



Home Office

Alcohol Licensing – consumption of alcohol in licensed pavement areas / off-sales

Government consultation

This consultation begins on 16 May 2024

This consultation ends on 11 July 2024

About this consultation

- To:** This is a public consultation. Any member of the public can respond. The consultation covers England and Wales where these proposals apply.
- Duration:** For 8 weeks from 16/05/24 to 11/07/24
- Enquiries (including requests for the paper in an alternative format) to:** Alcohol team
5th Floor, Fry Building
Home Office
2 Marsham Street, SW1P 4DF
Email: alcohollicensingconsultations@homeoffice.gov.uk
- How to respond:** Responses should be submitted online through the GOV.UK website.
- Response paper:** A response to this consultation exercise will be published in due course on the GOV.UK website.
- All responses will be treated as public, unless stated otherwise.

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Executive Summary

The Licensing Act 2003 ('the Act') covers the retail sale and supply of alcohol in England and Wales. The Act allows premises licence holders to sell alcohol for consumption on site ('on-sales'), for consumption off site ('off-sales'), or both. Off-sales enables a business to sell alcohol for takeaway ('takeaway drinks') or delivery. Off-sales also enables a business to sell alcohol for consumption in a separately licensed pavement area - if a business wishes to place removable furniture on the pavement adjacent to their premises relevant to the serving, sale or consumption of food and drink, they need to have a separate pavement licence which is regulated by the Business and Planning Act 2020 (England) and the Highways Act 1980 (Wales).

When applying for a premises licence, an individual can ask to do on-sales only, off-sales only, or both – the fee for the premises licence is the same regardless of what is covered. If a holder of an existing on-sales only licence subsequently wishes to add off-sales to their licence, they can apply to their Licensing Authority for a variation. This may be a minor or major variation, depending on the context; each variation has a different associated cost.

The Business and Planning Act 2020 (2020 Act) introduced regulatory easements to support businesses during the COVID-19 pandemic. Alcohol licensing easements enabled on-sales only premises licence holders to automatically also do off-sales without any need to amend their licence. This meant that when pubs and restaurants were initially closed because of the pandemic, these businesses were able to sell alcohol for take-away and/or delivery.

The 2020 Act also streamlined the process for obtaining a pavement licence and capped relevant application fees. Together, the 2020 Act easements relating to alcohol and pavement licensing meant that businesses with an on-sales only premises licence could automatically sell alcohol for consumption in a licensed pavement area.

The Levelling Up and Regeneration Act 2023 has made permanent the provisions set out in the 2020 Act relating to pavement licensing, but the future of the off-sales element has not yet been decided and the provision is due to lapse in March 2025. This will mean that those businesses with on-sales only licences that have made use of the easement and wish to continue to do off-sales would require a licence variation. The process for obtaining a variation to a licence can be costly and time consuming.

However, the Government remains committed to supporting the hospitality sector whilst it faces ongoing financial challenges. In September 2023, we made it clear that the Government's ultimate goal is to create a unified consent regime that includes licensing consent for the consumption and sale of alcohol in the outside pavement area before the provision lapses next year. We have identified new options to consult on that would enable premises to more easily sell alcohol for consumption in a licensed pavement area, whilst ensuring that licensing authorities and local residents continue to have a say about what happens in their area.

The Proposals

- **Option 1 – Make permanent the temporary regulatory easements for off-sales under the Business and Planning Act 2020, whereby any on-sales alcohol premise licence automatically covers off-sales as well.**

OR

- **Option 2 – Amend the Licensing Act to extend the definition of on-sales so that it includes consumption in a licenced pavement area.**

OR

- **Option 3 – Amend the Licensing Act to permit on-sales only premises licence holders the right to make off-sales to any area for which there is a pavement licence.**

Introduction

This consultation seeks views on whether changes should be made to the Licensing Act 2003 in order to make it easier for businesses with a premises licence to sell alcohol for consumption in an adjacent licensed pavement area. This consultation considers all businesses including those that are currently taking advantage of the temporary measures in the Business and Planning Act 2020, as well as future new licensees.

