

PURPOSE OF CONSULTATION

To invite comments on improvements to Licensing Legislation in anticipation of the repeal and replacement of the Licensing (Jersey) Law 1974

DEADLINE FOR RESPONSES

Monday, 1st June 2009

SUMMARY / QUESTIONS TO CONSIDER

The Minister wishes to receive your views on how improvements could be made to the current system of liquor licensing. Information received from the consultation will assist the Minister for Economic Development in developing policy for a new law. Before the new law is debated in the States, the Minister will consult with Ministerial colleagues and issue a White Paper summarising proposals for the way forward.

The Minister would like you to consider all aspects of licensing, but particularly:

Ways in which the law can be made simple, efficient and effective;

Suggestions on how, if at all, different types of licence should be categorised;

When it might be appropriate for young people to be on licensed premises and whether they should be allowed to consume alcohol;

Whether the high numbers of licences should be reduced generally or whether only in certain types or categories;

Whether particular measures designed to reduce binge drinking and under-age drinking are reasonable and appropriate and to ask for other suggestions to achieve these aims;

Whether the powers of the Police should be increased to protect the public from incidents of violence and disorder caused by excessive drinking;

Whether the powers of other regulatory bodies should be increased to protect the public from other specified types of risk;

Whether the opening hours of licensed premises should be varied or permitted to be varied in particular circumstances.

ALL SECTIONS END WITH RELEVANT QUESTIONS, BUT THESE ARE REPRODUCED IN THEIR ENTIRETY AT THE END OF THE PAPER TO BE COMPLETED AND RETURNED. YOU DO NOT NEED TO ANSWER ALL OF THE QUESTIONS.

Public submissions - Please note that responses submitted to all States public consultations may be made public (sent to other interested parties on request, sent to the Scrutiny Office, quoted in a final published report, reported in the media, published on a States of Jersey website, listed on a consultation summary etc). If a respondent has a particular wish for confidentiality, such as where the response may concern an individual's private life, or matters of commercial confidentiality, please indicate this clearly when submitting a response.

PLEASE SEND COMMENTS TO

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This consultation paper has been sent to the following individuals / organisations:

The Public Consultation Register	The Magistrates
The States of Jersey Police	The Jersey Hospitality Association
The Fire and Rescue Service	The Jersey Nightclub Association
The Health and Social Services Department (including specifically)	Safer St Helier Group
The Medical Officer of Health	The British Institute of Innkeepers
The Drug and Alcohol Unit	CI Hospitality Ltd
Health Promotion Unit	Randalls Vautier Ltd
Social Services Directorate	Victor Hugo Wines Ltd
The Treasurer of the States	Bergerac Wine Cellar
Jersey Customs	Dunell's Premier Wines
The Bailiff	Gallies World of Wines
The Deputy-Bailiff	St Helier Food & Wine Company
HM Attorney-General	La Mare Vineyards
HM Solicitor-General	Channel Islands Co-operative
The Judicial Greffier	Spar Channel Islands
The Comité des Connétables	The Chamber of Commerce
The Jurats	Luminar Leisure Ltd

ADDITIONAL SOURCES

Costs of Alcohol Use & Misuse in Scotland. May 2008. Scottish Government.

Alcohol Misuse: Tackling the UK Epidemic. February 2008. BMA Board of Science

Liquor Licensing Briefing Paper. 2008. Home Department, States of Guernsey.

Alcohol: Price Policy and Public Health. September 2007. Report on the Findings of the Expert Workshop on Price. Scottish Health Action on Alcohol Problems (SHAAP) Report to Council of Ministers. June 2007. Safer St Helier Group

Report on the Jersey Annual Social Survey, 2006 and 2007.

Annual Reports of the Medical Officer of Health 2007 and 2008

The Liquor Licensing Ordinance. 2006. States of Guernsey

Review of Liquor Licensing Legislation. 2005. Home Department, States of Guernsey. Billet D'État XVI

The Licensing (Scotland) Act 2005

A Policy on Alcohol for Europe and its Countries: Reducing the Harm done by Alcohol – Bridging the Gap Principles. October 2004. www.eurocare.org

An Alcohol Strategy for Jersey. Health and Social Services Department July 2003

The Licensing Act 2003. England and Wales

Licensing Review Panel: Report and Recommendations to the Tourism Committee 1995.

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Executive Summary

- i This consultation paper looks at what the Minister for Economic Development and the Licensing Review Panel have considered to be the most pressing areas of reform needed to modernise the Licensing (Jersey) Law 1974. Section One explains the background and administration of the review process.
- ii The consultation begins in Section Two by considering high level policy issues and the continuing relevance of the current Jersey licensing objectives. It considers the need for specific public health and public order objectives. It recognises that increased consumption of alcohol is damaging health, in some cases very severely, and that alcohol is fuelling anti-social behaviour and street violence. This section asks for the public's view of the proposed new licensing objectives and consideration of any additional licensing objectives.
- iii Section Three focuses on the licensing process itself and the role of the Parish and the Licensing Assembly. It considers how the Assembly might operate and the implications of placing new high level objectives as criteria on which to base a licensing decision. The Panel demonstrate the very high density and prevalence of licences in the Island and recommends that a process linking licensing decisions to wider States alcohol policy be introduced.
- iv Section Four considers the types of licensing that might be adopted and some of the conditions for applying for and acquiring a licence. It then gives an overview of some of the problems with the existing law and suggests that they might be overcome by reducing categories of licence to: an 'on-licence' and an 'off-licence' together with a proposal for a new system of separate premises and personal licences. This section also addresses the question of fees.
- v Section Five provides detail on general provisions for a new law and explores a number of social issues. The place of children is considered, together with the circumstances when they might be permitted to consume alcohol. Opening hours are considered, both in terms of the current system of licence categories, as well as what might occur if these categories were abolished. The question of drunkenness is then addressed, followed by a consideration of the role and effect of drinks promotions.

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- vi Section Six focuses its attention to 'off-licences' and discusses the particular problems and risks posed by this sector of the industry, particularly to young people. It concentrates specifically upon measures to address under age drinking, as well as to curb current anomalies in pricing and promotional policies across the sector.
- vii Section Seven discusses issues of enforcement and particularly the additional measures that the Panel believe that the States of Jersey Police need in order to tackle anti-social behaviour as part of this process. The section also gives the Panel's recommendations and comments regarding the Fire and Rescue Service and the Health Protection Unit's functions to protect the public from harm.
- viii Section Eight covers what the Panel considered to be additional matters, not necessarily core to licensing, but ancillary to it that might be beneficial for inclusion. This covers topics as diverse as the Chose Publique Law, Data Provision and the need for a dedicated team of officials to manage the transition to the new Law.
- ix The Consultation Paper concludes at Section Nine.
- x Various appendices are then attached giving an overview of legislation and policy in the Bailiwick of Guernsey followed by a tabular overview of Alcohol Strategy and Licensing in selected European jurisdictions.
- xi The final part of the paper provides a list of questions around licensing that the public and interested organisations are requested to consider and return.

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The Licensing Law Review

SECTION ONE

INTRODUCTION

- 1.1 This review was begun in 2008 under the leadership of the former Minister for Economic Development, Senator Philip Ozouf. Senator Ozouf recognised the overlap in policy objectives between some States departments and convened a licensing panel to assist him. The members of the panel were the Connétable of St Helier, Simon Crowcroft; the former Minister for Health and Social Services, Senator Ben Shenton; the former Minister for Transport and Technical Services, Deputy Guy de Faye; the former Assistant Minister for Health, Senator James Perchard, the former Assistant Minister for Home Affairs, Deputy Andrew Lewis and the then Assistant Minister for Economic Development, Deputy Alan Maclean and former Connétable Geoffrey Fisher.
- 1.2 The Panel has been advised and assisted by an Officer Advisory Group representing officials from Economic Development, Health and Social Services, Home Affairs, the States of Jersey Police and the States of Jersey Fire and Rescue Service. Key individuals are:
- Dr Jason Lane, Director of Regulatory Services, Economic Development
 - Andrew Heaven, Head of Health Improvement, Health and Social Services
 - Ian Rogan, Planning, Performance & Partnership Manager, Home Affairs
 - Gillian Hutchinson, Monitoring & Evaluation Officer, Home Affairs
 - Chief Inspector Andre Bonjour, States of Jersey Police
 - Inspector Mary Le Hegarat, States of Jersey Police
 - Jason Masterman, Station Manager Fire Safety, States of Jersey Fire and Rescue Service.
- 1.3 The Minister invited members of the Panel and their lead officials to directly participate in this process because of their representative roles and interests in licensing. Economic Development is responsible for the Licensing Law and leads this review because it will propose the new Law. It represents both industry and consumer interests, a role that is not without its challenges. Home Affairs has had input on public safety grounds and has supplied professional advice and comment alongside colleagues in the Fire and Rescue Service and the States of Jersey Police.

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1.4 Health and Social Services have been important participants with regard to their experience of the longer term health consequences of excessive drinking and are also directly involved in the licensing process through their Health Protection Unit. The Connétable of St Helier is a member of the Safer St Helier Group and has an important role due to the size of population and number of licensed premises within the Parish. Finally Transport and Technical Services have been involved because of their understanding of traffic and public transport infrastructure which is important for the orderly dispersal of people, particularly in the evening and early hours.

This report represents a corporate response on behalf of Economic Development, Health, Home Affairs and its uniformed departments. It seeks to offer a balanced and managed methodology for the control, sale and consumption of alcohol. While understanding that the majority of people can and do drink responsibly, the rise in the number of outlets selling alcohol together with a rising pattern of home consumption and associated abuse, particularly amongst the young, is a matter of grave concern and the report offers a clear way forward to address this worrying trend.

Although this report includes the views and perspectives of several departments it has been authored by and remains the sole responsibility of the Economic Development Department and its Minister. While the report was finalised in draft during 2008 it was thought that the proximity of the elections and the likelihood of a ministerial reshuffle was such that publication should be delayed until the new Council of Ministers had been convened.

The new Economic Development Minister, Senator Alan Maclean, having been a full participant in the work leading to this report, is therefore content to see it go forward and encourages the industry, other stakeholders and the public to engage with him in order that a new Licensing Law can be drafted as speedily as possible.

Background

1.5 Alcohol policy and legislation is currently under review in many of our comparable and neighbouring jurisdictions, not least in England and Wales, Scotland and Guernsey. The Panel's advisors are grateful for the close co-operation of officials in the Home Department in Guernsey who have shared their experience and data and it is hoped that this process in Jersey will be of interest to the States of Guernsey. Proposals for change together with some detail of current Guernsey legislation are included as appendices. Of course Jersey and Guernsey are different Islands with different licensing systems, but in common with the UK, both are facing commonalities in wanting to promote health awareness, reduce incidents of drunkenness and disorder and modernise and update our liquor licensing legislation.

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- 1.6 The purpose of this review is, therefore, to gain public support for a realistic and proportionate set of policies that will be incorporated into a new Licensing (Jersey) Law 200*. To do this, the paper will explore experience in other jurisdictions in order to gain a better understanding of the sorts of policies that can assist with reducing the harmful effects of prolonged excessive consumption of alcohol, particularly amongst the young and to reduce the levels of violence and disorder caused by alcohol. In convening the Panel, the Minister seeks to listen to the concerns about current licensing law and identify an approach, which will address these, but which will not impact unnecessarily harshly on those licensees who operate their licences well or the wider public. The Minister fully accepts that the vast majority of licensees undertake their rôle responsibly and seek to work in partnership with the community in which they are located.
- 1.7 The States has been considering changes to the current 1974 Licensing Law for at least 15 years. The last review was undertaken in 1994/95 and recommended that no further piecemeal amendments should be made to the law, but that it should be repealed and replaced with a modern 'fit for purpose' enactment. It is safe to say that the current law has outlived its usefulness and that while times have changed and society's views have moved on, the 1974 law has proven incapable of sufficient flexibility to keep in step.
- 1.8 This review is being undertaken as part of the broader initiatives within the States Strategic Plan 2006-2011. Commitment Three of the Plan promotes a 'safe, just and equitable society'. As part of the specific measures to ensure a 'safe community protected against crime and disorder' the Minister for Economic Development agreed in part 3.2.5 to 'review licensing legislation by end 2008'. The consultation is thus taking place at a very pertinent time, when the harmful effect of alcohol and associated licensing policy is gaining more widespread attention. Of particular concern for policy makers is the degree of alcohol related harm within society and particularly in vulnerable groups. There is a growing body of evidence that shows that consumption of alcohol in Jersey continues to be in excess of that of the UK, which has itself steadily risen over the past 50 years. This trend has had and will continue to have a negative social effect and detrimental health effects for years to come.

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1.9 As will be shown, because Jersey has a higher distribution of outlets selling alcohol and higher rates of consumption than the UK, the Panel feels that the medical and social consequences are alarming and that clear steps need to be taken to reverse this trend before it is too late. Rising rates of alcohol intake, particularly by young women, are being matched by a similar increase in cases of sexual violence and sexually transmitted disease. This Licensing review, therefore, has as its main objective, the creation of a new law that is broadly acceptable to society but which is designed to be safe, just and equitable. There are inevitably competing and opposing perspectives in any situation and the Minister recognises that in order to gain consensus on the way forward, this review must be open to the broadest possible breadth of opinion. Ultimately, government maintains a duty of care to all of its citizens and to that end this Green Paper should not be inflexible but consider what the Minister believes to be the key issues and outline some of the different policy options and points of view. This is not exclusive, however, and the Minister wishes to encourage all interested parties to enter the discussion, offer evidence and alternatives and, in so doing, ensure that everyone can feel part of the process.

The Process

1.10 This Green Paper will be open for consideration and comment for three months. Replies and comment on the Green Paper must be received by **1st June 2009** in order to be considered. The Regulatory Services Directorate of Economic Development will then consolidate the replies and produce a report for the Panel.

1.11 Once the replies to the Green Paper have been considered by the Advisory Group and the Panel, the Minister will then produce a White Paper. This White Paper will outline the way forward that the Minister believes is most appropriate for Jersey. Unlike the Green Paper that is broad in its scope and range of views, the White Paper will be specific and include the main areas for change that the Minister has identified. This White Paper will also undergo a further three months of consultation and it is anticipated that this will close by the end of 2009.

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SECTION TWO

HIGH LEVEL POLICY ISSUES

2.1 This review is to be as all encompassing as possible, but inevitably there will be areas that respondents believe have been overlooked, or where alternative perspectives should be considered. In broad terms, the following perspectives have been considered for all issues:

- the general public interest;
- the public health interest;
- the public safety interest;
- the consumer interest;
- business interest.

2.2 These are not offered in any particular order of significance, but have been included and considered by the Panel in order to ensure that in making recommendations and suggestions, they have considered a wide diversity of opinion that respondents can then consider and choose whether to support or not. Clearly these objectives are not always mutually compatible at their extremes and do not necessarily all sit comfortably together. For that reason in considering different policy issues the Panel has recommended that some should take precedence over others.

2.3 At present, the licensing law has as its overarching aim to 'make provision for the control and sale of intoxicating liquor and related matters'. There have been a number of early submissions to the Minister suggesting changes to the law and, in particular, a request that the 'new law...concentrate on matters revolving around the sale of alcohol and not involve itself in other matters such as the health issues surrounding the consumption of alcohol'. The Panel is emphatic that the sale of alcohol cannot be divorced from its consequences and rejects what it considers to be an artificial boundary between sales and consumption. The Minister, however, has not yet determined the degree of protection that is necessary, reasonable and proportionate to define in legislation and invites your views.

2.4 In considering this, the Panel has looked at changes that have recently taken place in our near neighbours, particularly in Guernsey, England and Wales, and Scotland.

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While each jurisdiction has its own particular set of circumstances that it has sought to address, there are commonalities:

- the introduction of alcohol free zones;
- introduction of temporary closure orders on public safety grounds;
- stronger controls to ensure supervision of licensed premises;
- clear sets of definitions;
- measures to curb or prevent drinks promotions;
- efficiencies in the bureaucracy leading to licensing;
- greater flexibility to the licensing body to impose individual conditions to a licence.

2.5 The Panel recognises that many of the changes introduced in these jurisdictions may not be appropriate for Jersey, or could be achieved in a simpler and more efficient way. To that end, the Panel is not suggesting that Jersey copy these jurisdictions, but will look at their experience and whether there are things that Jersey can usefully learn from.

2.6 Currently, the 1974 Law makes reference to two overarching licensing objectives:

- the interests of the public in general;
- the nature of the business conducted...on the premises...and the suitability of those premises for the conduct of that business.

