

January 2012

# SMART REGULATION AND ECONOMIC GROWTH SEIZING THE TOURISM OPPORTUNITY

A Report from the Tourism Regulation  
Taskforce to John Penrose MP,  
Minister for Tourism, Department  
for Culture, Media and Sport



# INTRODUCTION

**Last summer, the Tourism Minister, John Penrose MP, asked me to bring together a group of industry experts to give guidance on what the government should be doing to better encourage, enable and support businesses through its ‘Red Tape Challenge’.**

I confess I felt a sense of déjà-vu. The tourism industry has told successive governments how it might tackle the ‘crippling impact’ (to use the Prime Minister’s own words) of the many rules and regulations that tourism and hospitality businesses face. Back in 2000 the hospitality industry submitted a raft of proposals to the Better Regulation Taskforce and few, if any, were implemented. The Task Force’s impact was minimal.

But this time feels different. Whereas previous governments have taken the view that if deregulation is to be achieved then the case for abolition must be made, the Prime Minister has changed the default setting. In a letter to all ministers this year he emphasised:

**“OUR STARTING POINT IS THAT A REGULATION SHOULD GO... UNLESS THERE IS A CLEAR AND GOOD JUSTIFICATION FOR GOVERNMENT BEING INVOLVED. AND EVEN WHEN THERE IS A GOOD CASE FOR THIS, WE MUST SWEEP AWAY UNNECESSARY BUREAUCRACY AND COMPLEXITY, END GOLD-PLATING OF EU DIRECTIVES, AND CHALLENGE OVERZEALOUS ADMINISTRATION AND ENFORCEMENT.”**

*David Cameron letter to Ministers, April 2011*

This is a promise to which we intend to hold the Prime Minister. I am pleased that the ambitious statement has so far been backed-up by the actions of different government departments and the leadership of the Cabinet Office to drive forward the different, and sometimes overlapping, strands of work.

So I am delighted to be contributing the views of our Tourism Taskforce in the expectation of seeing some real progress towards the government’s growth strategy.

We believe that the removal of unnecessary red tape in the tourism and hospitality industry can make a real difference to the country's economic recovery. Already the government's own Tourism Policy (March 2011) has acknowledged the huge contribution that tourism and hospitality makes to the UK economy.

- 1. One of Britain's six largest industries**
- 2. The third largest export earner**
- 3. Comprises over 200,000 businesses**
- 4. Provides 1.36m jobs (4.4 per cent of total employment)**
- 5. Generates over £9bn direct spend each year.**

Source: DCMS Tourism Strategy

The overwhelming majority of businesses in tourism and hospitality are SMEs and micro businesses, the lifeblood of the economy.

The challenge now is to seize the opportunity to grow the industry. It is estimated that 510,000 new hospitality jobs can be created by 2020 and the Prime Minister talks of 50,000 new tourism jobs as a result of implementing the £100m match-funded tourism promotion scheme. There are not many industries able to offer this sort of potential growth in this economic climate. Indeed, the benefits will be even greater if we factor in the multiplier effects through the supply chain and the wider economy.

Removing unnecessary red tape is only part of the tourism growth opportunity, of course, but it's a vital one. Bold policy actions will free larger companies to allocate resources more efficiently while they could represent a 'make or break' solution for our many small businesses. The feedback the Taskforce received was that regulators rarely understand the difficulties that small, independent businesses face when implementing complex new regulations.

Nor is the cost of implementation appreciated. The feeling is that if they are understood by government, then they are ignored.

One of the greatest problems faced by the industry is the cumulative effect of regulation, particularly on small businesses. Too often, we have also found regulations introduced by one government department conflict with those of another department that also has an interest in our sector (for example, rules on visas from the Home Office adversely affect tourism, which is sponsored by the Department for Culture, Media and Sport). A joined-up approach from government is essential but is not in place.

We therefore need to learn from the lessons of the past. We must not allow proposals to be left on dusty Whitehall shelves, filed under 'too difficult'. We appreciate the difficulty in bringing different parties together, not least when so many of our regulations derive from EU Directives, but the challenge needs to be addressed, nonetheless, if a real difference is to be made.

Our Taskforce adopted a pragmatic approach. Since so many of the 21,000 regulations identified by the government affect hospitality and tourism, the Taskforce concentrated on those regulations that make the biggest impact on the greatest number of businesses, without losing sight of the benefits to the wider public.

Four sub-groups were set up to examine particular aspects of the industry – infrastructure, hospitality (including food and drink), travel, and employment. Each sub-group examined all the relevant rules and regulations to discern whether amendment or removal was suitable, feasible and achievable. The proposals for changes to regulation were evaluated on the basis of whether they would benefit growth and employment, reduce cost and time to business, create a positive impact on customer experience, be in the public interest, preserve

(where appropriate) historic character, culture and sustainability and be in support of the government's Tourism Policy.

A full description of our discussions and recommendations appear in the Report. These recommendations on tourism and hospitality, when taken with the Lofstedt review of health and safety regulations, the Portas review of the High Street, the introduction by the Department for Communities and Local Government of the National Planning Policy Framework and the proposal for extending the home authority principle to such areas as fire safety will, we believe, provide an excellent, integrated approach for policy makers.

However, the Taskforce urges the government to go further. The complex and fragmented structure of the tourism and hospitality industry emphasises the need to implement a specific recommendation made in the BHA's publication **Creating Jobs in Britain: A Hospitality Economy Proposition**, which was presented to government in October 2010, and the report by Oxford Economics for the British Beer and Pub Association, **Local Impact of the Beer and Pub Sector**, but which has not yet been actioned.