This consultation sets out three possible options:

1. Option 1: Make current arrangements - as set out in the Business and Planning Act 2020 - permanent. This would mean that on-sales only licence holders would automatically be able to continue to do off-sales without the need for a licence variation. If this option is taken forward, we propose to introduce it by means of a Legislative Reform Order (LRO) under Section 1 of the Legislative and Regulatory Reform Act 2006 (LRRA)¹.
2. Option 2: Amend the Licensing Act to extend the definition of on-sales so that it includes consumption in a licenced pavement area. This would mean that on-sales only licence holders would be able to automatically sell alcohol for consumption in an adjacent licensed pavement area without any need for a licence variation. If this option is taken forward, we propose it would be introduced by means of an LRO.
3. Option 3: Amend the Licensing Act to permit on-sales only premises licence holders the right to make off-sales to any area for which there is a pavement licence. As with option 2, this would mean that on-sales only licence holders would be able to automatically sell alcohol for consumption in an adjacent licensed pavement area without any need for a licence variation. If this option is taken forward, we propose it would be introduced by means of an LRO.

All options are set out in detail in the next section. Views are invited on all aspects of the consultation paper.

An Impact Assessment for the options set out in this consultation is attached. Comments on the Impact Assessment are welcome.

The consultation is aimed at the hospitality industry, local licensing authorities, the police, licensed premises, members of the public and any other interested parties in England and Wales where these proposals would apply. Copies of the consultation are being sent to:

- Local Government Association
- National Association of Licensing Enforcement Officers
- Institute of Licensing
- National Police Chiefs' Council

¹ Legislative and Regulatory Reform Act 2006 (legislation.gov.uk)

- Residents' associations
- Association of Police and Crime Commissioners
- Night Time Industries Association
- UK Hospitality
- British Beer and Pub Association
- Association of Convenience Stores
- Wine and Spirits Trade Association
- Alcohol Health Alliance
- Alcohol Change UK
- Institute of Alcohol Studies
- Drinkaware
- Portman Group
- Community Alcohol Partnerships

However, this list is not exhaustive or exclusive. Responses are welcomed from anyone with an interest in, or views on, the subject covered by this paper.

Legislative Reform Order Considerations

Given that the options above would likely make use of a Legislative Reform Order, this consultation is being conducted in accordance with the provisions of Section 13 of the Legislative and Regulatory Reform Act 2006.

Both Houses of Parliament scrutinise draft LROs. This is done by the Business and Trade Committee in the House of Commons and the Delegated Powers and Regulatory Reform Committee in the House of Lords. Each Committee might take oral or written evidence to help it decide these matters, and each Committee would then be expected to report. Copies of Committees' reports are available on the Parliament website at Business and Trade Committee in the Commons; and Delegated Powers and Regulatory Reform Committee in the Lords.

Responding to this consultation document is your first and main opportunity to make your views known as part of the consultation process. Responses should be submitted online through the GOV.UK website.

All responses will be treated as public. Should an LRO be progressed, the names of those making representations will be disclosed to Parliament. If you ask for your representation not to be disclosed, in accordance with Section 14(3) of the LRA, the Government should not disclose the content of that representation without your express consent and, if the representation relates to a third party, their consent too. Alternatively, the Government may disclose the content of the representation in such a way as to preserve your anonymity and that of any third party involved.

If you give information about a third party which the Government believes may be damaging to the interests of that third party, the Government does not have to pass on

such information to Parliament if they do not believe it is true or are unable to obtain the consent of the third party to disclose. This applies whether or not you ask for your representation not to be disclosed. The Scrutiny Committees may, however, be given access on request to all representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of legislative reform orders.

In the event that an LRO is taken forward, when the Minister lays proposals before Parliament you are welcome to put your views before either or both of the Scrutiny Committees. In the first instance, this should be in writing. The Committees will normally decide on the basis of written submissions whether to take oral evidence. Your submission should be as concise as possible, and should focus on one or more of the criteria listed below that a Legislative Reform Order needs to meet, as set out in section 3 of the Legislative Regulatory Reform Act 2006:

- There are no non-legislative alternatives that will achieve the intended outcome of the provision;
- The effect of the provision is proportionate to the policy objective;
- The provision strikes a fair balance between the public interest and the interests of any person adversely affected by it;
- The provision does not remove any necessary protection;
- The provision does not prevent anyone from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise;
- The provision is not constitutionally significant and;
- Where a provision will restate an enactment, it makes the law more accessible or more easily understood.

