention, has just confirmed that it will not progress in time to avoid those who were first granted personal licences in February 2005 having to renew them in February next year. We can expect guidance later this year. He also promised an announcement in the 'near-future' on locally-set licensing fees.

#### Public health as a fifth licensing objective

Whilst the Licensing Act 2003 was being debated as a draft bill in parliament, proposals that public health should be a fifth licensing objective were defeated. Since then, Scotland has reformed its licensing laws, in the process introducing "protecting and improving public health" as an objective. On 11 August, the All Party Parliamentary Group on Alcohol Misuse launched its manifesto advocating a similar change in England and Wales so that local authorities can make licensing decisions based on local population health needs and the density of existing outlets, and describing it as a welcome policy for any future government to adopt. It also recommended that a single government minister should have the responsibility for reducing alcohol harms.

#### Sobriety measures

The All Party Parliamentary Group has also proposed the widespread use of sobriety orders. This ties in with the pilot schemes for compulsory sobriety measures contained in the government's Alcohol Strategy. The ability for courts to impose alcohol abstinence monitoring requirements as part of a community order or suspended sentence order

was introduced by new legislation in 2012 and a pilot scheme was launched in London last month using ankle tags to monitor alcohol consumption by offenders convicted of alcohol related offences. It will be surprising if this is not followed by a national rollout.

#### New powers of entry code

In May, the Department for Business, Innovation and Skills published its Focus on Enforcement Pubs Review. That reported a lack of trust between regulators and licensees and the need for risk-based and proportionate regulation, including smaller-scale and less frequent inspections of lower-risk pubs. Following on from this, we can expect consultation on a new powers of entry code that would require licensing authorities to give 48 hours' notice before visiting a pub.

#### LNLs and EMROs

The minister for crime prevention wrote a letter to all licensing authorities on 6 August (which he copied to all police and crime commissioners) encouraging the use of Late Night Levies (LNLs) and reminding them that the revenue split is flexible so that some of the police share of the income generated can by agreement be allocated back to local authority initiatives. He also urged them to consider whether an Early Morning Alcohol Restriction Order (EMRO) would be a suitable tool to use in their local area. It remains to be seen whether this will result in an upsurge in the adoption of both such

measures, but Liverpool Council has recently announced that an LNL consultation will commence, probably in October, with Southampton's LNL proposal coming before its licensing committee for consideration on 28 August, followed by ratification of the decision by the full council on 17 September. We will continue to provide regular EMRO and LNL updates to you in future editions of Pub & Bar.



## Clifton Davies Consultancy Ltd



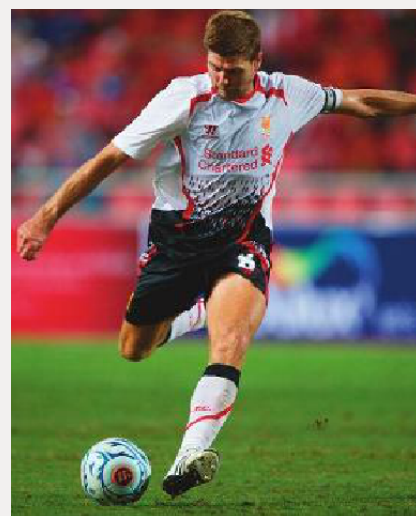
Clifton Davies Consultancy Limited is a consultancy business (not a law firm) which specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. David Clifton and Suzanne Davies are also consultants to Joelson Wilson LLP. The views expressed are given without any assumption of responsibility on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct.

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## Questions & Answers



**Q: I've just read about licensees in Stockport being fined £4,500 for showing Sky Sports in their pub illegally, but surely the odds of being caught out are pretty small?**

**A:** It's not worth the risk. A licensee in Tottenham has just been fined £7,600 for a similar offence and there are said to be hundreds of similar prosecutions in the pipeline. The Premier League engages private investigators to assist in identifying licensed premises illegally showing live Premier League football matches.

**Q: On quiet nights when I'm left in charge of the bar where I work, I come under a lot of pressure from regular customers to carry on serving after hours. I don't think my boss would mind, but would my own neck be on the block?**

**A:** Yes, it would, because you could be found personally liable for the criminal offence of carrying on an unauthorised licensable activity under section 136 of the Licensing Act 2003. Your boss should mind as well, because if he or she was found to be encouraging or even not taking sufficient steps to prevent such sales, application might be made for a review of the premises licence, which could result in its revocation.

**Q: I've been told I'm being made redundant as the pub where I work is going to be converted into a Tesco. Can I try to stop this, for example by objecting to their planning application?**

**A:** Unfortunately, pubs can be demolished or converted to a range of different uses (including as a supermarket) without the need for planning permission. This is seen by some as a loophole in the planning laws and is the subject of CAMRA's Pubs Matter campaign. You might also want to read about the Community Right to Bid created by the Localism Act 2011 at [pubsthehub.org.uk](http://pubsthehub.org.uk).