This recommendation was to establish a cross-Cabinet committee in order to coordinate government policies affecting the tourism and hospitality industry. In this way, government departments would be able to acquire a much deeper appreciation of the overall impact of proposed regulations on every business in the industry and how we could create further growth and job opportunities.

The need for such a forum is starkly illustrated by the wide range of recommendations that appear in the following pages of this report. There is clearly a need for government to understand why the heavy legislative burden carried by individual businesses in all industries is such a barrier to economic growth. Government exists to legislate, but it must legislate wisely and with the aim of encouraging businesses to grow.

We believe that this report provides the first step in an ongoing process. The Taskforce will be seeking further dialogue to make good the Prime Minister's promise by taking a bolder, smarter approach to regulation. The opportunity is too important to miss.

I conclude with thanks to the many people, both members of the Taskforce and others, who have contributed to the development of our recommendations. They are listed on page 39.

**Alan Parker CBE**

Chairman, Taskforce; President, British Hospitality Association

### PLANNING

Responsible Department: Communities and Local Government

The government wishes to grow the tourism sector, improve its productivity and to use it to rebalance the economy away from an historic over-reliance on finance, construction and the South-East.

However, the Tourism Policy cites difficulties in obtaining planning permission to develop or expand a tourism business making the system too slow, too complex, too expensive and too hard to predict.

#### The Regulation Taskforce's core concerns are:

1. To ensure that national policy – and by extension local and neighbourhood policy – promotes tourism sufficiently strongly.
2. To ensure that where possible the planning system is revisited (for instance in relation to heritage and use classes) to ensure that it functions to the maximum advantage for the sector; and
3. To ensure that key opportunities are delivered or capable of being achieved as a result of the use of fast-track procedures such as the Planning Act 2008. This should apply equally to infrastructure and – where sufficiently large – to other tourism-related developments.

#### A SMARTER APPROACH

##### A smarter approach should include:

1. Both in the emerging National Planning Policy Framework (NPPF) as well as at local level, there is insufficient recognition of the importance of tourism. This is straightforward to remedy and is set out in the Taskforce's submission on the NPPF available on request from [martin.couchman@bha.org.uk](mailto:martin.couchman@bha.org.uk)  
The simplest solution would be to include 'tourism' alongside, leisure and retail in several paragraphs of the NPPF.
2. Local tourism interests should be recruited to form part of neighbourhood forums and be part of the process that prepares neighbourhood plans for local areas.
3. The Good Practice Guide on planning of tourism projects should be retained. The industry welcomes the fact that it is not listed for abolition and that its guidance is a material consideration in planning applications. The Guide requires limited updating and the industry is willing to undertake this, with the Department for Communities and Local Government (CLG) and DCMS, in order to obtain further Government endorsement of the Guide.

**BOTH IN THE EMERGING NATIONAL PLANNING POLICY FRAMEWORK (NPPF) AS WELL AS AT LOCAL LEVEL, THERE IS INSUFFICIENT RECOGNITION OF THE IMPORTANCE OF TOURISM.**

4. There is a multiplicity of procedures required for planning permissions and other consents which can be usefully streamlined in line with the Penfold report recommendations. (See Department for Business implementation report at [www.bis.gov.uk/assets/biscore/better-regulation/docs/i/11-1413-implementation-of-penfold-review.pdf](http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/11-1413-implementation-of-penfold-review.pdf))
5. There is scope for adjustment to the Use Classes Order and/or the General Permitted Development Order to allow tourism-related development to benefit. For instance, changes between hotels, certain types of office and conference-type uses are made more difficult than need be. Similarly, reversible changes to even heritage assets can be of benefit, outweighing any temporary harm.
6. There should be a liberalisation of the current restrictions on change of use between Use Classes A1-A4 in order to allow for greater innovation in response to changing conditions in the marketplace for restaurants, food service outlets and licensed retailers. Additionally there should be government guidance given to promote flexibility in town centre planning to allow food and drink outlets to participate in town centre revitalisation.
7. The Use Classes order should be amended to permit change of use from Use Classes A1/A2 to A3.
8. The Use Classes order should be relaxed to permit changes of use from hotels to dwelling houses (Use Classes C1 to C3).
9. Alternative uses for heritage assets are capable of being dealt with more liberally, particularly where they result in benefit to the asset, even if an original use is not maintained.
10. Fast(er) track procedures, like the Infrastructure Planning Commission, ought to be available whenever they are beneficial to the industry and for projects of sufficient importance, but should not be compulsory.
11. There should be no need to seek planning permission to reconstruct premises affected by damage from fire and other natural disasters, where the intention is to rebuild on the basis of the existing permission.

### REGULATORY REFORM (FIRE SAFETY) ORDER 2005

Responsible Department: Communities and Local Government

The tourism industry includes some 170,000 commercial businesses, many very small and run on slim margins. Every tourism business understands the necessity to ensure the safety of guests but there is a clear lack of national consistency across fire authorities, resulting in huge costs across the tourism and hospitality sector.

#### **There are particular difficulties for listed and historic properties which include many traditional hotels:**

1. There is no clear and consistent guidance available to businesses.
2. Standards of fire fighting equipment provision must be related to the Fire Risk Assessment.
3. The costs of fire risk assessments carried out by consultants are imposing an unduly heavy burden on all businesses, especially small businesses and are not always accepted by the fire and rescue service, incurring further costs as a result.

Particular problems have arisen due to inspections by fire officers with no national consistency of approach. The problem is exacerbated in many cases by a change in fire officer who takes an entirely different view to his or her predecessor. This results in more cost for the business. Examples in relation to historic houses are given in Appendix 2.

The cost for businesses required to make changes following the visit of a fire officer can be huge and are disproportionate to the problem, and there appears to be no protocol to suggest that premises with a history of compliance are subject to fewer inspections.