The Minister believes that these objectives remain valid, but recognises that there has been a tendency in recent legislation, especially in the United Kingdom, to prescribe additional objectives that both the licensing body and the licensee must address. In the 2003 Licensing Act (England and Wales), the British Government developed a new set of licensing objectives, namely:

- preventing crime and disorder;
- promoting public safety;
- preventing public nuisance;
- protecting children from harm.

2.7 In Scotland, however, the law has been further strengthened so that the Licensing (Scotland) Act 2005 has the additional objective of protecting and improving public

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health. The Act's inclusion of a public health objective¹ reflects the seriousness with which the Scottish Government take the question of alcohol consumption and a debate is currently underway regarding its future inclusion within legislation for England and Wales. The Panel, in keeping with the more holistic approach to licensing that links sale, consumption and effect together, believes that the Scottish approach to Licensing should be seriously considered by the Minister and the public as sensible and proportionate. The Panel believes that 'the interests of the public in general' is too wide in its scope and that the licensing authorities would benefit from having a clearer defined set of objectives with which to judge applications and assess compliance.

2.8 The need for a Public Health licensing objective

As has been stated, the Panel do not believe that it is appropriate to consider the sale of alcohol in isolation. The recently published Annual Report of the Medical Officer of Health 2008 shows (p29) in the Health Profile for Jersey that Jersey residents are drinking significantly more at 14.8 litres of alcohol per year than our neighbours in either the UK (11.8 litres) or France (11.4 litres). Equally as worrying is the data that shows that binge drinking by 16-24 year old females significantly exceeds that of the UK (35% : 25%) while that of men in the same age group is slightly less than the UK, but still a concern (36% : 41%). Detailed figures are reproduced below:

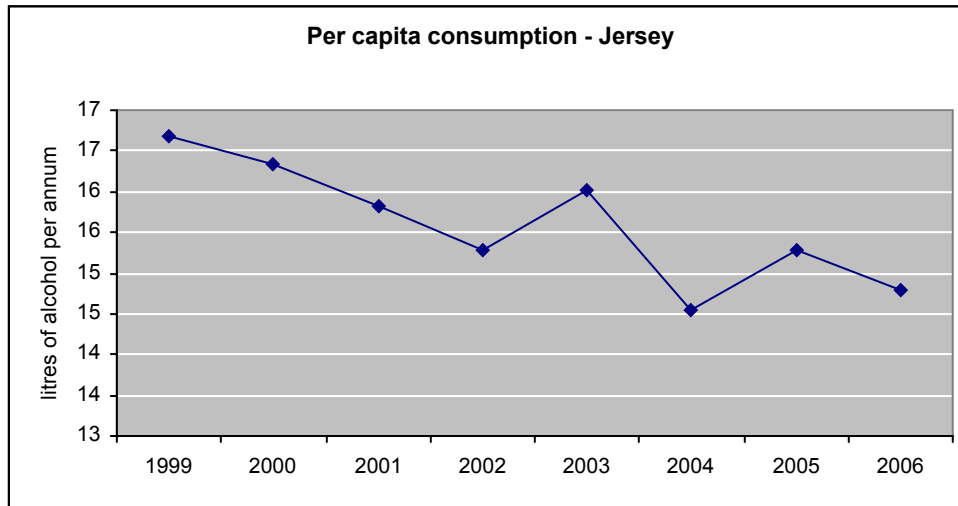
Alcohol consumption per capita in Jersey

Per capita : litres of alcohol per year

	<u>Spirits</u>	<u>Wine</u>	<u>Beer/cider</u>	<u>Total</u>
1999	2.6	5.9	8.2	16.7
2000	2.4	6.3	7.7	16.3
2001	2.1	6.2	7.5	15.8
2002	1.9	6.1	7.3	15.3
2003	2.2	6.4	7.4	16.0
2004	1.8	5.5	7.2	14.5
2005	2.0	6.0	7.3	15.3
2006	2.0	5.8	7.0	14.8

¹ Although the Scottish Act has included the objective of improving public health, this does not come into full effect until 2009.

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2.9 Notwithstanding the gradual decline Jersey, according to figures supplied by the Department of Health and Social Services², still has amongst the highest consumption rates in Europe, second only to Luxembourg. This is a major concern, because it is not just affecting the minority of people who can regularly be seen drunk and incapable over weekend evenings. The heavy alcohol consumption of many in society is going to have longer term adverse consequences that will impact in terms of physical, psychological and social harm well before people realise that they have a problem. The data to underpin these assertions has been developed and refined for a number of years.

Adult drinking

2.10 The 2006 Jersey Annual Social Survey (JASS) indicated that:

- Around 85% of the population (aged 16 and over) drink alcohol at least once a week;
- There are approximately 63,200* people in Jersey who drink alcohol;
*based on total population estimate for 2006 = 89,300-15,000=74,300
- 17% of all drinkers binge drink³ (i.e. drink over double the daily sensible levels in any one day) – around 10,700 people in the Island. This type of drinking, if done regularly, will impact on the health of these people;
- Binge drinking is particularly prevalent among the 16-34 age groups. 39% of young men and women, who drink, binge drink – over 6,000 in total;

² Data sources: Jersey Health Survey 1999,; Jersey Annual Social Survey 2006; HRBQ 2006. Health Intelligence Unit.

³ Jersey uses the following definition: 'binge drinking' is defined as drinking over double the daily recognised sensible levels in any one day (over eight units a day for men and over six units a day for women). Association of Public Health Observatories: Indications of Public Health in the English Regions, p93

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- 12% of drinkers (over 7,000 people) are drinking at levels defined as harmful or hazardous to health (more than 14 units per week for women and more than 21 units per week for men). Those drinking at higher levels (more than 35 units per week or more than 50 units per week) will experience harm such as alcohol related accidents, acute alcohol poisoning, hypertension and cirrhosis⁴.
- In addition around 5% of the population (approximately 3,700 people) are likely to be alcohol dependant and have associated health problems and complex care needs.

2.11 The 2007 JASS (pp52-54) asked slightly different questions, one being to ask what lifestyle changes respondents had tried in the past twelve months to improve their health. Only a third (32%) had tried to cut down on their drinking, with a further third (36%) stating that 'this did not even apply to them', though half said they would like to cut down. When asked to identify important factors for a healthy lifestyle, about a fifth of respondents (18%) identified alcohol as one of the top three influences on their health. These data indicate a sizeable proportion of the population who either are not able or willing to reduce the amount of alcohol they drink, as well as those who likely do not understand that their rates of alcohol consumption are having negative health effects on them. Both indicators are matters of concern.

2.12 The UK's 'recommended drinking guidelines' states that:

men should not regularly drink more than three to four units of alcohol per day, and women should not regularly drink more than two to three units of alcohol per day. In terms of weekly limits, men are advised to drink no more than 21 units per week and women no more than 14 units per week.

2.13 This means, in general terms, that if you regularly drink more than two pints of beer a day as an adult man or two glasses of ordinary strength wine as an adult woman you are exceeding the recommended drinking guidelines (based on recommended weekly consumption). The key to these issues is the word 'regularly'. It is a reasonable assumption that many Islanders consume larger amounts of alcohol than the 'recommended drinking guidelines' from time to time and believe that this is not causing them harm. That may or may not be true depending upon the individual, but what is worrying are the 12% of Island drinkers (over 7,000 people) who are drinking

⁴ The next survey will be designed to pull out the higher drinking levels – question not asked in 2006.

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at levels defined as harmful or hazardous to health (more than 14 units per week for women and more than 21 units per week for men).

2.14 Those drinking at even higher levels (more than 35 units per week or more than 50 units per week) **will experience harm** such as alcohol related accidents, acute alcohol poisoning, hypertension and cirrhosis. Add to this the approximate 5% of the population (approximately 3,700 people) who are likely to be alcohol dependant and have associated health problems and complex care needs. The problem does not stop there.

2.15 **Children drinking**

- Around 20% of 12-13 year olds (approximately 200) and 40% of 14-15 year olds (approximately 400) reported drinking alcohol at least once in the previous week;
- 8% of 14-15 year olds reported drinking above sensible adult levels in the previous week.

While the first statistic may represent properly supervised minimal consumption, the second is shocking. It is unacceptable for 14-15 year olds to be drinking amounts known to have potential health consequences for adults. This represents over 80 children in that age group significantly risking their health if this behaviour forms a regular habit.

Alcohol attributable deaths

2.16 Finally there is the ultimate cost for those Islanders who have regularly consumed too much alcohol over the course of their lifetime. The Health and Social Services Department estimate that in Jersey around 42 deaths a year are caused by alcohol, 11 from alcohol specific causes and 31 to alcohol attributable causes.

Annual average deaths attributable to alcohol (2002 to 2006)

	Male	Female	Total
Alcohol specific deaths	5	6	11
Deaths from alcohol related conditions	17	14	31
Total deaths attributable* to alcohol	22	20	42

* Alcohol specific + alcohol related conditions (figures rounded)

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2.17 There is no question that alcohol has the capacity to cause harm and that Jersey is experiencing levels of drinking that are leading to serious illness and premature deaths. As a government, the States has a duty to guide its citizens to a more responsible lifestyle and educate about the consequences that particular habits will have. After a time, however, the States has to act in order to enforce this message through legislation. This has been demonstrated recently with the very successful campaign against smoking and the acceptance by the public of the smoking ban in places of work.

2.18 The Panel believes that the States should act now to mitigate people's behaviour before the likely health and social effects force radical action. The inclusion of a public health licensing objective will assist with this gradual change of behaviour.

The need for Public Safety Licensing Objectives:

- **Prevent Crime and Disorder**
- **Securing Public Safety**
- **Preventing Public Nuisance and**
- **Protecting Children from Harm.**

2.19 Public Health issues arising from consumption are not the only issues that the Panel feel that licensing authorities should give consideration to when deliberating over an application. The States of Jersey Police regularly have to contend with people who have acted reasonably while on licensed premises, or who have been drinking at home after visiting an 'off-licence', but who then on entering the streets become disorderly, abusive, threatening and/or incapable, endangering both themselves and others. For this reason the Panel believes that public safety considerations should also be significantly advanced within a new law. This message is evidenced by the results of the JASS that have shown that after drugs, anti-social behaviour by young people and street violence and disorder were people's greatest concerns. As such, the States of Jersey Police⁵:

have consistently argued that the potential for street violence and disorder is driven by a growing night-time economy, relatively cheap alcohol, an increasing tendency in society to binge drink and wholly inadequate late night transport facilities. All of these factors exert upward pressure on the levels of street violence and disorder in St

⁵ States of Jersey Police: Policing Plan 2007, p12

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Helier and none of them can be resolved by simply putting police officers on the beat.

- 2.20 The relative importance of the Licensing Law and its role in curbing alcohol related disorder is such that the Police have included a number of actions in their Policing Plan. These include creating a permanent establishment of four posts in the Licensing Unit, training additional officers to conduct licensing checks during the weekend, developing a 'licensed premises check initiative' as well as supporting the development of enhanced training programmes for staff working in the licensed trade.
- 2.21 The Fire and Rescue Service also provides vital advice and support to licensees and the public with regard to fire safety in licensed premises. Although their powers and responsibilities are captured in other legislation, the Panel believes that the Fire and Rescue Service should be given powers under the licensing law to inspect, assess and report on standards of public safety on licensed premises as well as within single, adjoining or adjoining premises. This duty of public safety will also be enhanced by the inclusion of additional licensing objectives within a new law.
- 2.22 With regard to the protection of children, the Panel has noted that this is an area with broad ramifications both for the trade and the public and will elaborate on issues regarding both children, which the Panel believes encompasses those aged up to 15 years old, and other young people aged between 16 and 18. The Panel believes that should it be agreed to broaden Jersey's licensing objectives as has been suggested, then an objective to protect children (including young people) would be a valuable addition.

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<p>Question 1</p> <p>REASON:</p>	<p>We invite views on our proposal that the existing Jersey licensing objectives are insufficient and need to be enhanced to refer specifically:</p> <ul style="list-style-type: none"> • to preventing crime and disorder; • securing public safety • preventing public nuisance • protecting and improving public health, and • protecting children from harm. <p>Do you agree? It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 2</p> <p>REASON:</p>	<p>Should supplementary objectives be introduced? If so, please state which and it would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

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SECTION THREE

THE LICENSING PROCESS

- 3.1 The current licensing process has two stages. There is a Parish Assembly to gauge the views of local residents and then the application proper to the Licensing Assembly. The Panel believes that this process is broadly sound, but that a number of improvements can be made. The Parish Assembly plays an important role in bringing applications to the notice of Parishioners who might not otherwise become aware and also in giving applicants an opportunity to reconsider their application in the light of local suggestions. However, it is presently possible for applicants to bring their case to the Parish before it has been properly tested and evaluated by relevant professionals working for the States. This is a deficiency.
- 3.2 The detail in the Law regarding the process by which the Parish must assess an application seems to be quite complex. It defines, for example, latest dates by which an application must be made and dates by which reports must be sent to the Licensing Assembly. This may still be relevant, but the Panel wonder whether it might not be made more simple and flexible to remove this level of detail and leave it to the Parish and the Licensing Assembly to decide their own timeframes.
- 3.3 Nearly all applications first involve an early discussion with the Planning Department to determine if change of use or modifications will be permitted at the designated premises. In order to save an applicant time at the business critical moment of the licence hearing, the Panel believe that alongside the Planning Department, a first initial contact must also be made with the Health Protection Unit of the Health and Social Services Department to undertake a Health Impact Assessment of the application. The Assessment would judge the application on criteria such as protecting the population from the known harm caused by high levels of alcohol consumption and promoting an environment that encourages sensible drinking. Without this Assessment being presented to and considered by the Licensing Assembly, no application would be granted.
- 3.4 At the same time, applicants will be encouraged to provide a business plan to the Parish, but this must be produced at least eight weeks prior to consideration by the Licensing Assembly and copies sent to the States of Jersey Police, the Fire and Rescue Service, the Health Protection Unit, Home Affairs Department and Economic
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Development. Again, the Licensing Assembly will not consider any application until it has received a business plan together with the comments of relevant officials. As well as stating normal business matters such as hours of operation, numbers of staff, levels of training and so on, business plans will be expected to take account of and clearly express their corporate commitment to social responsibility, the prevention of alcohol abuse and a clear understanding of responsible drinking.

- 3.5 This may seem to be adding to the current levels of bureaucracy that an applicant will have to overcome in order to receive a licence. This is not so. Currently there is already a legal obligation on applicants to have their premises inspected by the Fire and Rescue Service, the Health Protection Unit and so on. By moving these inspections to the beginning of the application process rather than the end, applicants will have a quicker understanding of what changes or modifications they will have to make in order to make their premises safe for the public. Early notice of such conditions will inevitably save applicants money, time and a great deal of aggravation in the longer term. Similarly, the Panel does not believe that requiring an applicant to produce a business model and/or plan represents anything different to that which would be demanded by a bank or lending agency in order to assess the risk of an investment. Any self respecting business will have a business plan and this should be made available for inspection by relevant officials and the Assembly.

Proposed Application Process

- 3.6 The new process would thus work in the following way:
An applicant would approach Planning and Health for an exploratory discussion. Once confirmed that an application would be made (for which a fee would be charged) Health professionals would prepare the Health Impact Assessment. The applicant would then approach the Parish which would convene a Parish Assembly to hear the application. Before the Parish Assembly could consider the application, however, the views and recommendations of the Fire and Rescue Service would have to be provided. In the event that the Fire and Rescue Service mandated changes to ensure public safety, the applicant would be recommended to begin these before the approach to the Licensing Assembly as no licence will be granted until premises are designated as safe by the Fire and Rescue Service. The Fire and Rescue Service would be able to charge a reasonable fee for this service. The

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previous practice of granting a licence subject to changes being applied will be abolished.

- 3.7 The Connetable of the Parish would be given a duty to ensure that a clear explanation of the process was given to parishioners who could then write to or attend the Licensing Assembly to express their views. It would not be mandatory for the applicant to provide either the Health Impact Assessment or the Business Plan to the Parish, but this would be recommended and indeed the Parish may well expect a business plan to be provided in order to make an informed choice. Based on an assessment of the application and the views of attending ratepayers, the Parish would then make a recommendation to the Licensing Assembly. As at present, this would be a recommendation only and the Licensing Assembly would have the discretion to endorse or overrule the Parish, although an explanation of such a decision would be expected.
- 3.8 At this stage the applicant could approach the Judicial Greffe for a hearing before the Licensing Assembly itself. As previously stated, the Licensing Assembly would not hear the application until it had received written confirmation from the Fire and Rescue Service that the premises were safe to the standard required by the Fire and Rescue Service. Nor would it hear an application until it had received copies of the Health Impact Assessment and the business plan, together with a report from relevant States professionals. Once in possession of these the Licensing Assembly would sit and deliberate on the merits of the application keeping in mind the recommended new licensing objectives.
- 3.9 The Panel, being concerned with the high levels of alcohol consumption in the Island and the ready availability of alcohol at a wide variety of locations and types of establishment are agreed that the Assembly should actively seek to limit the number and density of licences issued within the Island and Parishes. To that end it is recommending that the Licensing Assembly from time to time be given joint written guidance by the Ministers for Economic Development, Health and Social Services and Home Affairs of how the new licensing objectives should be interpreted in line with States policies. This guidance would not be binding upon the Licensing Assembly, but the Assembly would be mandated to provide written explanation of any decisions that ran contrary to the existing guidance.

