

Late-Night Trading Code Review

Alcohol and Drug
Foundation
Submission

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About the Alcohol and Drug Foundation

The Alcohol and Drug Foundation (ADF) delivers evidence-based approaches to minimise alcohol and other drug harm. We recognise the power of strong communities and the important role they play in preventing problems occurring in the first place. A community-centric approach is at the heart of everything we do.

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Introduction

The Alcohol and Drug Foundation (ADF) thanks Consumer and Business Services SA for the opportunity to contribute to this consultation concerning proposed changes to the Late-Night Trading Code of Practice. The ADF supports a modern and evidence-based Code that is responsive to community and public health concerns. The purpose of the Code is to provide a framework through which stakeholders can mitigate risk of harm to individuals and the community associated with the late-night economy. The availability of alcohol, in terms of trading hours, venue density, and other license and service conditions, are shown to be directly linked with alcohol-related harms. Research indicates an association between these trading conditions and alcohol-related problems such as rates of alcohol related hospitalisations, assaults, and family violence. Without effective enforcement, however, the Code is likely to be ineffective regardless of its conditions. Finally, to assess the effectiveness of the Code, data collection and evaluation methods need to be designed and implemented so that any review can be based on evidence.

Alcohol harms in SA

Alcohol harms in SA are a significant public health concern. The overall cost to the Australian community of alcohol harm was estimated at \$66.8 billion in 2017-18¹. Alcohol contributes significantly to the overall burden of disease in Australia, and has been assessed as the 6th leading risk factor for preventable health concerns in the country². A review of the literature by Rehm et al. in 2017³ found that heavy episodic drinking increased risk for some diseases and all injury outcomes, and that variation in alcohol consumption impacted many different disease outcomes. Mental ill health is also significantly associated with alcohol consumption, with those experiencing high or very high levels of distress being more likely to drink at risky levels⁴, and increased alcohol consumption being associated with various mental health conditions⁵.

In addition to alcohol-related health harms, there are a range of other harms to the individual and community associated with alcohol consumption. Estimates of road crashes suggest that 19% of road fatalities in SA involved alcohol-impaired drivers from 2015-2019, and that alcohol was present in almost 250,000 incidents of sexual, family, and other violence nationally in 2016⁶. In SA in 2016, 23% of individuals had been the victim of an alcohol-related incident, and 49% of all overdoses were related to alcohol.

Alcohol availability and harms

Overwhelming evidence clearly establishes a link between the greater availability of alcohol and increased harms^{7, 8}. Alcohol availability relates to factors including pricing, outlet density, trading hours, and serving conditions. After alcohol pricing, the World Health Organisation has found

limitations on trading hours to be the most effective method for reducing alcohol related harms⁹. Evidence shows that the reduction of trading hours is effective at reducing alcohol-related harms, including violence^{10, 11}. In Australia, a systematic review published in 2016 demonstrated clear evidence that restrictions on trading hours, particularly late-night trading hours, have the effect of reducing alcohol related harms¹². Research suggests that the amount of alcohol related harms experienced can increase by 16% for each additional hour that a venue is open¹³. Further international evidence showed increases in violence and alcohol-related hospital admissions for each additional hour a venue is open^{14, 15}. An Australian study by Miller¹⁶ suggests that violence is most likely in venues selling alcohol after midnight.

Conversely, this body of research shows that reducing trading hours or otherwise reducing the availability of alcohol will act to reduce alcohol related harms. Improved enforcement of licence conditions is also suggested in the research to be an avenue for reduced harms, though this evidence is less developed.

Late night trading restrictions

In Australia, policy responses to late night alcohol-related harms have often followed this evidence by implementing restrictions on trading hours. These policies have included earlier enforced closing times, and lockout regulations that prevent new patrons entering venues after a particular time. These approaches have been adopted as part of the Code in SA, alongside a suite of other measures designed to reduce alcohol-related harms. In recent years, there has been much publicised debate about the impact of late-night trading restrictions on the night-time economies of those jurisdictions where they have been introduced.

The current review

The review of the Code is in response to a recommendation from the 2016 Anderson review of the *Liquor Licensing Act 1997* that the Code remain in place for another three years before being reviewed. The review notes that there is accord between various stakeholders on the importance of the Code, including police, the drug and alcohol sector, public health organisations, local councils, and some venues and businesses. The review also notes that enforcement of the Code is likely not thorough, as incidences of intoxication suggest that RSA procedures are not being effectively practiced. Poor enforcement can undermine liquor licensing regimes, regardless of their design. Proper enforcement will involve onsite inspections during the hours of the code to ensure RSA and other licence condition compliance, effective penalties for infringement, and the use of data in targeting potential problem venues or areas.

Absence of evidence

Finally, the current review of the Code is significantly limited by a lack of appropriate data and evaluation. It is difficult to judge the effectiveness of the Code and its provisions while there is limited evidence about its operation. The Code contains numerous provisions which may each be more or less effective in mitigating alcohol related harms. Without an appropriate data set to measure the outcomes of the Code, any review is severely limited. Appropriate indicators would include harms data, including police interactions, ambulance callouts, hospitalisations, and other alcohol-related incidents, as well as data concerning licences, types, breaches, prosecutions and variations or terminations etc. This would be best designed in consultation with government and non-government stakeholders who are able to provide expertise on which measures would be most appropriate.

Recommendations

1. The current Code should be extended for a further two-year period, with some changes as outlined below.
2. The continuation of the Code be predicated on a comprehensive monitoring and evaluation process that involves all relevant stakeholders.
3. CBS and the Licensing Enforcement Branch of SAPOL must be fully funded to fulfil their duties as in enforcing the Code.
4. The State Government undertake campaigns to educate the public about the Code and its conditions, and run a similar campaign directed at licence holders.
5. The State Government commit to implementing the following recommendations from the 2016 Anderson review to strengthen the Code:
 - a. Licensees found to be in breach of the lockout provisions of the Code may have their lockout time shifted earlier as a penalty
 - b. Strengthened RSA training and competency, including ongoing refreshment of the training similar to CPR or gambling accreditations.
 - c. Strengthening the right of a licensee to refuse entry to intoxicated persons
 - d. Requiring all licensed venues be closed for a minimum of three continuous hours between 3:00am and 9:00am
6. Exemptions from the Code for the casino be reconsidered in light of concerns about its compliance with other liquor and gaming regulations.

Proposed amendments to the Code

Clarifying the purpose of the Code:

- 3.1(a) Clarifying the nature of harms that the Code tries to reduce, and to whom they apply (including patrons, staff, and the local community). This may improve future evaluation and development of the Code.
- 3.2. Including a statement of committing licence holders and responsible persons to proactively intervene with intoxicated patrons.

Reviewing the role of the Drink Marshal:

- Following recommendation 56 of the Anderson review, the drink marshal should be given powers to remove an individual or direct an individual to be removed from a licenced premises.

Expanding and clarifying Schedule 1:

- The Code should be an accessible document for licence holders, staff, and the general public. Schedule 1 in the Code should be edited to make clear its purpose, its application, and consequences. This may include listing the fine amounts and providing examples as per the Act.

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