#### **A SMARTER APPROACH**

1. There is a need for revised national guidelines for fire officers. This could include specific agreed standards for particular types of development such as a hotel, B&B, guest house or pub.

2. In determining such guidelines, representatives of hospitality and tourism industry businesses should be fully involved.
3. The protocol adopted in Brighton & Hove (see Appendix 2) which relates to building of three storeys above ground. should be extended to cover four storeys above ground, and possibly even five above ground.
4. A derogation for small enterprises from certain provisions should be agreed, with owners and managers being able to manage the risk flexibly, reasonably and proportionately.
5. The Local Better Regulation Office (soon to be renamed the Better Regulation Delivery Office) should be supported in its efforts to bring fire safety within the primary authority scheme. In addition, the HSE should be given powers to ensure consistency of enforcement by the Fire and Rescue Service as the principles of health and safety risk assessment are similar to those of fire safety risk assessment.
6. There needs to be clearer guidance on striking a balance between the safety of people and maintaining the character of a listed building.

#### **FURTHER COMMENTS ON THE 2005 ORDER**

The Fire Safety Order (2005) and Guest Accommodation The Guidance for Businesses ('Sleeping Accommodation') published by HM Government alongside the new Regulatory Reform Order (RRO) is now being used by the Fire Service not as guidance but as laid-down policy.

It is, according to inspection officers, 'their bible'. However it was never intended to be used by them in the enforcement process. It was written for the businesses themselves, to allow them to produce robust fire risk assessments and thereby comply with the law. It states: **'It does not set prescriptive standards, but provides recommendations and guidance for use when assessing the adequacy of fire precautions in premises providing sleeping accommodation.'**

Despite assurances within the guidance that businesses which had been covered by a fire certificate prior to the new RRO should not expect to make significant changes...

**‘If a fire certificate has been issued in respect of your premises or the premises were built to recent building regulations, as long as you have made no material alterations and all the physical fire precautions have been properly maintained, then it is unlikely you will need to make any significant improvements to your existing physical fire protection arrangements to comply with the Order’.**

...the fire service has taken the opportunity of the new RRO to suggest that a ‘statutory bar’, in place since the previous regulations came into force in 1971, has meant that it has been unable to demand improvements in safety measures for many years. Consequently, the service is taking the opportunity to insist on costly and often excessive changes in nearly every business they inspect effectively labelling the previous fire certificates worthless. This is despite having conducted previous inspections in premises deemed by them to have been satisfactory.

This is in direct conflict with the guidance:

**‘Where the layout (means of escape) and other fire precautions have been assessed by the fire and rescue service to satisfy the guidance that was then current, then it is likely that your premises already conform to many of the recommendations here, providing you have undertaken a fire risk assessment’.**

Some of these excessive changes insisted on by fire officers have included sprinkler systems throughout the premises, double door partitioning, a 24-hour constant presence of staff/owners on site, and closure of upper floors – many in premises which have operated safely for decades. Many buildings are listed and consequently changes will always be difficult. Many requests fly in the face of the guidance’s suggestion they might ask for improvements:

**‘to the extent that it is reasonable and practicable in the circumstances’.**

The guidance is all-encompassing, covering many different types of property, and varying levels of occupancy. It recognises the difficulty of providing a ‘one size fits all’ approach, and yet then provides a strict travel distance matrix which immediately causes issues for Victorian town house type buildings – the type of building which represents the ideal small hotel, B&B or guest house. These travel distance calculations have been in existence for decades, and have stayed unchanged even as better and safer fire precautions have been introduced.

So despite the assurance that **‘these distances are flexible and may be increased or decreased depending upon the level of risk after you have put in place the appropriate fire prevention measures’** fire officers are choosing to treat them as hard-and-fast measures. Many of the guidelines are suggested for maximum building occupancies of 80 occupants, or floor occupancies of 60, yet a small hotel or B&B is highly unlikely to house anything like that number.

Nevertheless, fire services find it difficult to regard this lower occupancy, or indeed existing and appropriate fire prevention measures, as a level of risk mitigator.

Despite the efficacy of smoke detection systems, decibel levels, and a common standard of 30-minute door protection for each room, the fire service appears to be suggesting that 30 minutes is not adequate to evacuate guests as they 'may choose to assume it is a false alarm', or 'may be slow to respond and therefore waste vital time'.

There must surely be a point where a business has done all it can do, and responsibility for action is passed to the staying guest. How can a well managed business which has a well maintained L2 alarm system with sensitive smoke detectors in each room, high decibel sounders, 30-minute self closing fire doors with intumescent strips and seals on every room, good maintenance and an average evacuation time from the top floor of say two minutes, be told that guests might sleep through the alarm for 15 minutes and therefore fire safety is compromised?

The fire service must recognise that a very high percentage of small town hotels and guest accommodation are tall terraced properties with larger than average rooms. Many will

have three, four or even five storeys above ground. Many will be listed buildings. In most cases the only meal cooked in the kitchen will be breakfast – supervised throughout. The recent no smoking law means that the fire risk from indoor smoking is highly reduced. Other than cooking and smoking, the sources of fire will be limited.

L2 smoke detection systems will ensure that an alarm is raised in minimum time. A 30-minute fire door, self closers, strips and seals all combined will support a low risk of smoke in the one main staircase exit. Room sizes will be commensurate with a domestic property and occupancies per floor likely to be 8-10 or so maximum.

It is therefore perverse that such businesses are being put into a high or very high risk category. A protocol that suggests a minimum of alterations to a well managed premises to comply with the RRO, particularly in buildings of three or more storeys above ground, would be welcomed.

Some work has been done on a more common sense protocol in Brighton & Hove, but only for three stories above ground. This should be extended by government to cover four, and possibly even five above ground.