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3.10 It is clear that this latter step would be quite a radical departure from current practice, but the Panel believe that the Licensing Assembly would benefit from receiving guidance on how the States is addressing the wider question of alcohol, while not fettering its discretion. The Panel has received evidence to show that the numbers of licensed premises in the Island, and particularly in the Parish of St Helier, are exceptionally high. The table below shows that the numbers of licensed premises in Jersey (rate per 10,000 people) is double that of England for both on- and off-licences.

Rate of licensed premises per 10,000 population

(based on estimated resident population in 2006 of 96,300)

Jersey 2008	on-licences	off- licences	
number	400	147	
rate per 10,000 population	44.8	16.5	61.3
England 2003/04	21.2	8.7	29.9
South West Region 2003/04	27.8	9.7	37.5
<i>Differences v England</i>	<i>x2.1</i>	<i>x1.9</i>	<i>x2.0</i>
<i>v South West Region</i>	<i>x1.6</i>	<i>x1.7</i>	<i>x1.6</i>

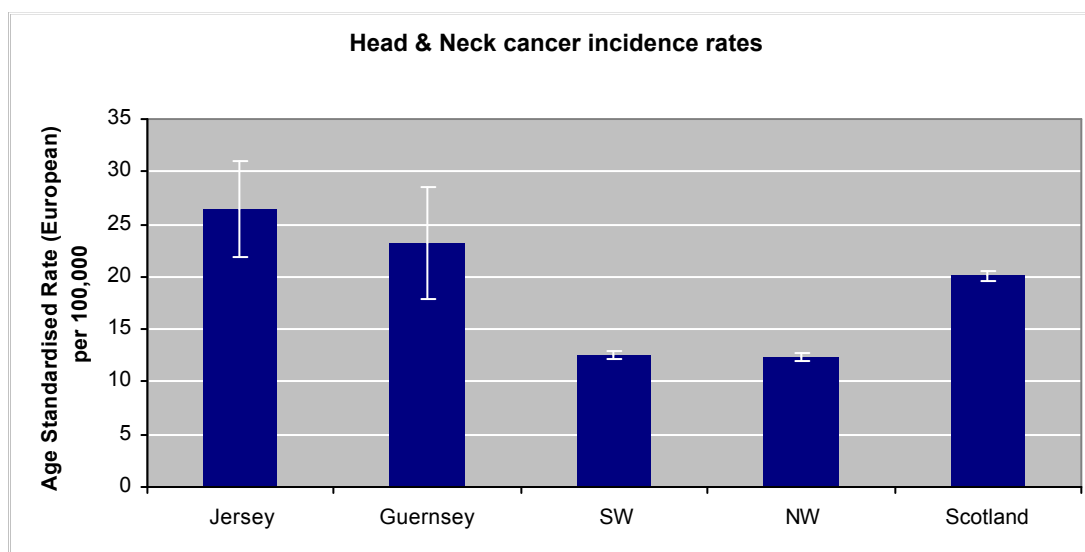
3.11 As the health evidence clearly shows that alcohol contributes to a number of causes of death, including but not limited to cancers (see overleaf), the Panel believe that the availability of alcohol across the Island should be reduced. This can be achieved by a number of different measures which are discussed in greater depth in Sections Five and Six of this consultation paper. The availability of alcohol in St Helier is amply demonstrated by the map overleaf which indicates the prevalence and proximity of licences in the Parish (but excluding restaurants, comprehensive licences (mainly hotels) and residential licences). The actual density of places to procure alcohol is therefore greater than even this picture illustrates.

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Head and neck cancers incidence (ICD-10 C00-C14, C30-C32; including Thyroid)
Alcohol is known to contribute to the incidence of cancers of the head & neck



3.12 Returning to the issue of process, the Panel did consider, but rejected alternative approaches to making licensing decisions. While there are a number of flaws to the present system, the Panel believes that the consistency of the Assembly, coupled with their legal background and broad independence from political influences make them the best body to hear and consider applications. In considering other bodies, the Panel noted that in Guernsey it is the Royal Court that fulfils this function, whereas in Scotland this is a function undertaken by a Licensing Board. The Board is itself made up of locally elected political councillors and they in turn are advised by a broadly representative Licensing Forum. In England and Wales a Licensing Authority is also politically constituted from district, county or county borough councils. In rejecting these models the Panel believes that a full Royal Court sitting would add to administrative and other costs, while a politically constituted board may not act with the consistency that the Panel believes will be vital under the new Law. In rejecting these models the Panel does not mean to infer or demean either system merely that their adoption would not, in its view, be consistent with licensing practice as it applies in Jersey.

3.13 The current Licensing Assembly does bring with it some advantages, for while it has the style of a Court, it is does not have to be addressed by Jersey Advocates and it

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has the discretion to set its own procedures and amend pre-existing practice in a manner which perhaps the Royal Court could not. These practises, particularly the numbers and regularity of sitting do need amendment however. In the Panel's view, the Assembly should be much more flexible in its sittings and its current programme of quarterly sittings is no longer keeping pace with the greater demands faced by applicants who need to change their licences more regularly than in the past. The Panel recognises that the Assembly has been reasonable in undertaking Extraordinary Assembly's in time of need, but considers that a more regular programme would be advantageous.

3.14 For the Licensing Assembly to determine conditions for an individual application would necessitate a different method of application. Such a process would make the law much simpler. It would not have to specify hours of opening. It would not have to say what conditions allowed, for example, the serving of food, or the playing of music. Each application could be determined on its own merits with the Assembly taking into consideration the requirements of the law (including the overarching principles or objectives), the business model of the applicant, the location and so on. At a minimum, the Panel believe that the Assembly would need to have regard to the following matters in determining the conditions of a licence:

- the Health Impact Assessment;
- the report on the business plan submitted by Economic Development, Home Affairs and Health and Social Services;
- any additional report submitted by the States of Jersey Police or the Fire and Rescue Service (noting that the Assembly will not be permitted to hear an application until the Fire and Rescue Service provide written confirmation that a proposed premises is safe for that purpose)
- the location and type of premises;
- hours of operation;
- the views of the Parish Assembly;
- the social need for that licensed premises in the given location, especially where one already exists in close proximity;
- a social impact assessment, to include reference to traffic, noise abatement and so on;
- production of a written fire risk assessment by a 'responsible person' acceptable to the Fire and Rescue Service;
- production of a business plan/operating schedule based on the licensing objectives; this could include whether children were to be

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admitted, or music played and be as wide as to control patrons outside of premises and the general cleanliness of the surrounding area;

- level of staff training, especially in alcohol awareness;
- production of a policy designed to prevent drunkenness inside and arising from their licensed premises.

3.15 For clarity, every licence would indicate whether a premises was trading as a restaurant, café, public house or club/nightclub. Where premises were of mixed use the licensing body would designate the primary use by areas within the premises as detailed on the proposed business plan. It would be for the applicant to request different hours of operation if they so wished if the premises was of mixed use and the Licensing Assembly could also impose such a condition if they believed it was in keeping with the Licensing Objectives and in the public interest.

3.16 The introduction of such a system would make the Licensing Law vastly simpler to understand and for the purposes of keeping it up-to-date, would make it much more resilient. It would have great flexibility. Practically any general condition could be varied by the Assembly without the need to change the law or apply that change to every licensee. By operating such a policy, the licensing system would be able to adapt to both the individual circumstances of the applicant and the perceived best interests of the public.

3.17 This would, however, bring great responsibility to the Licensing Assembly in assuring itself that it was able to properly decide what the best outcome or decision would be. This is further reason to allow for a system of formal written guidance to be offered to the Assembly from time to time. Part of the reasoning for moving licensing away from Magistrates in the United Kingdom was the concern that such wide powers in social policy would be better exercised by those who were elected by and accountable to the people they served. Although the Panel is not wholly convinced by this approach, it does recognise the need for the Assembly to be fully cognisant and take heed of the advice of relevant professionals regarding particulars in the application judged against the new licensing objectives. This should, in the Panel's view, provide the balance and direction that brings the benefits of both approaches together.

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<p>Question 3</p> <p>REASON:</p>	<p>The Panel invites views on its proposal that the Fire and Rescue Service must assess an application prior to being considered by the Parish and before the Licensing Assembly can hear the application.</p> <p>Do you agree? If so, it would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 4</p> <p>REASON:</p>	<p>The Panel invites views on its proposal that applicants should have to submit a business plan to government agencies and the Licensing Assembly stating how they will adhere to the new licensing principles. This will include, for example, measures to prevent drunkenness and disorder.</p> <p>Do you agree?</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 5</p>	<p>When making a decision, the Panel believe that the Licensing Assembly should take note of the professional advice it receives from government agencies based on the new licensing objectives.</p> <p>The Panel invites views on whether the Licensing Assembly should retain the discretion to reject this professional advice?</p>

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<p>REASON:</p>	<p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 6</p> <p>REASON:</p>	<p>The Panel invites views on whether third parties (including government) should have a right to appeal the Licensing Assembly's decision?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 7</p> <p>REASON:</p>	<p>The Panel invites views on how the process of application, consideration and award or rejection of a licence be made more streamlined, efficient and effective?</p> <p>It would be helpful if your reasons could be given.</p>

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Question 8	The Panel invites views on whether you agree with our recommendation to retain the Licensing Assembly. If not please state why? YES <input type="checkbox"/> NO <input type="checkbox"/> REASON(S):								
Question 9	The Panel invites views on how often the Licensing Assembly should meet to consider applications for a licence? It would be helpful if your reasons could be given. <table border="1"><tr><td>Fortnightly</td><td><input type="checkbox"/></td></tr><tr><td>Monthly</td><td><input type="checkbox"/></td></tr><tr><td>Quarterly</td><td><input type="checkbox"/></td></tr><tr><td>On Demand</td><td><input type="checkbox"/></td></tr></table> REASONS:	Fortnightly	<input type="checkbox"/>	Monthly	<input type="checkbox"/>	Quarterly	<input type="checkbox"/>	On Demand	<input type="checkbox"/>
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SECTION FOUR

LICENSING DETAILS

Who should be able to apply for a licence?

- 4.1 At present there are requirements as to residence in the Island (Article 4). The Panel notes that a potential licensee still has to prove that they are 'fit and proper' to hold a licence and that this requires a criminal record check. The Panel believe that this should be maintained, but question the relevance of insisting on three years residency when a police check is required in any event. For that reason, the Panel believe that a requirement for previous residency is no longer necessary, but that an applicant must still be burdened to prove that they are 'fit and proper'.

4.2 Types of Licence

Article 2 of the current Law defines seven different types of licence, each of which has different operating conditions and requirements. The current situation, however, has seen greater convergence between the types of service offered by different businesses and as such the boundaries between categories are no longer clear. Many pubs, for example, also offer food and sometimes entertainment. Hotels have restaurants and often public bars. The nature of what 'entertainment' actually is remains undefined, while a meal is defined but remains subject to interpretation. The confusion is such that it is not uncommon for Advocates to contact the department asking for advice regarding particular premises and this is clearly not efficient.

- 4.3 A number of professional bodies representing different areas of the trade have made representations to the Panel regarding the current licensing system. There are a number of matters that the passage of time have rendered questionable and which these groups have asked the Panel to consider. These range from the applicability to current times of a separate 'summer season' and 'winter season', to the necessity for a restaurant licensee to only offer alcohol to patrons not eating if they are sitting down (Article 38 (2) (b)). A number of other suggestions have also been received, but the Panel believes that they can all be addressed relatively simply.

- 4.4 The Panel does not believe that it is in the best interests of anyone that the current state of confusion be permitted to continue. To that end it believes that reducing the categories to two will make the process much simpler. The Panel therefore asks for public support in reducing the numbers of categories to either an 'on-licence' or an 'off-licence'. In stating this, the Panel is not naïve enough to think that all applicants

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for a licence will be the same and does not think that every applicant should be allowed to operate in the same way. Reducing the categories in this fashion will, however, remove the current anomalies referred to above.

- 4.5 In reducing the categories to two, the Panel understands that there must be a method to differentiate between applications. Although the law does not necessarily have to try and demarcate where a pub finishes and a club or restaurant begins, there must be some way of doing so, otherwise anyone having a licence (other than an off-licence) would be able to operate as a public bar. The simplest method would appear to be leaving the decision to the Licensing Assembly.

Holders of Licences

- 4.6 Every premises where alcohol is sold currently has to have a single responsible individual who holds the licence. This places considerable responsibility on the individual licensee beyond what was probably envisaged when the law was drafted. One effect, for example, is to restrict the times when licensees can go on holiday because of the need to be ordinarily in the Island, whilst another that seems a little unreasonable now is an obligation to be sober and responsible at all times, even when off duty and away from the premises. The Panel believes that this system places undue responsibility on an individual and thinks that it could be replaced by a two-tier system of both individual and corporate licensing.

- 4.7 The need for a corporate licence is so that a corporate entity that actually owns or operates the premises and which exerts influence and control over its operation is not able to avoid responsibility for its proper management. At present, all responsibility for the conduct and operation of a licensed business falls on the licensee, even when this person is an employee of the company. The Panel thinks that this places an unreasonable burden that a company responsible for a premises should also share. To that end, the Panel thinks that each premises should have a corporate licence to be held by either the company secretary, chief executive or managing director to ensure proper accountability.

- 4.8 Individual licences should be retained, but no longer linked inextricably to particular premises. In that way, an individual (personal) licensee would be free to move to a different company or establish as a sole trader without having to reapply for a

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different licence for other premises. The system might be more difficult for a sole trader, however, as they would need to ensure that they had another member of staff (or family member) able to hold a personal licence and thus entitle them to time off. In order to provide for unforeseen changeover, a provision similar to Guernsey's Section 7(6) 'Designated Official ceasing to act' might be sensible. Under this provision a corporate applicant can receive a temporary permission to carry on trading under its licence for two months until a new personal licensee is installed. This provision should also capture premises licences.

4.9 Such changes will also benefit corporate entities, who will then have a pool of individual licensees who, while primarily responsible for individual premises, could also be moved around to cover holidays, sickness and so on. This would abolish the current prohibition on persons not being able to hold more than one licence (Article 7) as a company would hold as many licences as premises that it operated. It should also prevent licensees from undertaking other employment and leaving a premises in the care of a non-licensed manager.

4.10 Such a system of personal licences and corporate licences would need to be properly managed and maintained and a publicly accessible central database should be established to monitor the situation. It is possible that this information could be placed on the internet for ease of access. Applications for provisional licences could also be maintained in this manner and simplification of the law to allow for outline planning consents rather than full consent would make the system more flexible for applicants. The body most appropriate to maintain such a database has not yet been identified, but logically it could sit with the licensing body, its support department or the Economic Development Department.

4.11 The inclusion of a company premises licence, if agreed, will bring with it additional responsibilities for the operating company to comply with. The first is in respect of staff training. This should be on two levels. There should be a nationally approved and accredited alcohol awareness training for all staff, but also specific qualifications including a written examination regarding the new Licensing Law for managers who should also be personal licensees. The Panel thinks that each personal licensee should also be able as part of the licensing process, to explain to the Assembly how they would implement and achieve the objectives in the law as part of the company's

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premises licence application. As part of making the system less bureaucratic, the Panel considers that the current annual system of licensing should be replaced with a 3-5 year licence, though it notes that personal licences are valid for 10 years in England and Wales (Section 115, 2003 Licensing Act).

Fees

4.12 In P117/07 the Deputy of St Martin requested the Minister for Economic Development:

- (a) to review the structure of the current liquor licence fees charged annually for each category of licence under the Licensing (Jersey) Law 1974, with a view to introducing a more equitable licensing structure;
- (b) to finalise the review and publish its findings no later than 1st August 2008 or before any requests are made for further increases in licensing fees.

4.13 The Assistant Minister for Economic Development noted in the States (26th September 2007) that the Licensing Law was due to be reviewed and that fees and fee structures would form a part of that review. This section of the public consultation process delivers on that commitment.

