



To: highstreetorganisedcrimeunit15@homeoffice.gov.uk

Consultation Response

Increasing the duration of closure orders under the Anti social Behaviour, Crime and Policing Act 2014

Background

The Institute of Acoustics (IOA) is the UK's professional organisation for those working in the fields of sound, noise and vibration. Members of the Institute carry out research into the effects of noise on human health and wellbeing. Members also implement the national policies, legislation and guidance that deal with the management of noise. This is in the capacity of both assisting developers and businesses to meet their policy and legislative obligations and as regulators evaluating the merits of proposals or applying the relevant legislation. We also work with businesses and residents.

The Institute's focus in our response is on the noise nuisance element of the consultation in terms of sound, noise and health implications and the proposed reform of licensing regulation in England and Wales. This response has been prepared by members of the Institute of Acoustics experienced in matters of licensing and noise management in relation to public safety and community health and wellbeing. This response has been approved by the IOA's Executive Committee on behalf of the IOA's Governing Council.

Premises closure orders: consultation

1. Do you agree or disagree in principle with the proposal to increase the maximum duration of a closure order to 12 months? Please explain your answer.

Qualified agreement

The Institute supports the availability of a longer maximum period where this is demonstrably necessary to protect communities from persistent and serious nuisance or criminal behaviour. Noise nuisance can have significant adverse effects on health and wellbeing, particularly where it is prolonged or recurring.

However, the Institute considers that:

- the proposal should increase only the *maximum* available duration;
- the duration imposed should always remain proportionate to the evidence presented;
- courts should continue to determine the appropriate duration on a case-by-case basis;
- where nuisance (rather than criminality) is relied upon, objective evidence should be presented wherever practicable.

The Institute would not support any presumption that closure orders should routinely last 12 months.

2. Do you agree that the maximum duration of an initial closure order should be for a period of 12 months? If so, please explain your answer. If not, please specify a proposed duration and your reasoning for this.

No.

The Institute considers that allowing an initial order of up to twelve months risks reducing opportunities to review whether circumstances have materially changed. A staged approach is preferable.



An initial order of **up to six months**, with the possibility of extension following judicial review of fresh evidence, would better balance:

- protection of affected communities;
- proportionality;
- natural justice;
- incentives for premises operators to remedy problems promptly.

Where noise nuisance is involved, conditions often change following management changes, acoustic improvements or enforcement action, making periodic review appropriate.

3. Do you agree or disagree in principle with the proposal to also increase the maximum period for which an initial closure order can be extended to 12 months (where the initial closure order was for a shorter period)?

Yes.

Where an initial order has proved insufficient, courts should have the ability to extend the order to a maximum overall duration of twelve months.

The Institute considers this preferable to routinely granting very lengthy initial orders because:

- evidence can be reviewed;
- improvements can be recognised;
- proportionality is maintained; and
- extensions remain subject to judicial scrutiny.

4. Are there potential risks, adverse impacts or unintended consequences that should be considered if the maximum overall duration of closure orders were to be extended to 12 months? If yes, please provide detail.

Yes

- unnecessary long-term closure of premises that have already addressed the underlying problems;
- economic impacts on town centres and local communities;
- displacement of nuisance or criminal activity elsewhere rather than resolution;
- loss of legitimate community facilities where problems were management-related rather than inherent to the premises;
- reduced incentive for authorities to work collaboratively with operators to achieve practical mitigation;
- where noise is the issue, failure to distinguish between premises that could be improved through acoustic interventions and those requiring closure.

The Institute considers closure should remain a measure of last resort where less restrictive interventions cannot adequately protect affected communities.

5. Are there particular groups, businesses, communities or individuals who might be adversely affected by an amendment to this effect? Please provide details.

Potentially affected groups include:

- residents employed by businesses subject to closure;
- employees and suppliers;
- small independent businesses;
- music venues, pubs and licensed premises operating legitimately but experiencing management failures;
- owners and landlords who were not directly responsible;
- vulnerable residents where residential premises are involved; and
- neighbouring businesses where prolonged vacancies reduce footfall.



The Institute notes that community benefit derived from reducing serious nuisance should also be recognised and balanced against impacts on business and the night-time economy.

6. Do you think extending the maximum overall duration of a closure order to 12 months should be limited to tackling criminal behaviour alone, and exclude nuisance behaviour and disorder?

The Institute does **not** recommend limiting the power exclusively to criminal behaviour. Serious and persistent nuisance—including severe noise nuisance—can have substantial impacts upon:

- health;
- sleep;
- mental wellbeing;
- community cohesion;
- increased risks of mortality long term.

However, because "nuisance" is broader and potentially more subjective than criminal conduct, the evidential threshold should be correspondingly robust.

Where nuisance forms the principal basis for the order, authorities should demonstrate:

- persistence;
- seriousness not just significant but substantial and to a point where it must be prevented;
- failure of alternative interventions; and
- objective evidence wherever possible (including professional assessment where appropriate by suitably qualified persons).

7. The powers enable different provision to be made for different kinds of businesses. Do you think that would be helpful? For example, do you think any extension should only be in relation to high street businesses and exclude private residential properties? Are there any limitations which should be applied?

Yes.

Different maximum durations may be appropriate because:

Residential premises raise different considerations regarding:

- housing;
- family life;
- vulnerability;
- proportionality.

Commercial premises differ considerably.

The Institute suggests that:

- high-risk commercial premises associated with organised criminality may justify longer maximum periods;
- residential properties should continue to attract particularly careful and measured judicial scrutiny;
- community assets (such as culturally important venues) should receive careful consideration where problems may be capable of being resolved through management or acoustic improvements (which our members may be able to assist to determine as steps which could be made a condition of the Order).

A single approach for all premises may not achieve proportionate outcomes.

8. Are there additional considerations, or issues with the use of closure orders, that the government should be taking into account?

The Institute recommends Government considers:



- collection of national data on why closure orders are made (including whether principally for criminality, disorder or nuisance such as noise);
- evaluation of effectiveness after implementation;
- consistency between local authorities in evidential standards;
- use of acoustic expertise where noise is a principal issue (our members may be able to assist with this or a Special Advisory Panel set up);
- relationship with Environmental Protection Act 1990 statutory nuisance powers and Licensing Act 2003 enforcement should be joined up and guidance provided for tying back to the National Policy on Noise (which in England is the Noise Policy Statement for England 2010);
- encouraging remediation (for example acoustic improvements or management plans) where these could resolve problems without prolonged closure.

Evidence on outcomes should inform future review of the legislation.

9. Are there specific safeguards that should be factored into any increase in the closure orders?

The Institute would recommend:

- continued judicial oversight;
- requirement that twelve months is justified by evidence to the criminal test (beyond reasonable doubt) rather than being treated as the default;
- periodic review mechanisms for lengthy closures;
- right for affected parties to apply for variation where circumstances materially change;
- clear evidential guidance where nuisance (including noise) forms the basis of the application;
- publication of anonymised data on use of the powers;
- consideration of whether effective acoustic or management mitigation has been implemented before extensions are granted as a preventative measure.

Overall IOA position

The Institute of Acoustics supports increasing the *available maximum* duration of closure orders where this enables better protection of communities from serious and persistent nuisance or criminal behaviour. However, the Institute considers that the powers should remain evidence-based, proportionate and subject to robust judicial scrutiny. Twelve-month closure should not become the norm for the reasons given. Particular care is required where closure is based primarily on nuisance, including noise nuisance, and Government should ensure appropriate evidential standards, periodic review, and consideration of whether acoustic or management interventions could achieve the necessary protection without prolonged closure, which should remain a last resort.

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