### HEALTH AND SAFETY

Responsible Department: Work and Pensions

The impact of health and safety regulation on business is a key issue within the government's Tourism Policy. There are also a number of current reviews looking at health and safety practices which the industry has responded to – for example, submissions made by the British Hospitality Association and the British Beer & Pub Association in responding to the Löfstedt Review and the BIS consultation on 'Transforming Regulatory Enforcement'. Copies are available on request to [martin.couchman@bha.org.uk](mailto:martin.couchman@bha.org.uk)

#### The Taskforce's core aims are to:

1. Focus on actions that will minimise the time and cost of risk assessments, including unnecessary duplication of such assessments.
2. Achieve a consistent risk-based approach to compliance inspections, proportionate to the size and nature of each tourism business.
3. Ensure that HSE and local authority regulators are competent and properly trained to achieve the consistency referred to in 2 above.

#### A SMARTER APPROACH

1. Local authority regulators should follow the lead of the Health and Safety Executive (HSE) and the risk-based approach which it has taken to regulation. This, however, needs to be undertaken on a nationwide basis as all too often interpretation is left to local discretion. This causes confusion, variable practice from place to place and no common approach or uniform standard of implementation.
2. The promotion of the 'home authority principle' is helpful for larger businesses which are based in the areas of a number of local authorities.

The overriding need is for sector-specific guidance on the application of health and safety legislation to businesses within the industry. The needs of hospitality and tourism businesses are diverse, embracing a broad spectrum including, for example, hotels, B&B accommodation, holiday parks, attractions and stately homes. One size does not fit all.

This would be helpful for regulators and regulated alike. It would help businesses comply and also help ensure that regulators discharge their responsibilities consistently and proportionately.

3. In respect of all revisions to current regulations and guidelines which have an impact on the industry, there must be active engagement with the relevant stakeholder groups within the sector, taking account of the likely burdens caused to SMEs to ensure that such regulations and guidelines are fit for purpose.

An example of good practice is the work of the Event Industry Forum with the HSE to prepare a new Purple Guide, which will act as a revision of HS (G) 195 – **A Guide to Health, Safety & Welfare at Music and Similar Events**.

With the assistance of the HSE, the new Purple Guide aims to bring all the relevant guidances together to create a good practice guide for the events industry. Unfortunately the HSE is unable to include guidance that does not come within its specific remit.

The industry believes there is still a real benefit to be gained from the development of an all-encompassing guide to event management. However, this cannot be done in isolation. The support and endorsement of all the appropriate government departments is needed to give an all-purpose guide the credibility to have serious impact.

To take the Purple Guide forward, the industry needs:

- The commitment of a government department to champion and co-ordinate the development of the guidance;
- The commitment of government to gain the support of key departments in putting the guide together and agreeing/endorsing their specialist areas;

- Assistance with funding the publication of the guidance with the industry.

Investment in this work will not only help this industry to become more professional but will also help to sustain its growth whilst also endorsing its expertise worldwide.

Another example of cooperation with the HSE is HS (G) 175 – **Fairground and Amusement Parks, Guidance on Safe Practice**. This is a self-regulated scheme produced jointly by the industry and the HSE to cover ‘amusement devices’ (such as rides and walk-through attractions). It focuses the key aspects of the various safety-related acts on industry-specific issues.

4. The proposals by Lord Young to reform the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) should be implemented.
5. All local authority regulators should embrace consistent interpretation of regulations and guidelines. For example, the new National Risk Assessment for Temporary Events should be promoted and the Association of Chief Police Officers (ACPO) acceptance of the risk assessment approach encouraged.
6. The proposals in the Tourism Policy to allow appeals against local authority decisions to ban an event on health and safety grounds and to replace the Adventure Activities Licensing Scheme with an HSE monitored code of practice are also welcomed.

### OTHER SMART IDEAS

As part of the Taskforce's response to the Löfstedt Review (which has now reported) and the BIS consultation on Transforming Regulatory Enforcement (on which the government has made policy decisions), a number of individual regulations were identified which should be simplified, revised, withdrawn or abolished. These are listed below.

- First Aid (Simplify)
- RIDDOR reporting to address work activity only
- Display Equipment Regulations (Simplify)
- Control of Noise at Work Regulations 2005 (Review and/or revert to previous practice)
- Work Equipment Regulations. (Abolish in favour of approved Codes of Practice)
- Requirement of Secretary of State's permission to move to online reporting system due to Social Security Regulations 1979 relating to industrial accidents (Abolish)
- The Control of Artificial Optical Radiation at Work Regulations 2010 (Abolish)
- The control of Lead at Work Regulations 2002 (Abolish)
- Control of Asbestos Regulations 2006 (Simplify)
- Confined Spaces Order 1997 (Review)
- CCTV registration (Review)
- The Regulators Compliance Code (Strengthen)
- The Application of the Hampton Principles from Sir Philip Hampton's 2005 review of regulation (Implement)

The Taskforce is continuing to examine these and would be happy to discuss them with officials.

### HSE PROPOSAL FOR EXTENDING COST RECOVERY

Responsible Department: Work and Pensions

In July 2011, the Health and Safety Executive issued **HSE proposal for extending cost recovery** implementing the declared government policy of placing a duty on the HSE to recover costs where duty holders (employers and the self-employed) were found to be in material breach of health and safety law. It is noted that the underlying policy of recovering costs for HSE's intervention through the introduction of fees where there is a material breach of the law has been decreed by government and would therefore not be subject of this consultation.

The Taskforce has considerable concerns about the quality of training available to local authorities to be able fairly to assess incidents as well as the increasing potential for conflicts of interest for cash-strapped councils.