4.14 The Licensing (Licence Fees) (Jersey) Regulations 2007 set the fee structure for the present seven categories of licence in the following way:

First Category (“Taverner’s Licence”)	£434, plus a fee of £1.07 multiplied by the maximum number of persons who may at any time be accommodated for reward on the premises (in these Regulations referred to as “the number of approved residents”)
Second Category (“Residential Licence”)	A fee of £1.07 multiplied by the number of approved residents, with a minimum fee of £136
Third Category (“Restaurant Licence”)	£434
Fourth Category (“Comprehensive Licence”)	£1,082 plus a fee of £2.15 multiplied by the number of approved residents
Fifth Category (“Club Licence”)	£324
Sixth Category (“Off-Licence”)	£114
Seventh Category (“Entertainment Licence”)	
(a) cinemas, theatres	£434

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(b) places of entertainment other than cinemas and theatres	A fee of £1.07 multiplied by the number of persons mentioned in the permit for entertainment granted by the Bailiff in respect of the premises, with a minimum fee of £434.
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- (2) If licences of different categories are applicable to the same premises, a separate fee shall be payable in respect of each category of licence.
- (3) If a licence will expire within 6 months of its commencement, the fee for the licence shall be one-half of that prescribed in paragraph (1).
- (4) If a licence will expire more than 12 months and 7 days after its commencement, the fee for the licence shall be increased by one-twelfth.
- (5) If an application for grant of a licence is refused or withdrawn, the amount of the fee shall be refunded to the applicant.

4.15 There are without question a number of anomalies within the current structure of fees. The first complaint which can be made is the administrative burden and resultant cost of enforcing annual renewal. The Panel has already commented on this matter and is prepared to support a change to 3-5 year licences. The second is the need of proprietors to apply for and purchase multiple licences because their business model crosses categories. This too has been addressed by the Panel with its discussion around reducing the numbers of licence categories.

4.16 The Deputy of St Martin in his Proposition noted that there appears to be little logic as to why there should not only be a different fee for some licences, but why the cost of some licences should be as much as four times more than others. The Panel agrees that the present scale of fees appears to be completely arbitrary and bears no relation to the actual administration charges involved. To that end it will discuss the question with the Economic Adviser in order to get a more robust understanding of the value that the sector has within the wider economy and, as a consequence, what an equitable system of charges might be. This should mean that agencies that presently provide their services for free, such as the Fire and Rescue Service and the Health Protection Unit will be able to recover some, if not all of their costs in assessing applications in line with the law. The aim should be that future costs more readily keep in line with charges and that potentially, a system of greater equity is introduced.

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Question 10

The Panel invites your views on whether the requirement for previous residency is still relevant for receiving a licence?

It would be helpful if your reasons could be given.

YES

NO

REASON:

Question 11

The Panel invites your views on the proposed reduction in the number of categories to two: an 'on-licence' and an 'off-licence'? Do you agree?

It would be helpful if your reasons could be given.

YES

NO

REASON:

Question 12

The Panel is recommending that the Licensing Assembly have discretion to apply different conditions on licences on a case by case basis.

This will mean that the Licensing Assembly will have more freedom to individually determine applications, albeit with reference to the applicant's business plan and an impact assessment from government agencies. Do you think this is a positive step?

It would be helpful if your reasons could be given.

YES

NO

REASON:

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Question 13

The Panel invites your views on whether the current licence system should be replaced by a dual system; of licensing for a premises by the company that owns / operates it, and a personal licence to be held by individuals who manage licensed premises.

Do you agree? If so, it would be helpful if your reasons could be given.

YES

NO

REASON:

Question 14

Do you agree that the current system of annual renewal should be replaced by provision for three to five year licences?

If so, it would be helpful if your reasons could be given.

YES

NO

REASON:

Question 15

The Panel is suggesting that as part of receiving a three to five year personal licence, that individuals should have to pass an examination to test their understanding of the law and their responsibilities. Do you agree?

It would be helpful if your reasons could be given.

YES

REASON:

NO

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Question 16

What suggestions can you give for improving the system of licence charges and making fees more equitable? Please note that it is intended to only have two categories in the new Law.

The current fee structure is as follows:

	<u>2008</u>
1 st Category (Taverner's)	£434 plus £1.07 multiplied by the maximum number of persons who may be accommodated for reward on the premises.
2 nd Category (Residential)	£1.07 multiplied by the number of approved residents with a minimum fee of £136
3 rd Category (Restaurant)	£434
4 th Category (Comprehensive)	£1,082 plus a fee of £2.15 multiplied by the number of approved residents
5 th Category (Club)	£324
6 th Category (Off)	£114
7 th Category (Entertainment) Cinemas	£434
Places of Entertainment	£1.07 multiplied by the number of persons mentioned in the permit for entertainment granted by the Bailiff, with a minimum of £434

SUGGESTIONS:

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SECTION FIVE

GENERAL CONDITIONS FOR THE SALE AND CONSUMPTION OF ALCOHOL ON LICENSED PREMISES

- 5.1 The general conditions relate to what is presently Part 3 of the current law. As already stated, the Panel believes that the Assembly should be given broader discretion in applying different conditions to each application, but recognises that there are areas of wider public interest where standard rules should still apply. One of the most important to consider is the status of children and young people. At present, those under the age of 18 are only restricted from being on licensed premises past 9pm within a first category (Taverners) premises. Under all other categories they may be legally present until closing time which for a seventh category (entertainment/nightclub) premises can mean until 2am. Practically this is controlled by door staff who don't allow young people to be admitted, but this is a voluntary action and is not enforceable.
- 5.2 The Panel understands that there is a sensible approach to allowing parents and legal guardians to introduce their children to alcohol in a measured and controlled way and that allowing young people on licensed premises is one way of removing the 'mystique' that may surround alcohol. Sadly, however, there is also compelling evidence that not all parents understand the concept of 'measured and controlled' and are content to allow their sometimes very young children to drink large volumes of alcohol in their company. This is unacceptable, but strikes at the heart of the conflict between allowing freedom of choice (that some will abuse) or restricting this choice in order to protect the weak and the vulnerable.
- 5.3 A debate clearly needs to be had on this issue. The Panel understands the detrimental effect that alcohol can have on young people and notes the 2007 report of the Medical Officer of Health (p35) that one in twelve 14-15 year olds drink above levels that are considered safe for adults. This is probably not taking place on licensed premises, but after purchasing at off-licences. The status and numbers of off-licences will be considered further within this Green Paper. The fact remains that children are not physically capable of consuming and metabolising much alcohol and the Panel thinks, at the risk of anticipating the results of this consultation that greater controls have to be in place.

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- 5.4 Certain types of premises, such as restaurants and hotels, are clearly always going to have children present. Likewise there are premises where ordinarily, children should not be present, such as nightclubs. The grey area lies in between, predominantly pubs, but perhaps also later opening premises where children might be present in exceptional circumstances. If the Panel's view that licence categories be reduced to two is accepted, then the Licensing Assembly will need to ensure that the presence of children and young people is effectively controlled.
- 5.5 A number of jurisdictions differentiate between children and young people aged 16-17. Section 150 of the 2003 Act appears to allow persons 16 and 17 only to consume beer, cider or wine with a meal, whereas in the Isle of Man, legislation only permits an over 16 to consume with a "substantial" meal. Introducing such a category may be a method of protecting very young children while giving greater flexibility and tolerance to young people who are in the process of becoming young adults. The Panel is not convinced that this is a workable solution, but whatever process is decided upon, it also needs to be applied with discretion. While the majority might agree that a pub is not the place for a child at night, some could sympathise with parents who sit having a meal with a sleeping baby or toddler in a pushchair.
- 5.6 In Guernsey the Home Department is recommending a new "Under 18s Permit". This will permit persons under 18 years old to enter licensed premises where, following application to the Royal Court (which is the licensing body in that jurisdiction) it has decided that the premises offers "*a suitable environment for persons under the age of 18 years*". This, it is acknowledged, may be difficult and for that reason the Home Department will provide guidance notes to the Royal Court, prospective licensees and other parties reporting to the Court on licence applications. This guidance will outline those factors which should be considered when determining the suitability of the premises for persons aged under 18 years old. The final decision will rest with the Royal Court on consideration of the licensee's application and the reports prepared by the Police, Fire Service, Environmental Health Services and the Douzaines and Constables of the Parish in which the premises is situated.
- 5.7 Specifically, Guernsey applicants will be required to address the following issues when applying for this 'Under 18s' permit:

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- (a) Principal nature of the business, that is, the factors, which the Court will seek to balance. This may be very different where an application is in respect of a restaurant or a café than one for a pub.
- (b) Times when persons under 18 years will be permitted onto the licensed premises (for example whether under 18 year olds will be required to leave by a certain time);
- (c) Areas which the under 18 year olds will be permitted to occupy (for example lounge bar but not public bar);
- (d) Facilities available to the under 18 year olds (for example provision of a children's or games area, availability of meals, etc); and
- (e) Other restrictions which may be proposed by the licensee (for example a requirement that under 18 year olds be accompanied and in the charge of an adult).

5.8 The Home Department has stated that in many cases the general ambiance of a bar will determine its suitability as a place for young people and that parents must remain ultimately responsible for deciding whether the premises are a place where they wish to go with their children. That is, what is euphemistically referred to a "working man's pub" is unlikely to be regarded as providing "*a suitable environment for persons under the age of 18 years*". Equally, it recognises that there can be a benefit in allowing under 18 year olds onto licensed premises in a managed and controlled way as this may reduce problematic drinking when they reach their eighteenth birthday. The Panel believe that consideration of such a permit system (or licence condition) would be of benefit for Jersey and are particularly interested in the public's views of this suggestion.

5.9 As well as allowing children and young people on licensed premises, the Panel has to consider whether they should be allowed to consume alcohol and, if so, under what circumstances. Currently, under eighteens may drink wine, cider or beer with a meal. It has been suggested to the Panel that the definition of a meal could be strengthened, but in general the Panel is satisfied that children and young people should be allowed to stay and consume wine, cider or beer in approved licensed premises beyond the current 21:00 limit if accompanied by their parents or legal guardian and where they are having a meal. Obviously, parents would remain legally responsible for the conduct of under eighteens and staff would have the right to refuse to serve them if they felt that was the appropriate course of action.

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Opening Hours

- 5.10 The hours of opening are clearly a general measure that needs discussion. Many will be aware of the move in other jurisdictions to what has been termed '24 hour drinking' and will have their own views on the appropriateness of such a measure for Jersey. It should be stated that no call for 24 hour drinking has been received from the various trade bodies and the Panel does not expect to receive one. That does not mean, however, that the Law needs to expressly prohibit opening after certain hours, albeit it makes the situation very clear by doing so.
- 5.11 Hours of opening also do not have to be the same as hours when alcohol can be sold and consumed. The Safer St Helier initiative has already suggested that premises should be able to open longer without selling alcohol in order to assist with the orderly dispersion of people and while this is currently not possible (because the current law states that people must be off the premises by the specified closing time), it could be considered as part of this process. The Safer St Helier Report (p12) recommends allowing nightclubs 20 minutes drinking up time and ten minutes to vacate the premises in order to encourage a 'trickle effect rather than a rush' at closing time. Breaking the link between opening hours and hours of permitted sale and consumption might be useful.
- 5.12 Although this paper is putting forward the principle of allowing the licensing body to set conditions on a case by case basis, neither the Minister nor the Panel takes this for granted and consequently is particularly interested in the public's views on opening times on a category basis. There is a commonly accepted understanding at present that pubs close earlier than clubs and that restaurants close earlier (in general) than nightclubs. The motivation underpinning this is whether the sale and consumption of alcohol is ancillary to, or the main purpose for being open for business.
- 5.13 At present, if the main purpose for being open is the sale of alcohol, which in the main means pubs, then there has been a feeling that these should close earlier. The change in popular culture and social habits, however, has blurred the differences that were possibly clearer in the 1970s. Nightclubs, for example, no longer charge for

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entry (in the main) and, as a consequence, have to make up for this reduction in income by increasing their sales of drinks, of which alcoholic beverages make up the main source. While dancing may have been the primary purpose for a nightclub as a business, today they are largely premises where adults may continue drinking – as the primary activity – and dance if they wish.

5.14 The Panel is also aware of the nature of competition within the market. Late opening clubs (Fifth Category and Part 8 of the current law) stay open until 1am while nightclubs holding an entertainment licence (Seventh Category and Part 10 of the law) may stay open until 2am. Nightclubs can often have higher operating costs because they are generally required to invest a substantial amount of capital in order to provide adequate soundproofing and must also have registered door staff. A club does not necessarily have to suffer these conditions and can open for nearly as long. This does not appear reasonable and proportionate. The Panel therefore proposes that under the provisions of any new legislation, the Assembly should be guided by reports of appropriate States bodies and apply regular and consistent conditions regarding noise abatement and other criteria which must be satisfied by all applicants for a late night licence, particularly those wishing to play music or hold entertainment.

5.15 This paper has already discussed the ‘blurring’ of these categories and the benefits of reducing categories and broadening the flexibility of the Law to determine applications. It would be logical to include opening hours within this process. Legally, that would provide for a 24 hour licence, but this would be unlikely to happen and is not the reason for changing the law in this way. Rather, it would make the law more ‘future proof’ and adaptable, as well as far simpler, if it did not have to go into the fine detail of when a restaurant can serve alcohol, when a pub can, or a nightclub. Let alone try and decide when a pub is a restaurant, or a nightclub a hotel because of holding multiple categories of licence. By making such a change, the permitted hours would better reflect the needs of customers, business and the community. If the public feeling was such that categories still need set opening hours then this could be achieved either by maintaining the current system of separate categories or through Ministerial Guidance. It is hoped, however, that the Assembly would be allowed to exercise a broader discretion in providing for different opening hours for different premises if there was a justifiable case to do so.

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5.16 The Panel has received one specific request regarding opening hours from the Jersey Nightclub Association which has asked for consideration to be given to a 'late licensed club' which could operate between the hours of 2am-6am. The Association suggested that this could be linked to public transport availability, requirements for sound proofing and the provision of adequate security and door staff. At any rate, the Association have requested that the staggered closing between pubs and clubs be retained. The Minister has decided to reserve his view on opening hours until after this first stage public consultation process has been completed.

Drunkenness

5.17 It is generally accepted that people who are drunk should not be served alcohol and should not be on licensed premises. Article 17 of the current law makes it an offence for anyone to assist a drunk in obtaining alcohol on licensed premises. Article 12(1)(f) further forbids 'debauchery' or drunkenness. The problem, however, seems to be that the law does not define what 'drunk' actually is, nor how 'intoxicated' or 'under the influence' someone has to be before becoming 'drunk'. We are, however, given guidance in case law and judgements:

An accused person can properly be acquitted of being drunk on licensed premises under the Licensing (Jersey) Law, 1974, art. 83, notwithstanding that he shows symptoms of drunkenness for which there is no evidence of any other cause, e.g. lack of comprehension, incoherence, blood-shot and dilated eyes, slurred speech, argumentativeness, drowsiness, strong smell of alcohol, if there is also clear evidence which shows that he was capable of walking home safely and unaided.⁶

In general, a person who is unable to stand upright, unsteady on his feet, incoherent, aggressive or uncooperative is likely to be drunk. A person whose speech is mildly slurred or whose physical coordination is affected is likely to be under the influence of alcohol.⁷

⁶ 1990 JLR Notes 17b. Att. Gen v. Flynn. It should be noted that the Licensing Assembly in March 2008 articulated the following concerns over the judgement in the FLYNN case: 'If one looks at the unreported judgment of the Court one sees that this was an appeal by case stated against a decision of the then Assistant Magistrate who, it appears, applied the rough and ready rule that if a man can get home safely, although he may stagger a bit, he is not to be regarded as drunk. With all respect to the then Assistant Magistrate, if that was his policy, it was plainly wrong. At customary law it is not an offence for a person to be drunk in a public place unless the person is also either disorderly or incapable. It seems that the Assistant Magistrate mistakenly confused those customary law offences of being drunk and disorderly and being drunk and incapable with the statutory offence under Article 82 (as it now is) of the Licensing (Jersey) Law 1974 of being drunk on licensed premises. If a man is drunk on licensed premises that is an offence in itself. We are not sitting as a Court, but we think that we can nonetheless express the view that Attorney General v Flynn was wrongly decided and should no longer be regarded by the States of Jersey police or by Centeniers as good law.'

⁷ 2006 JLR Note 14, In the Matter of Le Hocq Inn Limited

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5.18 The Panel believes that drunkenness is not the sort of issue that can be clearly measured, unlike units of alcohol or parts per millilitre of blood, as it is a subjective factor that changes not just from person to person, but also within individuals due to factors such as physical well being, whether food has been consumed and so on. Notwithstanding, the Panel believes that drunkenness should be reconsidered with a view to providing a more modern definition if at all possible.

