



ACS Submission: A Framework for Managing the Night Time Economy in Wales

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the Welsh Government's consultation on the Framework for Managing the Night Time Economy in Wales. ACS represents 33,500 local shops across the UK, which employ more than quarter of a million staff. In Wales, there are 3,167 convenience stores, employing over 25,000 people. ACS supports the Welsh Government's aims to tackle alcohol-related harm by continuing to work in partnership with industry.

Retailers have a considerable interest in the regulatory and voluntary framework surrounding the sale of alcohol with 88% of stores holding an alcohol licence¹. Alcohol sales in the UK convenience market, on average, account for 13.8% of total sales². Retailers take their responsibility for the sale of alcohol very seriously and have proactively worked with the Welsh Government to create both a regulatory and voluntary framework to deliver responsible retailing and marketing of alcohol products.

ACS has limited data on the impact that convenience stores have on the night time economy and we recognise that much of the framework is concerned with pubs and clubs for which we do not speak. However we have outlined our position and our recommendations to the Welsh Government on the general principles of the framework, which have significant implications for local shops.

ACS has answered the relevant consultation questions below:

2. Overall Document

This consultation focuses on *A Framework for Managing the Night Time Economy in Wales*. The purpose of the document is to provide a framework for local authorities, local health boards, Night Time Economy teams, community safety leads and other key stakeholders to assist them in developing and delivering local plans and strategies to address drug and alcohol related disorder and anti-social behaviour in towns and cities, and to improve access to the Night Time Economy for the wider population. Do you feel that the Framework provides this? Are there any other topics you would like included in the Framework?

Cumulative Impact Policies (CIPs)

We are concerned that the Framework includes multiple references to Cumulative Impact Policies (CIPs) to be used as an intervention to tackle alcohol-related harm. No causal link has been established between alcohol harm in an area and the number of licensed off-trade

¹ [ACS Local Shop Report 2015](#)

² [ACS Local Shop Report 2015](#)

premises. By limiting the number of licensed premises, it deters new stores from opening as well as protecting businesses that are operating irresponsibly.

Convenience stores provide a range of important services to communities beyond just selling alcohol. CIPs would pose as a barrier to communities accessing these services. ACS' Local Shop Report 2015 shows the range of services convenience stores offer, including: bill payment services (53%), free to use cash machines (38%), parcel services (28%) and post offices (20%). CIPs also represent a barrier to new investment on high streets and secondary shopping areas as convenience stores are not usually viable trading without an alcohol offer.

Illicit Trade

The framework does not include any mention of tackling the illicit alcohol market as a way to tackle alcohol-related harm. Targeting retailers operating illegally would be a fairer, more effective way of addressing alcohol-related harm than any suggestion of implementing arbitrary limits on the number of premises selling alcohol, or imposing new regulatory restrictions on responsible retailers. Research from Portsmouth Council has shown a strong correlation between retail premises selling non-duty paid alcohol at low costs and breaching other licensing conditions. Ensuring that local authorities are targeting retailers that trade irresponsibly in terms of non-duty paid goods is fundamental. We therefore recommend that the framework should include reference to tackling illicit alcohol to reduce alcohol-related harm in the night time economy.

We recommend that the Welsh Government continue to take a targeted, multi-agency approach to tackle alcohol-related harm, specifically focusing on preventing underage and proxy sales, tackling the illicit trade and continuing to educate consumers.

3. Part One - Policy Drivers

Are there any other policy drivers or considerations that you think should be included in Section 5 of the Framework? Do you have any additional comments in relation to the Policy Drivers already stated?

ACS does not support the inclusion of "tackling availability" as a policy driver of the framework. We believe that all policy drivers should be based on local evidence and be proportionate. There is currently no evidence to support claims that the increased availability of alcohol leads to increased health harms. As such, we do not support suggestions of tackling availability to tackle alcohol-related harm.