We are not reassured by the proposed dispute resolution procedures, because they will be dealt with internally by HSE or by the local authority. This offers no independent third party perspective and would therefore be weighted against aggrieved duty holders.

The headlined average hourly fee for intervention is presently estimated at £133. This pales into insignificance alongside the estimated average cost of an inspection which results in an enforcement notice – £1,500.

The proposed method of delivery of this proposal for cost recovery is concerning. The British Holiday and Home Parks

Association has published an account of actual events following an accident which occurred during the siting of a caravan. The duty holder met environmental health officers at the park three days after the incident. They explained at the outset **'this is a serious matter and you need to be aware that you could be fined, prosecuted or even given a prison sentence'**. Some three weeks after the event, the EHO said that no action would be taken; ten months later this was confirmed to the duty holder in writing. This demonstrates a distinct lack of professionalism among officials. Details are available from <http://www.bhhpa.org.uk/additional/files/parableweb.pdf>

The government's moratorium on all new domestic regulations for three years, for businesses of less than 10 employees and for genuine new start-ups, will not apply to these cost recovery proposals (with some very limited exceptions for the self-employed).

#### A SMARTER APPROACH

1. The government should withdraw the proposal for extending cost recovery.
2. Local government must invest more heavily in training its officers so that confidence in judgments is much greater, thus ensuring that the new cost recovery system does not fall into disrepute.
3. A clear challenge procedure needs to be established for businesses which will avoid costly court actions as the only option.

### MONEY LAUNDERING REGULATIONS

Responsible Department: HM Revenue and Customs

The Taskforce believes HMRC's strict implementation of the Money Laundering Regulations 2007 (MLRs) is disproportionate. It is the Taskforce's view that travel agency branches are in the position of treating every customer as being guilty of money laundering until proven otherwise. This process is unduly burdensome.

Travel agents are expected to comply with the HMRC issued guidance on 'beneficial owners' as outlined in the UK's MLRs. While it is unclear whether these regulations are a strict interpretation of the EU's Third Money Laundering Directive, in conjunction with the compliance requirements, travel agents who are engaged in travel money services are deemed to be performing a service as a Money Service Bureau (MSB).

The MSBs that are operated by travel agents are associated with an agent's core business (the sale of travel services, usually overseas); however, the facility of a foreign exchange money service business to customers is an ancillary offering.

#### A SMARTER APPROACH

There should be regulation in place for transactions under a specific value, where travel agents are in a contractual relationship with a purchaser and specifically where the transaction is a singular transaction and where the purchaser is the end-user. HMRC should not expect the travel agent acting as the MSB to go any further in bringing the 'beneficial owner' into the transaction by then requesting to know who in the business intends to utilise the currency, and for what reason the currency will ultimately be used.

Smart regulation in this area would accept that currency is an asset of the corporate business because it could have made the purchase with the intention of it being held for 'stock' and for it to be utilised for consumption at a future date. It would not, therefore, have a specific end-user consumer of the currency or a reason for anticipated consumption at the time the sale was completed.

Any additional due diligence requests should come from HMRC to the business, and they should know from their own records who the 'beneficial owners' are, and how they ultimately utilise the funds. The emphasis seems to be on the over-regulation of those that have registered their business. More effort should be made to capture those that are not MSB-registered, as they are most likely to be the ones engaged in any criminal activity.

In Europe, the reporting threshold set by the EU for producing customer identification and verification procedures is currently €15,000. This high value is reflective of the fact that the MLRs are, of course, not travel industry-specific. UK travel businesses are currently disadvantaged by their liability to follow the same set of regulations, even though the risk they represent is not in the same category.

According to a leading currency exchange, the average UK holidaymaker will have an average transaction value in 2011 of £344 for note sales; for pre-paid products, the average

transaction value is slightly higher at £530; the highest average value transaction is for Travellers Cheques, which in 2011 was £621.

It is clear that the average UK holidaymaker will spend less than £1,000 in a currency transaction. As this transaction falls within a lower risk category, it would be sensible to suggest that a reporting threshold should be set whereby currency exchange transactions below £1,000 would not require the same onerous identification and verification procedures as higher value, higher risk transactions.

## ANNUAL PAYMENT OF PREMISES LICENCE FEES

**Responsible Department: Home Office**

Section 5 of the Licensing Act (Fees Regulations) 2003 requires annual payments a year on from the date the licence was granted. This is a burden on both the industry and the local licensing authority. With over 100,000 Premises Licences in England and Wales, all with different renewal dates, this burden is considerable.

One of the country's leading licensing practices states that it handles annual fee payment for a number of clients and for

approximately 2,000 premises. The absence of a common payment date is a logistical nightmare for the practice and for clients alike and that an annual date would remove much uncertainty – particularly when the power of suspension of a licence is brought into force under the PR&SR Act 2011.

### A SMARTER APPROACH

The Licensing Act 2003 to be amended to provide an annual date for all Premises Licences to be renewed.

### PACKAGE TRAVEL REGULATIONS

Responsible Department: Transport

The two major pieces of legislation regulating the travel industry are the Package Travel, Package Holidays and Package Tours Regulations 1992 (PTRs), which implemented the EU Package Travel Directive (PTD), and the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995 (ATOL Regulations). Both PTD and ATOL will be under review in the next twelve months, with both likely to be reformed.

To reduce bureaucracy in the implementation of the Package Travel Directive, the different protection regimes (PTRs and ATOL) should be rationalised. The lead responsibility for the protection of pre-payments and repatriation in the travel industry should be brought within one Whitehall department. This would benefit industry through the reduction of unnecessary bureaucracy and save the government money in the process.