Drinks Promotions

5.19 Since December 1987 the Licensing Assembly has asked the Attorney-General and the Licensing Unit of the States of Jersey Police to refer to it any case of a licensee advertising drinks promotions, after confirming in June of that year that 'any kind of practice which encourages the taking of drink other than by buying it over the counter for the normal price, is something the Assembly does not wish to encourage'. While the Assembly chose not to impose a general condition under Article 12 of the Law, it has been commonly accepted since that time that drinks promotions, happy hours and other types of inducement designed to make people drink more alcohol are not acceptable. The policy was not applied to off-licences.

5.20 The steady increase in the price of drinks has led to a change in the Island's drinking pattern over the past twenty years. There is now a far greater preponderance to drink at home, or from alcohol bought at an off-licence, than to drink in pubs and clubs. This is having a number of negative impacts, not merely to the on-licensed trade by way of falling sales, but also in terms of public order and public health. It is far more difficult to drink in moderation without using a measure, yet not many of us would use a measure for moderate drinking at home. This is perfectly acceptable. When people drink large quantities of spirits, or other alcohol, however, and then enter a public environment, the situation changes dramatically.

5.21 People who have already consumed large quantities of alcohol may appear in control on arrival in licensed premises, but then find that only one further drink sends them 'over the edge' into drunken and potentially anti-social behaviour. Any policy designed to encourage drinking will only exacerbate such a situation. The Panel has sympathy for licensees who may be saddled with dealing with this kind of problem that is not intrinsically of their making. To that end, the Panel would like the views of the public on the principle of preventing drinks promotions within the main body of the

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law and also that this policy is applied to all types of licensed premises, including the off-licences.

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Question 17

The Panel is recommending that young people should be able to remain in licensed premises beyond the current 9pm cut off if they are having a meal with their parents.

Do you agree?

It would be helpful if your reasons could be given.

YES

NO

REASONS:

Question 18

Are there other specific circumstances where you think that young people should be permitted on licensed premises?

It would be helpful if your reasons could be given.

REASONS:

Question 19

Are there specific circumstances where you think that young people should not be permitted on licensed premises?

REASONS:

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Question 20

**Where young people are allowed, should the responsibility for their control remain specifically with a parent or guardian?
If so, it would be helpful if your reasons could be given.**

YES

NO

REASON:

Question 21

**Should there be hours after which young people must not be present?
If so, please state which and it would be helpful if your reasons could be given.**

REASON:

Question 22

**The Panel is proposing to maintain the minimum age of 18 to purchase alcohol for consumption in licensed premises.
Do you agree? It would be helpful if your reasons could be given.**

YES

NO

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REASON:

Question 23

The Panel think that to prevent disorder and reduce the current 'surge' at closing time, that premises should be permitted to remain open beyond the time of its licence so long as the sale and consumption of alcohol was prevented.

Do you agree?

It would be helpful if your reasons could be given.

YES

NO

REASON:

If this proposal was adopted, should premises be allowed to continue to play background music or should it be turned off?

YES

NO

REASON:

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Question 24

Should parents or legal guardians of children and young people legally present on licensed premises be restricted in the amount of alcohol that they can consume?

It would be helpful if your reasons could be given.

YES

NO

REASON:

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SECTION SIX

OFF-LICENCES

- 6.1 The situation with regard to off-licences is very different than that in relation to the 'on-licence' trade which, while it has its concerns, is more easily controlled. There has been in recent times a marked increase in the number of off-licences to the extent that many if not all general stores, groceries and supermarkets can now sell alcohol. The recent decision of the Licensing Assembly (2007 JRC224) to abandon the so-called 'garage policy' will likely see the number of outlets rise still further.
- 6.2 The Panel has already stated its belief that in the light of the medical evidence the availability of alcohol should be reduced and that this, inevitably should mean that numbers of licences should also fall. It is the Panel's belief that this should impact mostly on the regulation of off-licences. The situation regarding off-licences is generally different to the 'on-licence' trade because of the degree of supervision. In the 'on licensed' trade, that is cafes, bars, pubs and clubs, patrons are directly supervised by staff who have a duty to refuse to sell alcohol if a patron becomes intoxicated. The situation with off-licences, however, is entirely different as there can be no supervision of the patron once they have left the premises with the alcohol.
- 6.3 There has also been representation made to the Panel that off-licences are the major source of supply for under-age drinking. This takes place either through the wanton disregard for the law by irresponsible licensees or their staff selling to underage clients, or by those predominantly 18-19 year olds who buy alcohol for their under-aged friends. Neither situation can be tolerated to continue. The ability of off-licences to employ staff below the legal age of consumption (i.e. 18) is also unsatisfactory insofar as there have been cases where unsupervised minors working in off licences have knowingly sold alcohol to children and young people. This situation is not mirrored in the on licensed trade where it is forbidden for minors to serve alcohol.
- 6.4 Based on this, the Panel is minded to recommend that a level playing field be introduced across both sides of the industry to prevent under-18s from being directly employed in selling alcohol in any licensed premises. The Minister will consider this in the light of this consultation exercise, but is sympathetic to the needs of the trade,

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particularly cafes and restaurants, which traditionally employ many young people. If a dispensation is offered, it would likely still prevent minors from selling alcohol, but could permit them to serve it or dispense it (in cafes and restaurants) if under the supervision of a senior member of staff. This would be in conjunction with changes to make both the employee (whether of age or not) and the licensee liable for an offence should alcohol be served to a minor. Off-licences would not be able to employ under-18s to sell or serve alcohol in any way.

6.5 The recommendation to reduce the numbers of off-licences will undoubtedly not be received well by that sector and the Panel is mindful that it should not seek to actively put anyone out of business. To that end the Panel expects a process of natural wastage rather than radical overhaul. Licences that are not renewed would not be considered on re-application except in the most exceptional circumstances, while licensees that were found guilty of a breach of their licensing conditions could be expected to lose their licence permanently. Over time a number of measures are recommended to be introduced that will further influence businesses to withdraw from selling alcohol if that is a marginal part of their business. This is an important factor. The Panel has no intention of forcing dedicated off licences to close. Rather it wants to reduce the numbers of marginal licensees who sell alcohol as an additional part of their main business. Typical examples of such premises would be garages, grocery shops and supermarkets.

6.6 Other policies are also recommended by the Panel. In order to reduce consumption amongst those young people in the 14-17 age group, it is necessary to prevent their slightly older friends from buying alcohol on their behalf. Although this is already an offence, the Panel believe that enforcement is not the best option and that raising the age at which alcohol can be purchased for consumption elsewhere needs to be raised to 21. The age of 21 has been chosen on the basis of experience in other jurisdictions where it has been shown that the likelihood of social contact with people in a younger age group is far less likely and the incidence of buying alcohol to give to younger friends is markedly reduced. This recommendation, however, needs to be clearly understood. The age at which a person can buy and consume alcohol within licensed premises will remain 18. Only where alcohol is being purchased to be taken away will a person need to prove that they are over 21.

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6.7 The Panel are also keen to see greater oversight by the industry on the sale of alcohol and have considered policies that exist both in the United States and Scandinavia to control sales. After significant reflection the Panel have decided that it will not seek to remove alcohol from general sales areas, such as in supermarkets or follow the example of these other jurisdictions by only allowing alcohol to be sold through dedicated 'liquor stores'. However, the Panel does believe that people should have to reflect further on whether they really need and want to buy alcohol and that it is not considered to be just another 'convenience' product. To that end the Panel recommends that alcohol may only be sold through dedicated tills and not as part of the routine 'shop'.

6.8 Hours of opening are also recommended for review. Currently an off licence may open from 6am until 10pm every day. The Panel find it hard to believe that many Islanders need to buy alcohol at 6am and believe that opening hours for off licences need to be reduced to between 9am until 6pm. Written guidance would be given to the Licensing Assembly to that effect. This still allows plenty of time for ordinary consumers to purchase whatever amount of alcohol that they wish, but will significantly impact on the impulse purchasing and theft that increases with evening consumption and which is a major component of binge drinking. The Panel will continue to monitor the impact of this policy if it is adopted by the States and if insufficient to directly affect consumption will consider recommending reducing opening hours still further.

Pricing and Promotions

6.9 Currently, pricing and promotional offers of alcohol within off licences and the on licensed trade operate to different standards. The Licensing Assembly has operated a policy of restricting advertising, discounts and promotions within on licensed premises for many years, but this has not been applied to the off licence sector of the industry and it is unclear why this is the case. If licensing policy is to be effective then it seems reasonable to ensure a level playing field across all types of outlet in order to mitigate against unfair competition. This is because the buying power of large retail outlets is such that they can afford heavy discounting. This in turn reduces the profit margin of these products which means that retailers have to increase their volume to maintain their profits. In order for this to occur, consumers have to drink more.

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- 6.10 The Panel does not believe that the public should effectively be encouraged to buy more alcohol in one type of outlet while being restricted in another. The result of such a policy is not surprising and people are indeed tending to drink more at home before going out. This has the potential to get out of hand and passes the problem that the 'off-trade' has created onto the 'on-trade'. This is not acceptable. To that end, the Panel suggests that restrictions similar to those imposed on the 'on-trade' should apply to off-licences and the general ability of such outlets to use alcohol as 'loss leaders' or enticements to create business should be prevented by law.
- 6.11 It is a generally accepted assertion that putting up prices reduces consumption and prices of alcoholic drinks in Jersey have risen quite steeply over the past twenty years. This has not made alcohol less affordable however, as household disposable income has risen as well. In the UK, between 1980 and 2005 the price of alcohol increased by 22% above inflation, but households' disposable income rose by 97% in real terms. This has meant that notwithstanding increases in price, alcohol in the UK is now 62% more affordable than it was in 1980⁸. Although the numbers are probably different, this trend has likely been replicated in Jersey as well.
- 6.12 The nature of price itself as a measure or control of consumption is thus not quite so simple. Research published in Sweden and quoted by SHAAP⁹ indicates that substitution inevitably happens when the price of alcohol increases and that if consumption is the key policy objective then establishing a minimum price for alcohol generally is vital. Researchers modelled three hypothetical scenarios. The first predicted a 10% increase across the board would lead to a 1.7% drop in sales. An increase that only targeted higher value brands led to a 2.8% increase (because of substitution to cheaper brands that were more affordable), while an increase targeted at the cheaper brands would lead to a 4.2% drop in sales. This research suggests that insisting on a minimum price and therefore impacting the most on the cheaper segments of the market will have the greatest effect on consumption.
- 6.13 Such a policy would inevitably impact upon the poorer sections of our community more severely than middle and higher income groups. The Panel is concerned that

⁸ Alcohol: Price, Policy and Public Health, SHAAP. 2007, p32.

⁹ SHAAP, Op Cit. p49

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inflicting an apparent social good (lower overall consumption) might come at the cost of social injustice (greater impact on the poor) and for that reason believes that an 'across the board' increase that all sections of society would have to bear would be most just, notwithstanding that its public health effect will probably be less.

Interestingly there have been calls from some parts of the industry for just such an approach, with £2 per drink being a suggested minimum. The Panel does not want at this stage to consider what a minimum price level might be, nor does it formally recommend such a policy, but it is interested to receive views on such a measure.

6.14 Ultimately, the effect of these draft policies, if they were introduced, would be to reduce the numbers of off-licences and thereby the ready availability of alcohol. Other jurisdictions have apparently adopted even more stringent measures. The city council of Rennes in Brittany according to the Daily Telegraph¹⁰ has concluded that the city centre had too great a concentration of bars and has provided public funds to buy premises and put them to other use. So far two have been converted, with others designated to follow. Scotland too is set to legislate in a similar manner to that recommended by this Panel.¹¹

6.15 *New legislation will seek to impose a minimum price at which alcohol can be sold — expected to be around 40p per unit — and there will be a ban on cheap drinks promotions such as buy one get one free offers.*

The measures will end the supermarket practice of selling alcohol in large volumes at rock bottom prices, which has been condemned by public health experts for encouraging shoppers to buy more than they want and fuelling excessive drinking.

In addition it will be illegal for anyone under the age of 21 to buy alcohol to take away, although people will continue to be served in pubs at 18.

6.16 Notwithstanding, these recommendations are far reaching and represent quite a significant departure from existing Jersey practise. The Panel accept that in a small jurisdiction it may not be practical to expect a significant change in behaviour linked solely or mainly to reducing the numbers of outlets or placing restrictions on their hours or modes of operation. To be successful, these measures need to be a part of a holistic process whereby education regarding the harmful effects of alcohol and greater public awareness also needs to be explored.

¹⁰ <http://telegraph.co.uk/news/main.jhtml?xml=/news/2008/02/14/wbars114.xml>

¹¹ The Sunday Times June 15, 2008

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Question 25 **The Panel invites your views on whether you support the extension of the current policy preventing drinks promotions to apply equally to both off-licences and on-licences?
It would be helpful if your reasons could be given.**

YES

NO

REASON:

Question 26 **The Panel invites your views on whether you support its recommendation that the permitted age to buy and remove alcohol from a premises be raised to 21. (Note that this will not change the legal age to consume which will remain 18).
It would be helpful if your reasons could be given.**

YES

NO

REASON:

Question 27 **The Panel invites your views on whether you support its recommendation that alcohol should only be allowed to be sold through dedicated tills within existing licensed outlets
It would be helpful if your reasons could be given.**

YES

NO

REASON:

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Question 28

**The Panel invites your views on whether you support its recommendation that there be statutory training for all staff serving alcohol.
It would be helpful if your reasons could be given.**

YES

NO

REASON:

Question 29

**The Panel invites your views on whether you support its recommendation that there should be a reduction in opening hours of off licences to between 9am – 6pm.
It would be helpful if your reasons could be given.**

YES

NO

REASON:

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SECTION SEVEN

ENFORCEMENT

Powers of Closure

- 7.1 The current Law allows in Article 9 for the Attorney General, if he is of the necessary opinion, to refer any matter relating to a licence to the Assembly and having considered the matter in all of the circumstances, the Assembly may suspend or revoke the licence or attach conditions to it. This system has worked reasonably well in the past, but it has been recognised that it would be enhanced by provision to allow for a limited short term revocation in circumstances where a serious breach of the law has taken place (Licensing Assembly November 2007).
- 7.2 The Panel notes that Jersey is perhaps the last jurisdiction in the British Isles that does not provide for a temporary closure power. Guernsey introduced such a power in its 2006 Ordinance and it was also included within the 2003 Act (Section 161). This does not mean that Jersey should blindly follow, but it does seem reasonable that the Police should have a temporary independent power to close a premises for up to 24 hours if it is exclusively used to preserve life and prevent disorder. For lesser types of licence breach the Police should have the time to request a temporary closure order from the magistrate. Both routes would be subject to normal scrutiny requiring significant evidence and be capable of appeal and or claims for compensation.
- 7.3 Moving the temporary closure provision to the Magistrate rather than back to the Licensing Assembly makes sense on two levels. First, such a move should allow for a more rapid response than would convening an extraordinary sitting of the Assembly and second as a judicial function that could be appealed, it is safer to give the power to the Magistrate while complainants could appeal that decision back to the Assembly. In more serious cases the Police could still request an Article 9 referral for revocation of the licence directly to the Assembly.
- 7.4 The Panel has also considered the current role of the Attorney-General in the Licensing Law and wonders whether this is an effective use of the Attorney-General's time? The Panel has noted that historically the Attorney-General has been committed to attend upon a wide range of mundane and purely administrative procedures from which, overtime, he and his predecessors have gradually disengaged themselves. The Panel has no firm view on this matter but would ask
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the question of whether the Attorney-General wishes to continue to have a function in the administration of the Licensing Law other than in relation to criminal sanction.

Ejection of patrons by Licensee

7.5 While the current law allows a licensee to remove a person for being 'drunken, violent, quarrelsome or disorderly' this is sometimes difficult to prove and the Panel has been asked to consider a general right for a licensee to refuse admittance or expel any person from their premises and to require the police to assist them if necessary. While this is subject to common law, the Panel believe that it would be better within the body of statute law in order to make this status clear and understandable. In Guernsey Law this is covered under Article 29 (Drunkenness and Disorderly Conduct) (my bold and underlined):

29(3) A liquor licensee or his servant or agent, may order any person whose conduct is within the ambit of subsection (2) (*drunk or disorderly*) to leave the licensed premises and **using reasonable force may eject such a person there from without giving a reason.**

29(5) A liquor licensee or his servant or agent, may -

- (a) refuse to admit to, and
- (b) using reasonable force, eject from the licensed premises any person who is drunk, violent, quarrelsome or disorderly, or **whose presence therein is undesirable** or who would by his presence therein render the licensee, or his servant or agent, liable to a penalty under this ordinance.