Local authorities need to produce clear evidence that alcohol harm is linked directly to an individual premise, this is particularly difficult in the off trade. Consumers can buy and consume alcohol from off-trade retailers but the way in which this is consumed in private houses, as any harm that follows is not the direct responsibility of the retailer. The CIPs policy has been developed to manage crime and anti-social behaviour issues in the on-trade but the same policy cannot be transferred to the off trade, as shops and supermarkets are used very differently from bars and clubs.

Cumulative Impact Policies

We have a number of concerns with regard to the inclusion of CIPs within the framework, these include:

- CIPs block investment to high streets by creating significant legal barriers to obtaining an alcohol licence and by increasing investment risks and costs.
- There is a lack of supporting evidence to directly link alcohol harm with off trade premises.
- CIPs have had a limited impact in Scotland (known as over-provision policies).

Our main concern regarding the inclusion of CIPs within the framework is that CIPs create a significant barrier to entry in the local market for smaller businesses. CIPs prevent development of new stores because retailers cannot contemplate a new store development that does not include an alcohol offer (which the modern consumer expects). Moreover, it is harder and more expensive for retailers to secure a lease on a property while there is uncertainty over obtaining an alcohol licence.

Shop vacancy rates on Welsh high streets remain significantly higher than elsewhere in the UK at 15% compared to the UK average of 11.7%³. The Welsh Government should consider carefully whether adding further regulatory barriers to new stores on Welsh high streets is proportionate and if it will exacerbate vacancy rates further. We have included a case study⁴ and video message⁵ from an ACS member in Scotland who has to manage CIPs in Scotland (overprovision). His experience shows the damaging impact that this policy can have on business investment and services to communities.

The overall framework relies heavily on linking premises with health incidences. Currently, no causal link has been established between alcohol harm in an area and the number of local shops and supermarkets. The only report that attempts to establish a link is Alcohol Concern's report 'One on Every Corner' which fails to make a direct correlation between premises density and harm. The report acknowledges that there is a lack of health data to inform their arguments. The report also excluded premises and population in London perhaps as the figures for London did not support their arguments about premises density and alcohol related harm.

The introduction of overprovision in Scotland has had a limited impact and unfairly targeted independent stores. The evidence required to prove overprovision in Scotland is challenging; authorities have to present evidence that consumers have purchased the majority of their alcohol from licensed premises in their area and also show a clear causal link between the number of premises and the health harms. 10 local authorities out of 32 have implemented overprovision policies, even though none have made a compelling case for these policies reducing alcohol harm. Experience from Scotland has also shown a two tiered licensing system, with independent retailers being targeted by local authority CIPs policies instead of large multiple retailers. Large retailers have the capacity to legally challenge licensing boards' evidence base and decision.

³ Local Data Company Shop Vacancy Rate September 2015

⁴ Annex A

⁵ [YouTube: Case Study Video Message](#)

Non-Duty Paid Alcohol

As stated above, CIPs protect businesses that are already operating even if they are irresponsible. The focus must be on the quality of licensed premises and not on the volume.

If the Welsh Government remains set on limiting or reducing the number of licensed premises in an area, this can also be achieved with the powers that local authorities already have. Local authorities can remove alcohol licences from irresponsible retailers who participate in the selling of non-duty paid alcohol - a trade that currently costs the Exchequer £1.2billion⁶ a year. We therefore urge the Welsh Government to include tackling the illicit trade within the framework.

4. Part Two – Delivery Framework

Part Two details the following three aims of the Framework:

- **Provide appropriate facilities for all users of city and town centres;**
- **Create an environment in which people feel safe at night;**
- **Effective coordination of planning and licensing matters and policies.**

Do you agree that meeting the objectives set out within Part Two will address these aims? Are there any other objectives we should consider?