Both the PTRs and the ATOL Regulations are concerned with the protection of pre-payments made by consumers for travel services and the creation of a repatriation scheme where the travel provider fails financially. The PTRs represent the implementation by the UK of Council Directive 90/314 of 1990 which requires the organiser of a package holiday to provide sufficient evidence of security for the refund of money paid over and for the repatriation of the consumer in the event of insolvency (Article 7).

#### AREAS OF REGULATORY BURDEN

The PTRs require that security be provided and give three options for meeting that requirement, either through a bond, an insurance product, or a trust fund, unless the package is one in respect of which the organiser is required to hold a licence under the ATOL Regulations.

A package in respect of which an organiser is required to hold a licence under the ATOL Regulations is one which includes any flight element.

This duplication of responsibility for the protection of pre-payments (BIS) and repatriation (DfT and FTO) means that BIS and the DfT (through the CAA for ATOL Regulations) operate schemes which are compulsory, but which do not complement one another. The CAA, by virtue of the ATOL Regulations, is the financial protection body for most of the package holidays sold in the UK, and is responsible to the DfT.

The other methods of providing financial protection under the PTRs are therefore only providing that protection for a minority of the package holidays sold. This has led to the operation of five Approved Bodies and an unknown number of trust accounts and insurance policies. These methods of protection are the responsibility of BIS under the PTRs.

The duplication of work (protection of pre-payments and repatriation) to comply with both regulatory regimes supports unnecessary public sector bureaucracy and imposes costs on businesses in the sector through obtaining and maintaining the necessary licence or approval, including application fees and on-going monitoring and reporting to two organisations.

The costs of such duplication are difficult to

quantify, but in the case of an individual small to medium sized business, are not insignificant.

### A SMARTER APPROACH

There is obvious logic in bringing the responsibility for the protection of pre-payments and repatriation in the travel industry within one Whitehall department. This need not require a specialist regulator.

This recommendation follows on from a series of submissions on this matter that were made by the trade as a part of the Better Regulation Executive's work in 2006; however, at that time, this recommendation was not taken up.

Acceptance of this proposal would go a long way to simplifying the present systems which would be in the interest of government, the industry and consumers.

## SALE OF TRAVEL INSURANCE

Responsible Department: H.M. Treasury

The sale of travel insurance by travel agents and tour operators, as outlined in Amendment 72B of the Financial Services and Markets Act 2000, is a simple and low-risk product and so should be exempt from regulation as it is elsewhere in the EU and as it was prior to 2007 in the UK. This regulation is an example of UK gold-plating an EU Directive. The impact on consumers (a reduction in choice), on the government (an over-strained Consular Network) and on UK business (higher costs) is unnecessary and inappropriate.

Many within the travel industry believe that there was no case for extending the regulation

of the sale of travel insurance policies to travel agents and tour operators. In 2007, Article 72B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 S.I. 2001/544 (the Regulated Activities Order) was amended to create a situation where the UK became the only country within the EU that did not provide an exemption for the sale of travel insurance. UK travel agents and tour operators became the only ones in Europe facing regulation when selling travel insurance.

Furthermore, this amendment was implemented after the recommendations of the 2006 review by Lord Neil Davidson QC. Far from extending

**WE BELIEVE THAT THERE IS CLEARLY A CORRELATION BETWEEN THE REDUCED AVAILABILITY OF TRAVEL INSURANCE AT THE POINT OF A HOLIDAY SALE AND THE INCREASING NUMBER OF HOLIDAYMAKERS TRAVELLING UNINSURED.**

its implementation, Lord Davidson suggested that ‘HM Treasury should consider cutting the scope of the activities caught by the insurance mediation regime’. This recommendation was ignored.

There is little evidence to suggest that the travel industry has ever been guilty of mis-selling insurance products, despite investigations by HM Treasury in 2006 and a Financial Services Authority (FSA) enquiry in 2007. Furthermore, ABTA commissioned a leading firm of travel insurance brokers to undertake an independent survey of consumers in January 2007. Five hundred consumers who had recently purchased travel insurance from different suppliers were randomly selected and sent a questionnaire and 101 replies were received. When asked if they believed the cover provided by the policy [sold to them] was sufficient for their needs, 89.5 per cent of those buying from a travel agent, 82.9 per cent buying from a tour operator and an impressive 100 per cent buying from an insurance broker said ‘yes’.

#### AREAS OF REGULATORY BURDEN

As a result of the increased regulation of the sale of travel insurance by the travel trade following the 2007 amendment to Article 72B, both the consumer, and the industry have been hard hit.

The number of consumers travelling without travel insurance is rising significantly. The 2004 ABTA Consumer Survey found that three per cent of holidaymakers did not bother with travel insurance, but in the 2010 ABTA Consumer Survey, this percentage had jumped to 11 per cent. We believe that there is clearly a correlation between the reduced availability of travel insurance at the point of a holiday sale and the increasing number of holidaymakers travelling uninsured.

There was neither a case nor evidence for extending the regulation of the sale of travel insurance policies by travel agents and tour operators. Increased regulation would only have been justified if the current system was shown to be causing consumer detriment. No such case has ever been established. It is clear that this regulation is doing the opposite of what it ought to do and its abolition should therefore be given serious consideration.

#### A SMARTER APPROACH

The increased cost and administrative burden that has accompanied this additional regulation has actually resulted in consumer detriment as travel agents have opted not to sell insurance.

Abolishing this unnecessary legislation would therefore be beneficial for consumers and allow travel businesses to grow.

### MAKING THE UK VISA REGIME MORE COMPETITIVE

Responsible Department: Home Office

The government has made clear that Britain needs to punch its weight more strongly in international tourism. The prizes are enormous. The Prime Minister has indicated that a significant increase in Chinese visitors alone would create 10,000 jobs in the UK.