29(6) A person whose conduct is within the ambit of subsection (5) shall quit licensed premises upon request by the licensee or his servant or agent or a Police Officer and if he refuses or fails so to do the licensee, or his servant or agent or a Police Officer using reasonable force may eject such a person there from.

7.6 Similar provision is made in Scottish Law whose 2005 Act states in Article 116 that:

(3) Where a person refuses or fails to leave any relevant premises as mentioned in subsection (1) or (2) an authorised person may -

- (a) remove the person from the premises and
- (b) if necessary for that purpose use reasonable force.

For the purpose of this article an authorised person means anybody who works there.

General Enforcement and Crime Prevention Measures

7.7 The States Police have looked at policies that have been introduced with significant success in other countries and jurisdictions and asked the Panel to consider a variety of measures designed to aid enforcement and prevent disorder. The Panel has

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considered these in the light of evidence presented to them and in conjunction with the medical and health reports also submitted. A number of the Panel together with members of the Officer Advisory Group have visited the States of Jersey Police Licensing Unit and have experienced what might be termed 'typical nights out' in St Helier. Based on this experience and after significant discussion, the Panel has decided to recommend the following:

1. the right to confiscate alcohol from adults acting disorderly;

7.8 The Panel believes that this is a reasonable measure and that the States Police should have the right to remove and dispose of alcohol (whether open or in sealed containers) when it appears because of a person's disorderly conduct that it is reasonable and proportionate to do so. Although it has not been directly stated to the Panel, if the States Police believe that their powers with regard to the right to search and confiscate alcohol from minors is in any way deficient then this too should also be addressed.

2. making it an offence to use false identification to gain entry;

7.9 One of the clear messages of this consultation is the need for a reduction in underage drinking. A clear component of such an objective must be making the use of false identification an offence, whether to gain entry to licensed premises or to procure alcohol from licensed premises. The Panel notes that the Isle of Man has also made giving false identification or a false statement regarding age an offence with up to a £500 fine.

3. enforcing crime reduction measures as part of licensing conditions;

7.10 This has been mentioned earlier and the Panel supports the introduction of measures, within a licensee's business plan, to take more ownership of crime and disorder on their premises and address them accordingly. Examples given to date include not allowing patrons to consume from or hold glass bottles, or drink other than from non-breakable containers.

4. allow test purchasing with sanctions for sales to minors;

7.11 The Panel fully supports the introduction of test purchasing and sees it as an important weapon in the battle against the very small minority of licensees who allow sales to minors.

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5. preventing excessive noise;

7.12 Although there is a requirement under Environmental Health legislation, the Panel agrees that licensed premises, particularly those playing music or operating late at night must be required to install adequate sound proofing and that this should be enforceable by the Police. The Panel have already noted its belief that this should be a universal licensing condition imposed by the Assembly for all premises that operate late at night and which play music or offer entertainment.

6. allowing the use of video cameras to gather evidence of offences committed on licensed premises;

7.13 All reasonable measures designed to gather evidence used to protect the public from violent and disorderly conduct has the Panel's support subject to the approval of the Data Protection Commissioner as appropriate.

7. requiring door staff to be registered with an official authorising body;

7.14 The Panel believes that requiring licensed premises to employ suitably trained and qualified individuals is good practice and supports the proposal to create an official authorising body for that purpose. The Panel notes that the States Police do not wish to be the authorising body themselves because of the possible conflict of interest that this might present and requests comment on which States Department or other such body might be appropriate to undertake this task. This task is undertaken in England and Wales by the Security Industry Authority (Section 21, 2003).

8. increasing tariffs for inappropriate behaviour

7.15 The Isle of Man makes for an interesting comparison to Jersey, particularly with regard to penalties. Section 33 of the Manx Act provides for up to a 5 year exclusion order for swearing, plus up to 6 months imprisonment and a £5000 fine! Their laws on drunkenness also allow for the offence of being drunk in public (Section 75) and the level of fine increases with disorderly or other criminal conduct. Of particular interest to the Panel is the offence of being drunk in charge of a child aged under 10 years that carries with it a £1000 fine.

9. Exclusion Orders

7.16 The Panel notes that exclusion orders already operate under separate legislation but would like to see this expressly brought into the Licensing Law. In particular, those found guilty of drinking under-age should not only be subject to such orders, but their

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details should be circulated to the trade to assist licensees with ejecting such banned individuals and thus assist in the prevention of their being prosecuted.

7.17 In recommending these new powers and the new system of licensing generally, the Panel is mindful that some will come at a cost and wish to state that it is not the intention to impose additional operating costs on licensees unless the Licensing Assembly is satisfied that, for example, a requirement to engage door staff or fit CCTV is the only way for the premises to continue to operate in a safe and orderly fashion. That is, it is envisaged that such conditions may be imposed as an alternative to refusing an application. In all cases, the Panel would expect the Assembly to be provided with a reasoned report together with appropriate evidence where the Police or other agency sought such additional conditions. Similarly, the Assembly would want to be satisfied that the conditions were necessary, fair and proportionate in respect of their purpose. Applicants should have the opportunity to challenge applications for the imposition or variation of special conditions, but it should be for the Assembly to ultimately revoke or vary conditions and to revoke or suspend licences for breach of conditions. The Panel is open to consider these suggestions and asks for comment.

7.18 **Fire Safety**

The Fire and Rescue Service currently has statutory obligations (in both the Licensing Law and other legislation, such as the Fire Precautions (Jersey) Law) in respect of licensed premises, but the Service has indicated to the Panel that it would like to see this consolidated within the Licensing Law in order to make the process more open and transparent to applicants and licensees. The Panel agrees that this would be useful and would make the process more understandable. The Panel suggests the following be incorporated into the new Law:

- **that the Fire and Rescue Service have clearly stated powers of inspection and enforcement;**
- **that Parish Assemblies do not consider an application until it has been assessed by the Fire and Rescue Service;**
- **that the Licensing Assembly may not licence a premises before it holds a valid Fire Safety Certificate or it has received in writing assurance from a senior officer of the Fire and Rescue Service that they are satisfied that the premises is safe to be licensed;**

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- that no premises shall operate regardless of its licence without a valid Fire Safety Certificate;
- that the entire building containing the licensed premises is explicitly covered insofar as it relates to the Fire and Rescue Service duties to ensure public safety with commensurate powers to impose reasonable fire safety measures upon inspection;
- that the Fire and Rescue Service receive a power to impose a time scale for work to be completed should a change of conditions arise within the licensed premises where a fire certificate is in force;
- that all licensed premises have a clearly presented written display stating the set occupancy figures permitted together with reasonable enforcement provisions;
- that should the licensee propose to make any material extension, or material structural alteration to, the premises; or make a material alteration in the internal arrangements of the premises or in the furniture or equipment with which the premises are provided, they must inform the Fire and Rescue Service in advance and the Fire and Rescue Service shall have power to refuse such changes if they believe it necessary to do so;

(‘material’ means any alteration which would render means of escape and related fire safety provisions inadequate in relation to the normal conditions of use of the premises, even if they are temporary.)

- that the owners/occupiers of all licensed premises must keep a record of the testing and maintenance of fire protection equipment, and of staff training in a Log Book which must be kept on the premises and readily available for inspection as and when required.

Health Protection

7.19

The Health Protection Unit is currently a statutory consultee and is required to provide information about the state and condition of a premises and the sufficiency of any sanitary accommodation. While recognising the need to work quickly, the Unit would like a statutory notice period of one week in order to respond and provide a properly managed report to the licensing body. This should ideally take place before a Parish Assembly, but certainly before a formal hearing by the Licensing Assembly. Furthermore, the Unit believe that a premises should not be able to open and trade until such time as it has been certificated by the Unit as having complied with all of

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the conditions imposed following initial inspection. The Panel agrees with these proposals and asks for comment.

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Question 30

The Panel invites your views on its recommendation to give the States of Jersey Police the right to confiscate alcohol from adults acting disorderly. Do you agree?

It would be helpful if your reasons could be given.

YES

REASON:

NO

Question 31

The Panel invites your views on whether you support its recommendation making it an offence to use false identification to gain entry. Do you agree?

It would be helpful if your reasons could be given.

YES

REASON:

NO

Question 32

The Panel invites your views on whether you support its recommendation enforcing crime reduction measures as part of licensing conditions. Do you agree?

It would be helpful if your reasons could be given.

YES

REASON:

NO

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Question 33

The Panel invites your views on whether you support its recommendation that the States of Jersey Police (as well as Environmental Health) may take action to prevent excessive noise.

Do you agree?

It would be helpful if your reasons could be given.

YES

REASON:

NO

Question 34

The Panel invites your views on whether you support its recommendation that the States of Jersey Police may use video cameras to gather evidence of offences committed on licensed premises.

Do you agree?

It would be helpful if your reasons could be given.

YES

REASON:

NO

Question 35

The Panel invites your views on whether you support its recommendation requiring door staff to be registered with an official authorising body.

Do you agree?

It would be helpful if your reasons could be given.

YES

REASON:

NO

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Question 36

The Panel invites your views on whether you support its recommendation allowing test purchasing with sanctions for sales to minors.

Do you agree?

It would be helpful if your reasons could be given.

YES

NO

REASON:

Question 37

The Panel invites your views on whether you support its recommendation to generally strengthen enforcement of the licensing legislation and apply the 'user pays' approach to fund sufficient capacity to regulate licensed premises effectively.

Do you agree?

It would be helpful if your reasons could be given.

YES

NO

REASON:

Question 38

The Panel invites your views on whether you support its recommendation that the Fire Service have clearly stated powers of inspection and enforcement.

Do you agree?

It would be helpful if your reasons could be given.

YES

NO

REASON:

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Question 39

The Panel invites your views on whether you support its recommendation that Parish Assemblies do not consider an application until it has been assessed by the Fire and Rescue Service and that the Licensing Assembly may not grant a licence before it holds a valid Fire Safety Certificate or it has received in writing assurance from a senior officer of the Fire and Rescue Service that they are satisfied that the premises is safe to be licensed.

Do you agree?

It would be helpful if your reasons could be given.

YES

NO

REASON:

Question 40

The Panel invites your views on whether you support its recommendation that no premises shall operate regardless of its licence without a valid Fire Safety Certificate.

Do you agree?

It would be helpful if your reasons could be given.

YES

NO

REASON:

Question 41

The Panel invites your views on whether you support its recommendation that the entire building containing the licensed premises is explicitly covered insofar as it relates to the Fire Service duties to ensure public safety with commensurate powers to impose reasonable fire safety measures upon inspection.

Do you agree?

It would be helpful if your reasons could be given.

YES

NO

REASON:

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Question 42

The Panel invites your views on whether you support its recommendation that the Fire and Rescue Service receive a power to impose a time scale for work to be completed should a change of conditions arise within the licensed premises where a fire certificate is in force.

Do you agree?

It would be helpful if your reasons could be given.

YES

REASON:

NO

Question 43

The Panel invites your views on whether you support its recommendation that all licensed premises have a clearly presented written display stating the set occupancy figures permitted together with reasonable enforcement provisions.

Do you agree?

It would be helpful if your reasons could be given.

YES

REASON:

NO

Question 44

The Panel invites your views on whether you support its recommendation that there is a statutory minimum notice period for assessment by the Health Protection Unit?

It would be helpful if your reasons could be given.

YES

REASONS:

NO

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SECTION EIGHT

ADDITIONAL AND MISCELLANEOUS MATTERS

Definition of Entertainment

- 8.1 There are a number of issues which the Panel has had referred to it which are not core matters for licensing, but which sit ancillary to it. The first is the definition of entertainment. The present law allows for the sale of alcohol as part of an entertainment (seventh category) licence, but does not explain what 'entertainment' actually is. Notwithstanding the potential removal of the category itself, a definition of entertainment might prove useful. Likewise, while the prevention of noise is already mentioned, the Panel believes that uniform soundproofing conditions should be applied to all premises that open later.

Chose Publique

- 8.2 It has also been suggested that there is confusion with the Chose Publique or customary law of Jersey to enable the granting of permits for the exclusive possession and use of certain areas of land to which the public of Jersey has access. The Panel has no particular view on this matter but offers it for consideration.

Special Permits

- 8.3 The current law makes provision in Article 89 for the Bailiff to issue special permits. These allow for extended hours for 'on-licences' as well as allowing 'on-licences' to be extended to cover special events in other locations. The Panel believes that these provisions could be granted within general conditions or continue to apply special permits.

Provision of Water

- 8.4 The Panel is concerned at anecdotal evidence that some licensed premises refuse to provide ordinary drinking water (tap water) to people in order to maintain their profit margin. The Panel would be prepared if this was considered a problem to consider including a provision either within the law or to recommend as a licensing condition that all customers should be provided with ordinary drinking water on request. A number of jurisdictions have included this including Queensland, Scotland and England and Wales, although the English Act allows licensees to charge for tap water on the basis that it is 'served'.

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Exclusion Orders

- 8.5 This is already covered by the Licensed Premises (Exclusion of Certain Persons) (Jersey) Law 1998, but the Panel has stated it wishes these provisions brought into the Licensing Law. The Panel would also be prepared to consider the issuing of written guidance to the Magistrates regarding the types and seriousness of offences where exclusion orders should normally be imposed.

Sales on Boats

- 8.6 The Panel is open to suggestions for amending the current provisions relating to the sale of alcohol on boats.

Data Provision

- 8.7 The Panel believe that licensed premises must be required to provide anonymous information relating to the time and frequency of sales of alcohol from individual premises. This information would be held securely and used jointly by officials from the Advisory Group to plan policing and harm reduction strategies and to judge the effectiveness of policies already in force.

Other Matters

- 8.8 The Panel is open for any other issue not aforementioned being brought to the attention of the Panel for consideration as part of this review.

Further analysis

- 8.9 The Panel accepts that it has not been able to accurately judge all of the consequences, particularly the economic consequences of its initial recommendations. To that end the Panel has asked the Economic Adviser in the Chief Ministers Department to consider these proposals and any counter arguments that are received through the consultation process. It is the Panel's aim that this economic analysis will be reported back in the White Paper alongside the Ministerial recommendations for change.

Transitional Arrangements

- 8.10 Although we are some time off any changes coming into effect, the Panel recognises that they will likely be significant and that given the large numbers of premises licences and new personal licences that will have to be issued this could easily swamp the resources of the Licensing Assembly and the various States officials who

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are also involved. To that end the Panel envisages that the process of transition will have to be staggered and recommends to the Minister for Economic Development, being the Minister with responsibility for the Licensing Law, that he appoints a dedicated transition team to plan and manage the change to the new regime. Ideally such a team will be able to draw on the fields of experience of the current Advisory Group and it is hoped that those departments might second staff to work on this project or that the Minister appoint dedicated staff on a fixed-term limited basis.

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SECTION NINE

CONCLUSIONS

- 9.1 Both the Minister and the Panel are aware that this consultation document has covered in large measure the negative consequences that particularly under-age drinking and binge drinking have on our community. The Minister and the Panel accept, however, that socially responsible drinking is a positive thing. Drinking alcohol per se should not be deemed to be a negative action, and the positive sociological impact of meeting friends and family in the local pub, in bars, clubs and restaurants adds to the quality of Island life for both visitors and Islanders alike.
- 9.2 The Minister recognises that some of the suggestions put forward by the Panel will be considered extreme by some, but welcomed by others. In putting them forward, the Minister is not endorsing them at this stage, but wishes to encourage a full and well-rounded debate on what is possibly the most wide-reaching public policy consultation for many years. Action, however, is certainly required. Jersey does not deserve to be known around Europe and the world as a place where binge drinking and alcohol-fuelled violence is the norm and whose culture makes it top the league tables of consumption.
- 9.3 The numbers of children regularly drinking more than the safe limits for adults is very worrying. Add this to the numbers of adults drinking too much and the impact on a small Island community is very great and possibly growing. The total numbers affected every year may still be small, but the potential impact is growing as each illness places strain on our health resources, not to mention the personal impact that serious illness and preventable deaths have on families. To them, alcohol related diseases are not just statistics, they are personal tragedies.
- 9.4 The Minister and the Panel want to ensure that a full debate is had and that in deciding the way forward, the most wide ranging choice of policy options are considered. Without doubt there will be choices that this paper has not considered and it may well be that better ideas are received. That is to be encouraged.

