



Legal update — December 2018

# Commercial Property Licensing and leisure team update

Pioneering — Bahrain — Construction — Public sector — Energy — Real estate — London — Tax — IT — Dubai — Manchester — Connecting — Knowledge — Pragmatic — Malaysia — Exeter — Thought leadership — Housing — Agile — Creative — Connecting — Priv — Local government — Manchester — Environment — Focused — Islamic finance — Projects — Abu Dhabi — Corporate finance — Passionate — Employment — Regulation — Procurement — Expertise — Specialist — Planning — Investment — Committed — Delivery — IT — Go — IP — Corporate — Infrastructure — Value — Development — Private wealth — Oman — Governance — Birmingham — Corporate finance — Dynamic — Pensions — Dispute resolution — Insight — Banking and finance — Arbitration — Diverse — Regeneration — Care — Communic

**Welcome to our December 2018 bulletin, in which we consider topical issues for the licensing and leisure sectors. In this edition we focus on Temporary Event Notices (TENS); the Welsh Government's minimum unit pricing for alcohol; an update on the draft London Plan; Westminster City Council's proposed levy on new hotels and 'Special Policy Areas'.**

commission a review into the impact of minimum unit pricing in Scotland. Whether England follows suit waits to be seen, particularly as the Scottish scheme was subject to a lengthy challenge by the Scotch Whisky Association that ended at the Supreme Court.

Northern Ireland is currently without a devolved assembly in Stormont and there are currently no proposals for minimum unit pricing.

## Temporary Event Notice (TEN)

If you are planning an event for New Year on unlicensed premises then you may need to apply to the local authority for a TEN. Apart from the obvious (sale of alcohol), licensable activity includes providing entertainment such as music, dancing or indoor sporting events. A TEN is also required if the licensable activity is not included within the terms of your existing licence. You need to allow enough time to secure a TEN (applications must be made at least 10 working days beforehand) and your event must have fewer than 500 people in attendance at all times (including staff) and last no longer than 168 hours (seven days).



## Minimum unit alcohol pricing - a further divided union?

With minimum unit pricing for alcohol having been introduced in Scotland on 1 May 2018 what is the position and outlook for the remainder of the country?

Since 28 May 2014 in both England and Wales there has been a ban on selling alcohol below a 'permitted price' which is defined as the level of alcohol duty plus VAT.

On 9 August 2018, the Public Health (Minimum Price for Alcohol) (Wales) Act received Royal Assent and the Welsh Government is consulting until 21 December 2018 on its proposed minimum unit pricing of 50 pence. The new regime is expected to come into effect during summer 2019 and further updates will follow.

In England the government has adopted a wait and see approach and Public Health England is expected to

## Protecting London's public houses

The examination in public of the proposed new London Plan is due to start on 15 January 2019. This is a strategic plan shaping how London evolves over the next 20 to 25 years and, as with the current plan, it will be a material consideration in all London planning decisions. Reflecting widespread concern at the rate of pub closures the most recent proposals set great store by their protection and state that applications proposing the loss of public houses with "heritage, cultural, economic or social value" should be refused unless "authoritative marketing evidence" is produced that the building has no realistic prospect of being used as a pub in the near future. In addition, development proposals within the curtilage of a public house should be rejected if they compromise its operation or viability.

## Bedroom tax?

Until 21 December 2018, Westminster City Council (WCC) is consulting on its proposed new City Plan which will set out its policies for determining planning

Published by  
Trowers & Hamblins

Trowers & Hamblins LLP  
3 Bunhill Row  
London  
EC1Y 8YZ

t +44 (0)20 7423 8000  
f +44 (0)20 7423 8001

[www.trowers.com](http://www.trowers.com)

Trowers & Hamblins LLP is a limited liability partnership registered in England and Wales with registered number OC337852 whose registered office is at 3 Bunhill Row, London EC1Y 8YZ. Trowers & Hamblins LLP is authorised and regulated by the Solicitors Regulation Authority. The word "partner" is used to refer to a member of Trowers & Hamblins LLP or an employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Trowers & Hamblins LLP's affiliated undertakings. A list of the members of Trowers & Hamblins LLP together with those non-members who are designated as partners is open to inspection at the registered office.

Trowers & Hamblins LLP has taken all reasonable precautions to ensure that information contained in this document is accurate but stresses that the content is not intended to be legally comprehensive. Trowers & Hamblins LLP recommends that no action be taken on matters covered in this document without taking full legal advice.

applications. In the consultation WCC acknowledges that: "it is the second most expensive local authority in the country in which to rent or purchase a home." WCC proposes a levy into its Affordable Housing Fund on small scale hotels (between 750 square metres and 999 square metres) built within its Central Activities Zone and developers of larger hotels of above 1,000 square metres within that Central Activities Zone will be required to provide 35% of the gross internal areas as on-site affordable housing. Where the development of larger hotels is within an 'Opportunity Area' (such as Victoria or Paddington) and it is demonstrated that on-site delivery is not practicable or viable, then off-site provision elsewhere within that Opportunity Area may be acceptable to WCC.



### 'Special Policy Areas' (SPAs)

SPAs are areas designated by local planning authorities to protect their local uniqueness and ensure that often unique clusters of activity are not lost to other uses. However some SPAs have proved to be controversial and in particular those introduced by Hackney Council as part of its five yearly review of licensing policies; the most recent being in July 2018. The effect is that in Dalston and Shoreditch there is a rebuttable presumption that applications for new premises licences which are likely to add to the existing cumulative impact in those areas will normally be refused or subject to limitations on opening hours of 23:00 on weekdays and midnight on Saturdays. A local pressure group ("We Love Hackney") is crowd funding to launch a judicial review and further updates will follow.

### December 2018 © Trowers & Hamlins

For more information please contact:

**Julien Allen**

t +44 (0)20 7423 8114

e [jallen@trowers.com](mailto:jallen@trowers.com)

**Tim Brown**

t +44 (0)20 7423 8372

e [tbrown@trowers.com](mailto:tbrown@trowers.com)

**Andrew Williams**

t +44 (0)20 7423 8019

e [awilliams@trowers.com](mailto:awilliams@trowers.com)