However, the Taskforce has found that the current British visa regime conspires against this goal, perpetuating the perception that we are an unwelcoming destination compared with competitor EU countries.

Visa restrictions directly impact visitor numbers. Key inbound tourism markets where visas are required include Russia, India and China and the table in Appendix 1 sets out a comparison of UK, Schengen, US and Australian visas.

#### AREAS OF REGULATORY BURDEN

Comparison of the UK visa application process with those of other western nations highlights a number of areas where the UK process is less attractive.

One obvious area is value for money. The UK visa costs £76 for six months, with multiple entries. The Schengen visa is £52. While this only permits a single entry for a maximum of six months, the vast majority of tourists are travelling to a destination only once a year.

UK documentary requirements substantially outweigh those of competitors. All Western nations require documentary evidence on financial status, and travel plans. The UK, however, also requires evidence of permission to be in the country of application, evidence of marital status, and the immigration status of the sponsor (if visiting a friend or relative). All documents must be in the original language. This is extremely burdensome and perpetuates an unwelcoming perception of

Britain. Meanwhile, the UK requires those transiting through the UK for less than 48 hours and leaving the airport terminal to apply for a transit visa (£51). Those transiting through a UK airport from certain countries, including India and China, but not leaving the airside, are required to have a Direct Airside Transit Visa. This also costs £51.

Applicants for a transit visa need to provide the same documentation as those applying for a visitor visa. This makes transiting through the UK an onerous process for those from visa countries.

#### IMPLICATIONS

Part of the government's criteria for decisions on extending visa waivers must be the contribution of tourism from these countries to the UK's economy. There are a number of estimates for the earnings lost by Britain due to the visitor visa regime.

1. Recent research conducted by the European Tour Operators Association found that 24 per cent of travel agents' clients cancelled a potential trip to the UK due to slow visa processing. The compares with a 21 per cent cancellation rate for Schengen countries. ETOA estimates that the loss of revenue to the UK from China during 2009 due to slow visa processing times amounted to £45m.
2. The New West End Company estimates that London retailers lose out on £165m per year from Chinese tourists who choose to go elsewhere.
3. London First has estimated that a 10 per cent increase in Chinese visitors (i.e. 10,800 extra visitors) would generate a £96m boost for the London economy. This gain would be attributable to a range of activities, of which tourism would be one.

### A SMARTER APPROACH

There are a number of improvements already underway. For example, the Tourism Policy sets out to increase online visa applications; at the same time, work to develop a shorter application form, to provide guidance in local languages and share Visa Application Centres with trusted allies (e.g. the USA and Australia) is under way. But a more urgent and bolder response is necessary.

#### The Taskforce proposes:

- a) **Lifting visa requirements for tourists** as part of the visa waiver test process. The UK Border Agency issued 68,000 visitor visas in China in 2010. This cost the UK around £5m (only half the cost of processing a visa is recovered through the visa charge). In addition to producing a saving for UKBA, changes to the visa regime are linked to uplifts in visitor numbers, which generates further economic benefits.
- b) **Providing a guaranteed processing** time for visa applications, rather than a percentage compliance figure. This will provide more certainty for potential applicants and place the UK ahead of its competitors.
- c) **Adopting an entrepreneurial approach to pricing and a risk-based approach to the validity period structure for visas** in order to provide a good value product which incentivises travel to Britain. A good example is the US visitor visa, the validity period of which varies between countries. A US ten year visitor visa from India is 12 per cent of the cost of a UK ten year visitor visa.
- d) **Reducing the supporting document requirements** to bring them into line with competitors by removing the requirement for information about sponsors. An enhanced biometric interview could allow UKBA staff to ask questions which would reduce the risk of these changes. Original documents, including passports, could be examined, copied, and then returned, improving the convenience of the process for applicants.
- e) **Abolishing the Direct Airside Transit Visa** which acts as a disincentive to legitimate transit passengers and perpetuates impressions that Britain is unwelcoming. It is extremely unlikely that a £51 visa is more of a disincentive to illegally apply for asylum in Britain than the money lost on the full cost of an air fare. The implementation of eBorders means that those travelling to the UK can be pre-screened to assess the immigration risk they present.

A table outlining the UK's performance is in Appendix 1.

### UK BORDER AGENCY PAPERWORK

Responsible Department: Home Office

The law on the prevention of illegal migrant working is set out in sections 15-25 of the Immigration, Asylum and Nationality Act 2006. These provisions came into force on 29 February 2008. They replaced the previous offence under section 8 of the Asylum and Immigration Act 1996.

**The changes were made for three key reasons:**

- To make it more difficult for people who overstay their permission to be in the UK and/or lose their entitlement to work to remain in employment in breach of the UK's immigration laws;
  - To make it easier for businesses to ensure that they employ people who are legally permitted to work; and
  - To strengthen the government's controls on tackling illegal working by making it easier for the UK Border Agency to take action against employers who use illegal labour.
- Coding is not self-explanatory for such applications. If the correct code is used, quite often the job role in question has been downgraded/removed by the time the application has been submitted.
- Employers are expected to be able to spot documents which are forgeries. This can be very difficult when forgeries can be of a very high standard.

The Act is particularly burdensome on employers within the hospitality sector where immigration specialists are not working on every site and the workforce is often short-term/transient. The legislation is also unwieldy as it is lengthy, complex and frequently changes.

#### POINTS BASED SYSTEM (PBS) TIER 2 APPLICATIONS

After being granted a certification of sponsorship under Tier 2, (online process) there is then the lengthy process of a 67-page application form, along with supporting documents. Having done this, it is not uncommon to have the Tier 2 application refused.