Senator AJ MACLEAN
Minister for Economic Development

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APPENDICES

APPENDIX ONE

Recommendations set out in the 2005 States of Guernsey Report on Licensing, namely the introduction of:

- (i) Exclusion Orders as a sentence of the Court to replace the “Black List”;
- (ii) Alcohol-free Zones;
- (iii) Temporary Closure Orders in the interests of public safety;
- (iv) Stronger controls to require all structural alterations to licensed premises to be approved by the Royal Court;
- (v) Named Premises Supervisors to be present on the licensed premises whenever alcohol was available for sale;
- (vi) Clear definitions of “live entertainment and dancing” in respect of nightclub licences;
- (vii) Measures to curb drinks promotions where there is evidence that they may be linked to harmful or binge drinking;
- (viii) Protocols for requiring licensees and bar staff always to require proof of age before selling alcohol;
- (ix) An agreed statement of licensing policy for all licensees aimed at promoting sensible drinking and minimising the negative impact of alcohol on the individual and the community;
- (x) The aims of the proposed Bailiwick Alcohol Strategy;
- (xi) Parallel application process for al fresco and liquor licence applications;
- (xii) Amendments to the powers of the States Gauger (Chief Customs Officer);
- (xiii) Streamlined system for the preparation of reports for the Royal Court to ensure consistency regardless of the type, size or location of the licensed premises;
- (xiv) Additional reports to the Royal Court from the Fire and Rescue Service and Environmental Health Services;
- (xv) Amendments to the application process to ensure openness without becoming overly bureaucratic;
- (xvi) Greater powers for the Royal Court to impose additional conditions to a licence;
- (xvii) Appeals against decisions of the Royal Court on a point of law;
- (xviii) Provisions to facilitate a more reactive approach for the Department to request the Royal Court to amend, suspend or revoke a licence; and
- (xix) Primary legislation in respect of the grant of liquor licences and the regulation of licensed premises.

Interestingly, Guernsey is now moving to change from a general licence to licences by type of licensing activity. Other Guernsey proposals include:

- (i) Increased restrictions for under 18 year olds on licensed premises and
- (ii) Increased licence fees.

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APPENDIX TWO

Provisions under the Liquor Licensing (Guernsey) Ordinance, 2006

(a) Section 9 - Grant of liquor licence and power to impose conditions

In October 2007 the Guernsey Home Affairs Department presented a detailed report to the States of Guernsey on the future regulation of gambling. One of the Report's recommendations related to transferring responsibility for issuing bookmakers', betting office and Crown and Anchor licences from the Department to the Royal Court and for the licensing procedure to broadly parallel that for liquor licensing.

Therefore, the Department propose that the Royal Court should be able to refuse to grant a licence where:

- (a) The applicant is:
 - (i) Not ordinarily resident in the Island
 - (ii) Under the age of twenty years
 - (iii) Disqualified from holding a licence by virtue of the provision of section 13 of the Ordinance;
- (b) The Royal Court is not satisfied that the applicant is a fit and proper person to hold a licence;
- (c) The applicant has not demonstrated his knowledge of the Island's legislation (see Licensing Exam for further details)
- (d) The applicant has, within the preceding twelve months been refused the grant or renewal of a licence;
- (e) The Royal Court is satisfied that if the licence were to be granted the business to which the licence relates would be managed by a person other than the applicant.

(b) Licensed Door Staff

Section 59 of the Liquor Licensing (Guernsey) Ordinance, 1993 included a specific condition requiring nightclubs to employ licensed doormen:

"59.(1) The Royal Court may on granting a nightclub permit impose such conditions as it may deem necessary or expedient.

(2) It shall be a condition of a nightclub permit that all persons employed in the function of a doorman shall be approved by the Chief Officer, who may withdraw his approval at any time for reasons that appear to him to be good and sufficient.

(3) No person shall be employed in the function of a doorman unless approved in that behalf by the Chief Officer and a liquor licensee shall not permit or cause such employment of a person not so approved.

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(4) In this section "**employed in the function of a doorman**" means carrying out any of the functions of a doorman in connection with the regulation of entry into the licensed premises and the control of persons resorting thereto."

(c) Occasional Liquor Permits not covered under Section 20

The Department has received a request to consider introducing an additional occasional liquor permit to cover occasional events where the alcohol is sold for profit. The type of event which could be covered by this new type of permit would include visiting markets.

It is proposed that for an event to qualify for an occasional permit under this section the application would have to be supported by either the Culture and Leisure or the Commerce and Employment Department. That is, to confirm that the application was as part of a *bone fide* market and part of an approved culture or trade event. This approach should assist the Court when considering the application.

(d) Premises Supervisors

In its 2006 States Report the Department indicated a desire to introduce named premises supervisors:

"The Department recognises that the sale of alcohol, because of its impact on the wider community, carries with it a great responsibility. It is considered necessary that at all times there should be a trained, responsible person in charge of the licensed activities, during permitted hours.

While it is acknowledged that a licensee may have been assessed as being a suitably responsible person, staff may not always be similarly aware of the obligations of the licence. It is also acknowledged that it may not always be practical for the licensee to be on the premises at all times and the Department recognises that it is reasonable that other staff be left in charge of the premises at times. However, it is proposed that where the licensee is absent from the premises during permitted hours it is both reasonable and necessary that an identifiable and competent individual oversees the operation of the premises in the licensee's absence.

Further the need for the Police and the Fire and Rescue Service to be able to identify quickly the person who is in charge of the premises was recognised so that they can quickly and effectively deal with any concerns that they may have.

The Department proposes that when the licensee is not on the premises it will be a requirement that a trained "Named Premises Supervisor" is left in charge of the premises. It is proposed that all licensees and bar staff have appropriate training to recognise issues relating to:

- *excessive alcohol consumption;*
- *identifying children and young people at risk;*
- *fire safety procedures; and*
- *the impact of drugs and violence on licensed premises.*

It should be emphasised that the responsibility for adhering to the licence conditions can never be delegated by the Licensee who remains ultimately responsible for the premises at all times.

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The Home Affairs Department did not seek to implement this proposal at that time, however, as it was necessary to establish a proper training and assessment procedure. It was also considered prudent to stagger the various changes outlined in the 2006 States Report rather than swamp licensees with a raft of changes at the same time. Since then a large number of those working in the licensed trade have taken the opportunity to sit the exam and so demonstrated their understanding of their responsibilities when selling or supplying alcohol.

The Department believes that it would now be appropriate to make the nomination of a named premises supervisor a statutory requirement under the 2006 Ordinance. In order to avoid the need for all licensees to return to Court to have their existing licence amended to include this new requirement the Department proposes the following approach:

- (a) To include this new provision on all new licences issued on or after the amendment comes into force;
- (b) To add this new provision to all existing licences as and when they come back to the Royal Court for a change of licensee or designated official or other amendment or with effect from 1st June 2009, whichever is the sooner.

The Department believes this staged approach should not present undue difficulties for licensees, but achieve the objective behind introducing named premises supervisors in a timely manner. Notwithstanding, it hopes that the licensed trade will introduce named premises supervisors on a voluntary basis ahead of the 1st June 2009 deadline.

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APPENDIX THREE

Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law, 2006

The Law was registered by the Royal Court on 3rd May 2007 and came into force on the same day.

Control of Intoxicating Liquor (Designated Public Places) Ordinance, 2007

The Home Affairs Department has made one Order under the provisions conferred on it under section 2(1) and (2) of this Ordinance. Following a request from the Chief Officer of Police the Minister signed the Control of Intoxicating Liquor (Designated Public Places) (Liberation Day) Order 2007 and on 9th May 2007 the St. Peter Port seafront, including the piers and areas immediately adjacent to the seafront were designed as alcohol free zones.

Guernsey Police officers visited all the premises in question and provided them with a copy of the Order (including a map of the designated area) and information about how the alcohol free zone would be enforced and policed. The Department was pleased to note that all the licensees responded positively to the Order and worked collaboratively with the Guernsey Police to ensure it was successful.

The Department will continue to use such Orders on the advice of the Chief Officer of Police where their use is a necessary and proportionate response to prevent alcohol-fuelled anti-social behaviour.

Section 2(g) of the Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law, 2006

Section 2(g) provides for the States by Ordinance to provide the Police with powers for the seizure, deprivation of ownership or possession, destruction and disposal of intoxicating liquor and any object used to contain or supply that liquor. The Home Department is aware of and shares the concerns of many Islanders regarding youngsters who gather in public places and appear to be consuming alcoholic drinks. Under the existing legislation the Police have few statutory powers for dealing with such incidents unless other offences are disclosed. In these situations it is invariably impossible to prove who within the group may have purchased the alcohol. In many cases the youngsters state that they obtained the alcohol from their parents.

The Department has noted the UK Home Secretary's proposals to provide police with additional powers to confiscate alcohol, especially where it is being consumed by youngsters under the age of 18 years. In a speech on 6th February the Home Secretary made the following comments in respect of underage drinking:

"It is time to send the message that it is no longer acceptable for children to drink in public places. Their alcohol will be confiscated. If the current laws on confiscation from underage drinkers prove inadequate, I will consider the case for new legislation to make it clear that we do not want to see children drinking in public.

If it's illegal for under-18s to buy alcohol, then they shouldn't have it in public either. If necessary, I will change the law to make it clear we won't tolerate them drinking in public. I want police officers to be able to use discretion when it

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comes to confiscation, and not be prevented from doing so by having to prove they have reasonable suspicion that children are about to consume.

No-one would look at a group of kids drinking in public and say that that was right and that it shouldn't be stopped – not only for the good of the children themselves, but also for the good of the community. This is not about criminalising young people unnecessarily – that could be wholly counter-productive. But it is about taking action where there is a problem.

When I talk of taking personal responsibility, nearly half of the alcohol obtained by young people appears to come from the family home. It's clear that parents have to hear the message as well. The idea that you can hand your kids a six-pack of lager and tell them to disappear off for the evening – with no thought to the consequences – frankly baffles.”

The Department is conscious that these problems are not just confined to youngsters under 18 years. Very often the groups of youngster which have caused concern to law-abiding members of the public include under and over 18 years olds. Similarly, groups or individuals drinking in a public place where this is linked to disorderly or anti-social behaviour can cause concern for passers-by. In many cases the level of disorderly conduct or anti-social behaviour may not be sufficient to warrant arrest and so by being able to confiscate and dispose of the alcohol may prevent the problem from worsening and requiring more direct police action.

The Department therefore recommends that a new Ordinance under section 2(g) be drafted to provide police officers appropriate powers to confiscate and dispose of alcohol where it is in the possession of and/or being consumed by:

- (a) Youngsters under the age of 18 years in a public place; and/or
- (b) Where the person (regardless of age) is behaving in a disorderly or anti-social manner.

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APPENDIX FOUR

Liquor Licensing-related Proposals under the Bailiwick of Guernsey Alcohol Strategy

Within the Bailiwick Alcohol Strategy four proposals were directly linked to the Liquor Licensing (Guernsey) Ordinance, 2006 and/or the Control of Intoxicating Liquor (Enabling Provisions) (Guernsey) Law, 2006.

(a) To investigate the introduction of alcohol consumption-free zones and for police powers to confiscate alcohol following a caution.

As detailed previously the legislative framework for alcohol-free zones is now in place and the first Regulation made under the Control of Intoxicating Liquor (Designated Public Places) Ordinance, 2007 was made in respect of Liberation Day in 2007. The general feedback to the Department from all quarters, including licensees, those responsible for organising the Liberation Day events and the general public, was that the initiative had been a success and had helped to ensure that the atmosphere on the seafront on Liberation Day was “family-friendly” especially in the early evening.

(b) To introduce a 1 day course for bar staff and to ensure that a trained staff member is on the premises at any given time.

Staff working in the licensed trade are able to sit an examination to test their knowledge and understanding of their duties and responsibilities under the 2006 Ordinance. The exams are held on the last Thursday of each month and a certificate is issued to all those who pass the paper. The examination focuses on dealing with under-age drinking, drunkenness and the promotion of safe and sensible drinking.

In addition, licensees are also tested on their knowledge of the administrative aspects of holding a liquor licence.

The Department is recommending that its proposal for an amendment to section 9 – Grant of liquor licence and power to impose conditions – that the Royal Court would be able to refuse to grant a licence under this section and/or sections 19 and 20 if the applicant (or the named “responsible person”) had not passed this second exam.

(c) To extend the door staff registration scheme

In summary, the amendments to the 2006 Ordinance will require all nightclubs, as a condition of their licence, to employ door staff who have been licensed by the Chief Officer of Police. Further, the Royal Court may impose as an additional condition to any licence a requirement to employ licensed door staff at such times and in such numbers as it believes is necessary and proportionate to prevent alcohol-related crime and anti-social behaviour.

(d) To continue to work with the Liquor Licensing Working Group to develop appropriate licensing conditions, including the promotion of safe and sensible drinking

The Department’s general guidance provides a detailed overview of how, when and where additional conditions may be imposed by the Royal Court. In addition the

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general guidance includes information about best practice for licensees to ensure that good relationships are established and maintained with neighbours and the community. The promotion of safe and sensible drinking and the prevention of alcohol-related crime and anti-social behaviour is at the heart of the best practice.

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APPENDIX FIVE

Overview of Alcohol Strategy and Licensing in selected European Jurisdictions

England & Wales	Scotland¹²	Norway	Finland	WHO European Alcohol Action Plan
<p>¹³Better education and communication - The strategy includes a series of measures aimed at achieving a long term change in attitudes to irresponsible drinking and behaviour.</p> <ol style="list-style-type: none"> 1. Making the “sensible drinking” message easier to understand and apply 2. Targeting messages at those most at risk, including binge- and chronic drinkers 3. Provide better information for consumers, both on products and at the point of sale 4. Provide alcohol 	<p>Build on best practice to develop and promote common core sensible drinking messages, and information about the incompatibility of alcohol consumption with certain activities</p>	<p>Administration of the licensing, granting licenses for the wholesale and production of alcoholic beverages as well as supervision of the licenses</p>	<p>Increase the resources of and improve co-ordination within the system for prevention of alcohol – related problems</p>	<p>All people have the right to a family, community, and working life protected from accidents, violence and other negative consequences from alcohol consumption</p>

¹²Ref: http://www.alcoholinformation.isdscotland.org/alcohol_misuse/AI_MainPage.jsp?pContentID=1452&p_applic=CCC&p_service=Content.show&

¹³ Source: <http://www.huntsdc.gov.uk/NR/rdonlyres/05CA6CC6-4DDE-40B7-98FE-6EB3704DFB19/0/AlcoholHarmStrategy.pdf>

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<p>education in schools that can change attitudes and behaviour</p> <ol style="list-style-type: none"> 5. provide more support and advise for employers 6. reviewing the code of practice for TV advertising to ensure that it does not target young drinkers or glamorise irresponsible behaviour 				
<p>Improving health and treatment services - The strategy proposes a number of measures to improve early identification and treatment of alcohol problems.</p> <ol style="list-style-type: none"> 1. improve training of staff to increase awareness of likely signs of alcohol misuse 2. Piloting schemes to find out whether earlier identification and treatment of those with alcohol problems can 	<p>In pursuit of the above, share media and marketing expertise to promote those messages</p>	<p>Administration of and information about, for instance, the prohibition against alcohol advertising, administration of intermediaries selling alcoholic beverages, authorising import of alcoholic beverages for personal use</p>	<p>Strengthen networking among those carrying out preventive policies at all levels of action</p>	<p>All people have the right to valid impartial information and education, starting early in life, on the consequences of alcohol consumption on health, the family and society.</p>

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<p>improve health and lead to long-term savings</p> <p>3. Carrying out a national audit of the demand for and provision of alcohol treatment services, to identify any gaps between demand and provision</p> <p>4. Better help for the most vulnerable – such as homeless people, drug addicts, the mentally ill and young people. They often have multiple problems and need clear pathways for treatment from a variety of sources.</p>				
<p>Combating alcohol-related crime and disorder - The strategy proposes a series of measures to address the problems of those town and city centres that are blighted by alcohol misuse at</p>	<p>Share consumer research on promoting sensible drinking and responsible retailing</p>	<p>Administration of a system with tests for ascertaining whether certain persons have satisfactory knowledge of the alcohol act</p>	<p>Start preparatory work to give stronger mandate to local actors in the administration of alcohol sales (off-premise and on-premise)</p>	<p>All children and adolescents have the right to grow up in an environment protected from the negative consequences of alcohol consumption and to the</p>