Contact details for the Scrutiny Committees who scrutinise Legislative Reform Orders can be found below: Business and Trade Committee² and the Delegated Powers and Regulatory Reform Committee³.

² <https://committees.parliament.co.uk/committee/365/business-and-trade-committee>

³ <https://committees.parliament.co.uk/committee/173/delegated-powers-and-regulatory-reform-committee>

Questionnaire

Option 1: Make permanent the temporary regulatory easements for off-sales under the Business and Planning Act 2020, whereby any on-sales alcohol premise licence automatically covers off-sales as well. This would apply to existing and future premises licence holders.

What would this option mean in practice for **existing** licence holders?

- Holders of licences which only cover on-sales would automatically continue to be entitled to make off-sales, without any need to amend their licence. This would enable pubs and restaurants that only have an on-sales licence to sell alcohol for take-away and delivery.
- It would also allow these premises to sell alcohol for consumption in the area covered by any pavement licence that they have.
- There could be an option for licensing authorities to impose a condition which precludes sales for takeaway and/or delivery and/or for consumption in a licensed pavement area, should that be necessary in connection with individual premises in order to uphold licensing objectives⁴.

What would this option mean in practice for **new** licence applicants?

- Any premises licence applicant would automatically be able to make off-sales as well as on-sales.
- This means the licence holder would automatically be able to sell alcohol for take away, provide delivery services and to sell alcohol for consumption in the area covered by any pavement licence that they have.
- New licence applicants would still be required to place a notice in a local newspaper.
- There could be an option for licensing authorities to impose a condition which precludes sales for takeaway and/or delivery and/or for consumption in a licensed pavement area, should that be necessary in connection with individual premises in order to uphold licensing objectives. Applicants could also suggest such a voluntary condition⁵.

Further information

- This amendment could be made via a Legislative Reform Order.
- The process for the grant, variation and renewal of premises licences would remain the same, with no amendments to determination periods, duration of licences, statutory consultees and fee levels.
- Premises licence plans would not need to be amended.

⁴ For example, if takeaway sales were creating anti-social behaviour nearby in the locality (but away from the premises), a condition could remove the automatic granting of the takeaway sales; or a condition might set a terminal hour for sales for consumption in the licensed pavement area, whilst allowing for continued sales for consumption inside the premises, in order to avoid noise problems at night in a residential neighbourhood.

⁵ Please see note 4 above.

- The process for the review of a licence would remain the same. Licensing authorities and residents would still be able to request a review of existing licences if there are concerns about noise, crime and anti-social behaviour.

Q1. To what extent do you agree that option 1 would provide a suitable long-term replacement to the temporary off-sales permission that the Business and Planning Act 2020 has been providing? (*Required)

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Q2. If you agree that option 1 would provide a suitable long-term replacement to the temporary off-sales permission, which the Business and Planning Act 2020 has been providing, please tell us why (please select all that apply). (*Not required)

- Minimise costs to businesses
- Ease of understanding
- Simplicity to put into practice
- Other (please fill out the free text box below)

Q3. If you agree that option 1 would provide a suitable long-term replacement to the temporary off-sales permission, do you also agree that there should be the option to exclude takeaway and/or delivery by means of a licence condition if deemed necessary by licensing authorities in order to uphold licensing objectives? (*Not required)

- Strongly agree
- Agree
- Neither agree nor disagree

Disagree

Strongly disagree

Q4. If you agree that option 1 would provide a suitable long-term replacement to the temporary off-sales permission, do you also agree that there should be the option to exclude sale for consumption in a licensed pavement area by means of a licence condition if deemed necessary by licensing authorities in order to uphold licensing objectives? (*Not required)

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Q5. If you disagree that option 1 would provide a suitable long-term replacement to the temporary off-sales permission that the Business and Planning Act 2020 has been providing, please tell us why (please select all that apply). (*Not required)

Concerns about increases to crime and / or anti-social behaviour

Other (please fill out the free text box below)

Option 2: Amend the wording in the Licensing Act 2003 to extend the definition of on-sales so that it includes consumption in a licenced pavement area.