AIM: Create an environment in which people feel safe at night

Objective One: Make effective use of licensing and legislative powers to ensure safety in “hot spot” areas. The overall licensing strategy should take into account the appropriate number and type of licensed premise in the town centre. Options to achieve this include: alcohol prohibition zones, late night levy, EMRO, fixed/staggered times of closing, CIPs, places of safety, actions against problem premises including review of licence or emergency 24hr shut down

Cumulative Impact Policies

We welcome the Welsh Government’s focus on targeting problem premises in the night time economy. However, we do not believe the inclusion of CIPs needs to be included as part of this objective. As stated above, a causal link between a premise and alcohol-related harm has yet to be established. If the Welsh Government wish to reduce the number of licensed premises in an area, this can be achieved by removing licences from retailers selling non-duty paid alcohol or from breaching their licensing conditions.

ACS’ Community Barometer⁷ report highlights that convenience stores are listed as the second most important type of business on the high street. This represents the views of consumers and local authorities. In Wales 43% of consumers (higher than the UK average)

⁶ HMRC Measuring Tax Gaps 2015

⁷ [ACS Community Barometer](#)

say that convenience stores feature in their top 3 services on the high street that have the most positive impact on their community.

Retailer Alert Bulletins

We are concerned that the framework references the inclusion of the Portman Group's Retailer Alert Bulletins (RABs) as a licensing condition. ACS believes that RABs should remain as a voluntary commitment for retailers to comply with and not to be used within the licensing system.

The Portman Group is a non-statutory body and funded by industry to encourage responsible marketing practices. There is no guarantee that RABs will be communicated across the whole industry, particularly to small independent retailers and therefore achieve 100% compliance. ACS has committed to communicating RABs to our members but this does not provide absolute certainty of their coverage. Any licensing condition that includes reference to RABs must ensure that retailer has access to new RABs via the local authority licensing team.

Age Verification

We support the framework's reference to strengthen age verification schemes by increasing sanctions against premises which persistently sell through under18s. However, we do not believe it is necessary to have licensing conditions that require 'Challenge 25'. 'Challenge 25' is an industry led initiative which is already being implemented voluntarily by the majority of retailers. We would like the Welsh Government to quantify their statement in the consultation that: "recognition and experience of the scheme [Challenge 25] is relatively low in Wales, although support is high."

The Retail of Alcohol Standards Group (RASG), which ACS is a member of, already promotes 'Challenge 25' to retailers through their 'Guidance for the responsible retailing of alcohol in England and Wales'⁸. Polling of ACS members in 2012 showed that 70% of retailers had an age verification policy in store and it was found that more than a quarter of retailers refused age restricted sales more than ten times a week⁹. ServeLegal, an independent test purchasing company, found in 2014 that convenience stores had an 82% pass rate¹⁰. The age verification scheme, whether it is 'Challenge 21' or 'Challenge 25' should be left to the decision of the retailer as long as they remain compliant with the law.

As a symptom of positive action by retailers to prevent underage sales is the increase in young people accessing alcohol through proxy purchasing via parents or an older sibling (see the Health and Social Care Information Centre data)¹¹. We suggest that the Welsh Government include actions to deter proxy purchasing of alcohol in their framework through educating partners and young people about the dangers of underage drinking.

⁸ [RASG: Guidance for the responsible retailing of alcohol in England and Wales](#)

⁹ ACS Voice of Local Shops May 2012 Data

¹⁰ Serve Legal, Independent Test Purchasing Key Trends 2014 YTD

¹¹ [Smoking, Drinking and Drug Use among Young People in England 2014](#)

Objective 3: Encourage self-regulation and local take-up of industry schemes to improve safety

We welcome the Welsh Government's focus on partnership working with industry to improve the night time economy. Partnership working plays a vital role in reducing alcohol-related harm. Retailers have already taken proactive action to tackle alcohol-related harm by participating in Community Alcohol Partnerships (CAP), which bring together local retailers and licensees, trading standards, police, health services, education providers and other local stakeholders to tackle the problem of underage drinking and anti-social behaviour. There are currently 88 CAP schemes in across the UK, 4 of which are located in Wales¹². We would welcome any support that the Welsh Government could offer in promoting these successful and effective partnerships.

Retailers have also implemented age verifications schemes including 'Challenge 25', which have significantly reduced underage sales. While the Retail of Alcohol Standards Group (RASG), which is made up of UK alcohol retailers, have issued best practice guidance to their members, which explains the legal requirements they must adhere to.