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<p>weekends:</p> <ol style="list-style-type: none"> 1. Greater use of exclusion orders to ban those causing trouble from pubs and clubs or entire town centres 2. Greater use of the new fixed-penalty fines for anti-social behaviour 3. working with licensees to ensure better enforcement of existing rules on under-age drinking and service people who are already drunk. We will also work in partnership with the industry to reduce anti-social behaviours – issues to be addressed may include layout of pubs and availability of seating, managing crime and disorder in city centres and improved information on safe drinking in pubs 				<p>extend possibly, from the promotion of alcohol beverages</p>
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<p>4. in addition to local initiatives, the security industry authority (SIA) will begin the licensing of door supervisors</p>				
<p>Working with the alcohol industry - The strategy will build on the good practice of some existing initiatives (such as the Manchester Citysafe Scheme) and involve the alcohol industry in new initiatives at both national level (drinks producers) and at local level (retailers, pubs and clubs). At national level, a social responsibility charter for drinks producers, will strongly encourage drinks companies to:</p> <ol style="list-style-type: none"> 1. Pledge not to manufacture products irresponsibly – for example, no products that appeal to under-age drinkers or that encourage people to 	<p>Consider the scope for joint events to focus public and media attention on the dangers of alcohol misuse, alongside wider messages of personal responsibility</p>	<p>Administration and distribution of public grants to NGOs preventing alcohol and drug problems</p>	<p>Improve the access to and provision health and social services (both general services and special services for problem drinkers, including supported housing and income maintenance)</p>	<p>All people with hazards or harmful alcohol consumption and member of their families have the right o accessible treatment and care.</p>

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<p>drink well over recommended limits</p> <ol style="list-style-type: none"> 2. Ensure that advertising does not promote or condone irresponsible or excessive drinking 3. Put the sensible drinking message clearly on bottles along side information about unit content. 4. move to packaging products in safer materials – for example, alternatives to glass bottles 5. make financial contribution to fund that pays for new schemes to address alcohol misuse at national and local levels, such as providing information and alternative facilities for young people. 				
	Work with the media and		Within the spectrum of	All people who do not wish

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	other stakeholders to discourage inappropriate endorsement or legitimisation of inappropriate alcohol consumption		anti-alcohol action, strengthen the position of special services for problem drinkers, compared to control measures and education	to consume alcohol, who can not do so for health or other reasons, have the right to be safe guarded from pressures to drink and be supported in their non drinking behaviour
	Develop a set of shared Scottish specific Standards, underpinning and strengthening in Scotland the approach already adopted at UK level		Create a systems of physicians in charge of treatment of problems drinkers at the regional level and local levels of health service provision	
	Work with retailers and the National Licensing Forum to support a comprehensive server training programme in responsible drinking ahead of the 2009 Licensing Act implementation deadline		Create rules that would help administrators and local actors keep alcohol-free the leisure and sports environments that are provided for children and adolescents	
	Develop and implement exemplar alcohol policies in our own workplaces, which we will also share and promote more widely within the public and private sectors, including to Small and Medium Size Enterprises		Strengthen the action to promote early detection of alcohol problems in health and social services, occupational health services for the alcohol and university system	

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	(SMEs)			
	Where appropriate, individual companies will pilot low alcohol alternatives in the Scottish market and use their joint creative energies to market the principle of consuming low alcohol alternatives, within the context of making informed choices and unit awareness		Strengthen the role of civil organisations in order to support local communities in intervening and preventing alcohol problems	
	Investigate the promotion of no alcohol alternatives in the retail sector		Change the drug prescription system so that control of the prescription of psychoactive drugs will be tightened	
	Develop and produce guidelines to establish best practice on the promotion of alcohol via sponsorship			
	Work together to develop and implement an intensive series of interventions, including community support, within geographically focussed pilots to establish the cumulative effect of a multi faceted and targeted approach to reducing			

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	alcohol harm			
	Produce educational materials for parents to use with their children outside the school setting, also encouraging parents to consider their own drinking habits in discussing the issue with their children			
	Hold a National Awareness Week with support from other partners such as the voluntary sector			
	<p>Plan for Action on Alcohol Problems</p> <ol style="list-style-type: none"> 1. extending the alcohol test purchasing pilot to all Scotland in 2007; 2. using the Executive commissioned evaluation of effectiveness of drugs education in Scottish schools to develop an alcohol education programme as part of a wider, robust substance misuse education programme 			

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	<p>for schools;</p> <p>3. giving Licensing Boards more power to control the spread of licensed premises, and tackling excessive drinking, through the implementation of the Licensing (Scotland) Act 2005;</p> <p>4. piloting, during 2007/2008, a telephone based brief interventions service, aimed at identifying harmful and hazardous drinkers at an early stage and providing appropriate support;</p> <p>5. completing, by mid 2007, a set of national publications about the short and long term effects of drinking alcohol;</p> <p>6. supporting further development of Youth CAFEs (Community Alcohol Free</p>			
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	<p>Environments) and working with partners to provide other diversionary activities for young people, for the duration of this Plan;</p> <p>7. undertaking, by May 2007, a stock-take of Alcohol and Drug Action Teams (ADATs) to assess performance to date and capability to deliver Ministerial priorities on drugs and alcohol. This should establish a firm evidence base to determine the future mechanism for effective local action to deliver national priorities;</p> <p>8. researching how best to improve recording and reporting information on drug and alcohol use during</p>			
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	<p>pregnancy - report anticipated in July 2007;</p> <p>9. extending successful measures from the Alcohol Education Research Council (AERC) funded culture change pilot to all areas of Scotland, by December 2007;</p> <p>10. developing a quality standards framework for drug and alcohol services; developing a national drugs and alcohol workforce development strategy by summer 2008 and plans for its implementation by spring 2009.</p>			
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Summary and Questions

Section Two: HIGH LEVEL POLICY ISSUES

This section looked at high level policy issues and the continuing relevance of the current Jersey licensing objectives. It considered the need for new licensing objectives, particularly around public health and public order. It recognised that increased consumption of alcohol is damaging health, in some cases very severely, and that alcohol is fuelling anti-social behaviour and street violence.

Question 1 REASON:	We believe that the existing Jersey licensing objectives are insufficient and need to be enhanced to refer specifically: <ul style="list-style-type: none">• to preventing crime and disorder;• securing public safety• preventing public nuisance• protecting and improving public health, and• protecting children from harm. Do you agree? It would be helpful if your reasons could be given. YES <input type="checkbox"/> NO <input type="checkbox"/>
Question 2 REASON:	Should supplementary objectives be introduced? If so, please state which and it would be helpful if your reasons could be given. YES <input type="checkbox"/> NO <input type="checkbox"/>

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Section Three: THE LICENSING PROCESS

This section discussed the licensing process and the role of the Parish and the Licensing Assembly. It considered how the Assembly might operate and the implications of placing new high level objectives as criteria on which to base a licensing decision. It recommended a link between licensing decisions and wider States policies on alcohol.

<p>Question 3</p> <p>REASON:</p>	<p>The Panel believe that all government agencies (Fire, Police, Public Health etc) must assess an application prior to being considered by the Parish or the Assembly.</p> <p>Do you agree? If so, it would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 4</p> <p>REASON:</p>	<p>The Panel believes that applicants should have to submit a business plan to government agencies and the Assembly stating how they will adhere to the new licensing principles. This will include, for example, measures to prevent drunkenness and disorder.</p> <p>Do you agree?</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 5</p>	<p>When making a decision, the Panel believe that the Assembly should take note of the professional advice it receives from government agencies based on the new licensing objectives.</p> <p>Should the Assembly retain the discretion to reject this professional advice?</p>

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<p>REASON:</p> <p>Question 6</p> <p>REASON:</p>	<p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p> <p>Should third parties (including government) have a right to appeal the Assembly's decision?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 7</p> <p>REASON:</p>	<p>Can the process of application, consideration and award or rejection of a licence be made more streamlined, efficient and effective?</p> <p>If so, it would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 8</p> <p>REASON(S):</p>	<p>Do you agree with our decision to retain the Licensing Assembly. If not please state why?</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

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Question 9	How often should a Licensing Assembly meet to consider applications for a licence?	
	It would be helpful if your reasons could be given.	
	Fortnightly	<input type="checkbox"/>
	Monthly	<input type="checkbox"/>
	Quarterly	<input type="checkbox"/>
On Demand	<input type="checkbox"/>	
REASONS:		

Section Four: LICENSING

This section considered whether a person had to have been living in the Island for a set period before applying for a licence. It then gave an overview of some of the problems with the existing law and gave further information on proposals for types of licences. The section advised that categories of licence be reduced to two: an 'on-licence' and an 'off-licence'. It reviewed the types of issues that the Licensing Assembly might consider in determining an application and put forward a proposal that a new system of separate premises and personal licences be introduced.

Question 10	Is the requirement for previous residency still relevant for receiving a licence?	
	It would be helpful if your reasons could be given.	
	YES	<input type="checkbox"/>
REASON:	NO	<input type="checkbox"/>
Question 11	Do you agree with the proposed reduction in the number of categories to two: an 'on-licence' and an 'off-licence'?	
	It would be helpful if your reasons could be given.	

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<p>REASON:</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 12</p> <p>REASON:</p>	<p>The Panel is recommending to abolish the present system of categories and replace them with two: an 'on-licence' and an 'off-licence', but with discretion to apply different conditions on a case by case basis.</p> <p>This will mean that the Licensing Assembly will have more freedom to individually determine applications for a liquor licence, albeit with reference to the applicants business plan and an impact assessment from government agencies. Do you think this is a positive step?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 13</p> <p>REASON:</p>	<p>Do you agree that the current individual licence system should be replaced by a dual system; of licensing for a premises by the company that owns / operates it, and a personal licence to be held by individuals who manage licensed premises?</p> <p>If so, it would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

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<p>Question 14</p> <p>REASON:</p>	<p>Do you agree that the current system of annual renewal should be replaced by provision for three to five year licences? If so, it would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 15</p> <p>REASON:</p>	<p>The Panel is suggesting that as part of receiving a three to five year personal licence, that individuals should have to pass an examination to test their understanding of the law and their responsibilities. Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 16</p>	<p>What suggestions can you give for improving the system of licence charges and making fees more equitable? Please note that it is intended to only have two categories in the new Law.</p> <p>The current fee structure is as follows:</p>
	<p>2008</p>
<p>1st Category (Taverner's)</p>	<p>£434 plus £1.07 multiplied by the maximum number of persons who may be accommodated for reward on the premises.</p>
<p>2nd Category (Residential)</p>	<p>£1.07 multiplied by the number of approved residents with a minimum fee of £136</p>
<p>3rd Category</p>	<p>£434</p>

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(Restaurant)	
4 th Category (Comprehensive)	£1,082 plus a fee of £2.15 multiplied by the number of approved residents
5 th Category (Club)	£324
6 th Category (Off)	£114
7 th Category (Entertainment) Cinemas Places of Entertainment	£434 £1.07 multiplied by the number of persons mentioned in the permit for entertainment granted by the Bailiff, with a minimum of £434

SUGGESTIONS:

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Section Five: GENERAL PROVISIONS FOR THE SALE AND CONSUMPTION OF ALCOHOL ON LICENSED PREMISES

This section gave some detail on general provisions for a new law and explored a number of important social issues. The place of children in licensed premises was considered, together with the circumstances, if any, when they should be permitted to consume alcohol. Opening hours were considered, both in terms of the current system of licence categories, as well as what might occur if these categories were abolished. The question of drunkenness was addressed and followed by a consideration of the role and effect of drinks promotions.

<p>Question 17</p> <p>REASONS:</p>	<p>The Panel is recommending that young people should be able to remain in licensed premises beyond the current 9pm cut off if they are having a meal with their parents.</p> <p>Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 18</p> <p>REASONS:</p>	<p>Are there other specific circumstances where you think that young people should be permitted on licensed premises?</p> <p>It would be helpful if your reasons could be given.</p>
<p>Question 19</p> <p>REASONS:</p>	<p>Are there specific circumstances where you think that young people should <u>not</u> be permitted on licensed premises?</p>

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<p>Question 20</p> <p>REASON:</p>	<p>Where young people are allowed, should the responsibility for their control remain specifically with a parent or guardian? If so, it would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 21</p> <p>REASON:</p>	<p>Should there be hours after which young people must not be present? If so, please state which and it would be helpful if your reasons could be given.</p>
<p>Question 22</p> <p>REASON:</p>	<p>The Panel is proposing to maintain the minimum age of 18 to purchase alcohol for consumption in licensed premises. Do you agree? It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

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<p>Question 23</p> <p>REASON:</p> <p>REASON:</p>	<p>The Panel think that to prevent disorder and reduce the current 'surge' at closing time, that premises should be permitted to remain open beyond the time of its licence so long as the sale and consumption of alcohol was prevented.</p> <p>Do you agree? It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p> <p>If this proposal was adopted, should premises be allowed to continue to play background music or should it be turned off?</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 24</p> <p>REASON:</p>	<p>Should parents or legal guardians of children and young people legally present on licensed premises be restricted in the amount of alcohol that they can consume?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

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Section Six: OFF LICENCES

Section Six focused on 'off-licences' and discussed particular problems and risks posed by this sector of the industry, particularly to young people. It concentrated specifically upon measures to address under age drinking, as well as to curb current anomalies in pricing and promotional policies across the sector.

<p>Question 25</p> REASON:	<p>The Panel invites your views on whether you support the extension of the current policy preventing drinks promotions to apply equally to both off-licences and on-licences? It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 26</p> REASON:	<p>The Panel invites your views on whether you support its recommendation that the permitted age to buy and remove alcohol from a premises be raised to 21. (Note that this will not change the legal age to consume which will remain 18). It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

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<p>Question 27</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation that alcohol should only be allowed to be sold through dedicated tills within existing licensed outlets It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 28</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation that there be statutory training for all staff serving alcohol. It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 29</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation that there should be a reduction in opening hours of off licences to between 9am – 6pm. It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

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Section Seven: ENFORCEMENT

Section Seven discussed issues of enforcement and particularly the additional measures that the Panel believe that the States of Jersey Police need in order to tackle anti-social behaviour as part of this process. The section also gives the Panel's recommendations and comments regarding the Fire and Rescue Service and the Health Protection Unit's functions to protect the public from harm.

<p>Question 30</p> <p>REASON:</p>	<p>The Panel invites your views on its recommendation to give the States of Jersey Police the right to confiscate alcohol from adults acting disorderly. Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 31</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation making it an offence to use false identification to gain entry. Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 32</p>	<p>The Panel invites your views on whether you support its recommendation enforcing crime reduction measures as part of licensing conditions. Do you agree?</p>

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<p>REASON:</p>	<p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 33</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation that the States of Jersey Police (as well as Environmental Health) may take action to prevent excessive noise.</p> <p>Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 34</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation that the States of Jersey Police may use video cameras to gather evidence of offences committed on licensed premises.</p> <p>Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

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<p>Question 35</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation requiring door staff to be registered with an official authorising body.</p> <p>Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 36</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation allowing test purchasing with sanctions for sales to minors.</p> <p>Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 37</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation to generally strengthen enforcement of the licensing legislation and apply the ‘user pays’ approach to fund sufficient capacity to regulate licensed premises effectively.</p> <p>Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

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<p>Question 38</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation that the Fire Service have clearly stated powers of inspection and enforcement.</p> <p>Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 39</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation that Parish Assemblies do not consider an application until it has been assessed by the Fire and Rescue Service and that the Licensing Assembly may not grant a licence before it holds a valid Fire Safety Certificate or it has received in writing assurance from a senior officer of the Fire and Rescue Service that they are satisfied that the premises is safe to be licensed.</p> <p>Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>Question 40</p> <p>REASON:</p>	<p>The Panel invites your views on whether you support its recommendation that no premises shall operate regardless of its licence without a valid Fire Safety Certificate.</p> <p>Do you agree?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

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<p>Question 41</p>	<p>The Panel invites your views on whether you support its recommendation that the entire building containing the licensed premises is explicitly covered insofar as it relates to the Fire Service duties to ensure public safety with commensurate powers to impose reasonable fire safety measures upon inspection.</p> <p>Do you agree? It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>REASON:</p>	
<p>Question 42</p>	<p>The Panel invites your views on whether you support its recommendation that the Fire and Rescue Service receive a power to impose a time scale for work to be completed should a change of conditions arise within the licensed premises where a fire certificate is in force.</p> <p>Do you agree? It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>REASON:</p>	
<p>Question 43</p>	<p>The Panel invites your views on whether you support its recommendation that all licensed premises have a clearly presented written display stating the set occupancy figures permitted together with reasonable enforcement provisions.</p> <p>Do you agree? It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
<p>REASON:</p>	

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<p>Question 44</p> REASONS:	<p>The Panel invites your views on whether you support its recommendation that there is a statutory minimum notice period for assessment by the Health Protection Unit?</p> <p>It would be helpful if your reasons could be given.</p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
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