What would this option mean in practice for **existing** licence holders?

- This would mean that when the regulatory easements set out in the Business and Planning Act 2020 lapse in March 2025, on-sales only licence holders who wish to continue to sell alcohol for consumption in an adjacent licensed pavement area would automatically be able to continue to do so.
- There would be no need for existing on-sales only licence holders to make any application to vary their premises licence if they wish to continue to sell alcohol in an adjacent licenced pavement area, thus saving businesses time and money. A valid pavement licence would still be required, as is currently the case.
- To sell alcohol for take-away or delivery, an off-sales licence would still be needed, thus requiring a variation to the existing on-sales only licence.
- To mitigate any potential increase in disorder associated with alcohol being consumed in the pavement area, terminal hours for the operation of a pavement licence will remain in place, even if the permitted terminal hours inside the premises are later.

What would this option mean in practice for **new** licence applicants?

- This option would mean that when the regulatory easements lapse in March 2025, if someone wishes to sell alcohol for consumption in the pavement area, they would need both a pavement licence and a premises on-licence.
- Adopting this option would mean premises that fall into the category above would no longer need an off-sales licence. However, an off-sales licence would still be needed if the business wished also to sell alcohol for takeaway or delivery.
- The process for the refusal of a licence would remain the same, as would the process for appeals and hearings. Licensing authorities and residents would still be able to object to new licence applications if there are concerns about noise, crime and anti-social behaviour.
- New licence applicants would still be required to place a notice in a local newspaper.

Further information

- This amendment could be made to the Act via a Legislative Reform Order.
- The process for the grant, variation, and renewal of premises licences would remain the same, with no amendments to determination periods, duration of licences, statutory consultees and fee levels.
- Premises licence plans would not need to be amended. The pavement area would not form part of the area included in the premises licence plan.
- Local authorities can attach specific conditions to pavement licences where those conditions are reasonable and there is valid supporting evidence for the justification of the condition. Local authorities can revoke a licence or amend a licence with the licence holder's position, under certain circumstances.
- The process for the review of a licence would remain the same. Licensing authorities and residents would still be able to request a review of existing licences if there are concerns about noise, crime and anti-social behaviour.

Q6. To what extent do you agree that option 2 would provide a suitable long-term replacement to the temporary off-sales permission that the Business and Planning Act 2020 has been providing? (*Required)

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Q7. If you agree that option 2 would provide a suitable long-term replacement to the temporary off-sales permission that the Business and Planning Act 2020 has been providing, please tell us why (please select all that apply). (*Not required)

- Minimise costs to businesses
- Ease of understanding
- Simplicity to put into practice
- Other (please fill out the free text box below)

Q8. If you disagree that option 2 would provide a suitable long-term replacement to the temporary off-sales permission that the Business and Planning Act 2020 has been providing, please tell us why (please select all that apply). (*Not required)

- Concerns about increases to crime and / or anti-social behaviour
- Other (please fill out the free text box below)

Option 3: Amend the Licensing Act to permit on-sales only premises licence holders the right to make off-sales to any area for which there is a pavement licence.

What would this option mean in practice for **existing** licence holders?

- As with option 2, this option would mean that when the regulatory easements set out in the Business and Planning Act 2020 lapse in March 2025, on-sales only licence holders who wish to continue to sell alcohol for consumption in an adjacent licensed pavement area would automatically be able to continue to do so.
- There would be no need for existing on-sales only licence holders to make any application to vary their premises licence if they wish to continue to sell alcohol in an adjacent licensed pavement area, thus saving businesses time and money. A valid pavement licence would still be required, as is currently the case.
- To sell alcohol for take-away or delivery, an off-sales licence would still be needed, thus requiring a variation to any existing on-sales only licence.
- To mitigate any potential increase in disorder associated with alcohol being consumed in the pavement area, terminal hours for the operation of a pavement licence will remain in place, even if the permitted terminal hours inside the premises is later.

What would this option mean in practice for **new** licence applicants?