Reducing the Strength Schemes

With regard to the reference to 'Reducing the Strength' schemes, we recognise that convenience stores have a role to play in working with local authorities to reduce alcohol-related harm at a local level. We believe 'Reducing the Strength' schemes should only be used by local authorities if they take an inclusive approach and targeted action to address a specific problem in a particular area. ACS produced retailer guidance¹³ on 'Reducing the Strength' schemes which is designed to help convenience stores understand the competition risks when considering joining a scheme.

A number of our members have engaged with 'Reducing the Strength' schemes across the country, including East of England Co-Op who played a fundamental role in supporting the scheme in Ipswich. However, we urge the Welsh Government to consider carefully the legal and practical issues related to these schemes. Badly managed schemes can put retailers at risk of breaching competition law. For example, if a local authority organises a meeting with retailers and they share their business strategy by agreeing not to sell certain products, the retailers have breached competition law. We have advised our members to assess 'Reducing the Strength Schemes' on a case by case basis depending on their proposed targets.

AIM: Effective co-ordination of planning & licensing matters and policies

Objective Two: Effective communication, coordination and cooperation between all Community Safety Agencies

¹² [Community Alcohol Partnerships](#)

¹³ [ACS Reducing the Strength Guidance](#)

ACS supports the reference to local partnership schemes in Objective Two. As stated above, we believe that to tackle alcohol-related harm, a targeted, multi-agency approach must be taken.

We believe that by targeting the top 10 problem premises, this will significantly reduce alcohol-related harm as they could potentially be selling non-duty paid alcohol. Research from Portsmouth Council has shown a strong correlation between retail premises selling non-duty paid alcohol at low costs and breaching other licensing conditions.

Objective Three: Multi-agency collation assessment and exchange of data in order to better manage the Evening and Night Time Economy

We disagree with the following statement included under Objective Three in the framework:

“Local health boards can also present academic evidence on the effect of availability on consumption of alcohol, and on the association between outlet density and consumption/harm. This can help develop local policy including CIP, providing evidence for how a CIP may contribute to a licensing objective(s).”

As stated throughout our response, CIPs are inherently flawed; no causal links have been established between an individual premise/geographical area with alcohol-related harm, nor a causal link between the number of premises with alcohol-related harm.

For more information on this submission, please contact Julie Byers, Public Affairs Executive at 01252 515001 or email Julie.Byers@acs.org.uk

Annex A

CASE STUDY: Shaun Marwaha, Convenience Retailer, ScotFresh, Scotland

“I run eight stores in the central belt of Scotland under my own Scotfresh brand, I have three more stores in the pipeline and I am hoping to be operating fifteen stores by summer 2016. My eight stores employ 125 staff, and as well as being an important employer we play a crucial role in the neighbourhoods we serve. I have invested several hundred thousand pounds re-fitting and developing my stores, with high standards and new features being introduced like kitchens in every store to offer hot food.

Some councils in Scotland have adopted over-provision policies which restrict the number of alcohol outlets in areas within that licensing board area. I have found that this brings significant uncertainty, which in turn increases the cost of property I am seeking to rent or buy, because any deal is conditional on me gaining an alcohol licence which may not be possible if quotas have been reached. I now tend not to invest in areas which have over-provision policies in place, because the costs, bureaucracy and uncertainty involved make those investments unattractive. This means that as well as limiting my business opportunities, these areas do not benefit from the jobs I can create, the quality of the offer I can make for the community, and the business rates and other taxes I would pay.

I am very happy to meet high standards to gain a licence, and I have a strong track record on staff training and responsible retailing. However it is damaging to my business, and other businesses who are looking to invest and grow, to place arbitrary limits on the number of outlets that can sell alcohol. It is also galling to see outlets with licences selling duty fraud product or otherwise behaving irresponsibly, while businesses like mine are effectively blocked from entering the local market.”

Video Case Study: <https://www.youtube.com/watch?v=63gDuBsmwGk>