- This option would mean that when the regulatory easements lapse in March 2025, if someone wishes to sell alcohol for consumption in the pavement area, they would need both a pavement licence and a premises on-sales licence.
- Adopting this option would mean premises that fall into the category above would no longer need an off-sales licence. However, an off-sales licence would still be needed if the business wished also to sell alcohol for takeaway or delivery.
- The process for the refusal of a licence would remain the same, as would the process for appeals and hearings. Licensing authorities and residents would still be able to object to new licence applications if there are concerns about noise, crime and anti-social behaviour.
- New licence applicants would still be required to place a notice in a local newspaper.

Further information

- This amendment could be made via a Legislative Reform Order.
- The process for the grant, variation and renewal of premises licences would remain the same, with no amendments to determination periods, duration of licences, statutory consultees and fee levels.
- Premises licence plans would not need to be amended. The pavement area would not form part of the area included in the premises licence plan.
- Local authorities can attach specific conditions to pavement licences where those conditions are reasonable and there is valid supporting evidence for the justification of the condition. Local authorities can revoke a licence or amend a licence with the licence holder's position, under certain circumstances.
- The process for the review of a licence would remain the same. Licensing authorities and residents would still be able to request a review of existing licences if there are concerns about noise, crime and anti-social behaviour.

Premises wishing to offer the sale of alcohol for takeaway or delivery would need to apply for off-sales to be added to their on-sales premises licence.

Q9. To what extent do you agree that option 3 would provide a suitable long-term replacement to the temporary off-sales permission that the Business and Planning Act 2020 has been providing? (*Required)

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Q10. If you agree that option 3 would provide a suitable long-term replacement to the temporary off-sales permission that the Business and Planning Act 2020 has been providing, please tell us why (please select all that apply). (*Not required)

- Minimise cost to businesses
- Ease of understanding
- Simplicity to put into practice
- Other (please fill out the free text box below)

Q11. If you disagree that option 3 would provide a suitable long-term replacement to the temporary off-sales permission, which the Business and Planning Act 2020 has been providing, please tell us why (please select all that apply). (*Not required)

- Concerns about increases to crime and / or anti-social behaviour
- Other (please fill out the free text box below)

Q12. As detailed above, options 2 and 3 have the same implications for new and existing premises licence holders. Of the two, which - if either - is your preferred option? (*Not required)

- Option 2
- Option 3
- Neither option 2 or 3
- No preference

Q13. If you ticked either option 2 or option 3 as your preference, please explain the reason you selected that option as your preference in the free text box below. (*Not required)

Q14. If you are responding as a licensing officer or on behalf of a licensing authority, please state how many on-sales only licensed premises in your area have taken up the opportunity to automatically do off-sales without amending their licence. An estimate is acceptable. (*Not required)

Total number of premises in your area that are licensed for on-sales only	
Of that total, how many have taken up the opportunity to automatically do off-sales to a licensed pavement area without amending their licence	
Of that total, how many have taken up the opportunity to automatically do takeaway drinks without amending their licence	
Of that total, how many have taken up the opportunity to automatically offer delivery without amending their licence	

Q15. Please use the space provided below to provide any comments you have on any matter covered in this consultation. If your submission is lengthy, please submit your answers via this form and email additional information and data to: alcohollicensingconsultations@homeoffice.gov.uk (*Not required)

Thank you for participating in this consultation.

About you

Please use this section to tell us about yourself

Full name (optional)	
Job title or capacity in which you are responding to this consultation exercise (for example, member of the public)	
Date	
Company name/organisation (if applicable)	
Address (optional)	
Postcode	
If you do not wish for your response to be disclosed to Parliament, please tick this box. Please see the introduction for details.	<input type="checkbox"/>
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/>
Email address to which the acknowledgement should be sent	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details and how to respond

Responses should be submitted online through the GOV.UK website.

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Home Office at alcohollicensingconsultations@homeoffice.gov.uk.

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available online at GOV.UK. Alternative format versions of this publication can be requested from alcohollicensingconsultations@homeoffice.gov.uk

Publication of response

A paper summarising the responses to this consultation will be published in due course online at Gov.UK.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (UK GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Home Office.

The Home Office will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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This publication is available online at [Gov.UK](https://www.gov.uk).

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