#### A SMARTER APPROACH

- Streamline any changes to immigration regulations to twice a year (6 April and 1 October) in line with other regulations. This should also apply to changes to the shortage occupations list.
- Ensure employers are given adequate notice, say three months, of any such changes which are to occur.
- Simplify the PBS application forms.
- Make the PBS processes clearer for employers to follow.
- No more two-stage process for Tier 2 applications – if the individual has a Certificate of Sponsorship, this should be enough.
- Stop penalising employers for not noticing a document is forged when it has been forged well.
- Provide more training for the UKBA Helpline as different answers are often given depending on who the employer has spoken to.

### GOVERNMENT'S RECENT PROPOSALS FOR 'FLEXIBLE WORKPLACES'

#### Responsible Department: Business, Innovation and Skills

The Department for Business believes that it 'makes good business sense to run a flexible workforce'. Currently, anyone can ask their employer for flexible work arrangements but the law provides some employees with the statutory right to request a flexible working pattern.

Employers in the field of hospitality generally operate flexibly due to the nature of those businesses. What flexible working regulations do is potentially to remove the flexibility from such workforces and restrict individuals to specific shifts/job roles. This has the opposite effect to what the government is seeking.

In practice, the consideration process can take up to 14 weeks which is disruptive to business.

#### A SMARTER APPROACH

The Flexible Working Regulations should not be further extended to cover all employees.

### MATERNITY & PARENTAL LEAVE REGULATIONS 1999

#### Responsible Department: Business, Innovation and Skills

An employer must assume that an employee on maternity leave will take all 52 weeks of her Statutory Maternity Leave. If she takes the full 52 weeks, she does not need to give notice that she is coming back. If she wishes to return earlier then she must give eight weeks' notice. If she does not wish to return, then contractual notice periods will apply. In the hospitality industry, this could be as little as one week.

#### A SMARTER APPROACH

The regulations are a sizeable burden for hospitality and tourism businesses, especially smaller companies which have fewer resources than larger companies. Long-term planning is also difficult. For that reason we believe the regulations should be amended so that employees give at least 12 weeks' notice of their intention to return to work. We believe this should also be the point at which any flexible working requests are made to the business.

### FIT NOTES

Responsible Department: Work and Pensions

A fit note is the informal name for the Statement of Fitness for Work. On April 6 2010, the fit note replaced the sick note (medical statement or doctor's note). Employers have told us that the introduction of fit notes has been counter-productive and has made no difference to the number of employees being signed unfit for work.

The problem is that GPs have been providing very vague wording on notes, such as 'can return to work with reduced hours' or similar lack of precision, which could be detrimental to an employee's wellbeing and which places the employer in an invidious position.

#### A SMARTER APPROACH

We believe the previous sick note system should be restored.

### DISCIPLINE & GRIEVANCE PROCEDURES

Responsible Department: Business, Innovation and Skills

The ACAS Code of Practice on Disciplinary & Grievance Procedures states that discipline and grievance issues should be raised and dealt with promptly.

However, companies are concerned that disciplinary cases are becoming increasingly drawn-out because of the ease with which employees can derail the process by suggesting grievances. The ACAS Code of Practice on Disciplinary & Grievance Procedures states '**Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance.**'

The Code goes on to say '**Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently**' but there are many cases where the cases are not related. An employee can invent grievances, knowing they may well continue on full pay for significant periods of time.

#### A SMARTER APPROACH

We would welcome a dialogue with the government about the benefits of grievance hearings and disciplinary procedures being carried out concurrently in all cases, which would prevent many of the expensive and time-consuming delays that have been increasingly taking place.

### EMPLOYMENT TRIBUNAL PRACTICES AND COMPULSORY MEDIATION

#### Responsible Department: Business, Innovation and Skills

The Taskforce is concerned that it is too easy for employees to bring claims against companies without first trying to resolve issues internally. It is a burden on employers to have to pay costly legal fees, and take time out of their business to defend these claims which could be resolved earlier with a different intervention.

Proposals are already under consultation for all claims to go to the conciliation service ACAS before reaching an Employment Tribunal, as well as options for a **rapid resolution scheme** to offer cheaper, quicker decisions on more straightforward claims, and a regional pilot scheme for smaller firms to use mediation.

#### A SMARTER APPROACH

Employment Tribunals should give all parties three months to resolve any issues brought to them via an ET form and there should be a provision for compulsory mediation.

#### THE ET<sub>1</sub> AND ET<sub>2</sub>

To present a claim to an Employment Tribunal, application forms must be completed and submitted. These forms do not have to be completed by a legally qualified individual and do not go through any robust screening process prior to being logged and sent to the respondent.

It is a burden on the employer to have to pay costly legal fees trying to resolve what should be a simple matter.

The tick box element to the discrimination section encourages claimants to select this category.

Claims are misrepresented by claimants who, having had no legal advice, can bring a claim of any nature.

Claimants are not required to provide any information within the application forms and this leads to a cost to the respondent in trying to establish the real basis for the claim, and then requiring further and better particulars in order to defend the claim effectively.

#### A SMARTER APPROACH

The forms can be simplified, removing the tick boxes for discrimination.

Claimants should be required to fully particularise their claim and should not be able to lodge the claim if this is not complete – otherwise the employer does not have enough information to know what needs to be defended .

### CAPABILITY DISMISSALS

Responsible Department: Business, Innovation and Skills

The ACAS Code of Practice does not differentiate between a capability-performance dismissal and a conduct-performance dismissal. These types of issue are likely to increase with the abolition of the Default Retirement Age (DRA). The Employment Rights Act is currently silent on this point.

Potentially, if the ACAS guides are followed to the letter, employees may find themselves

facing disciplinary action for not being capable of carrying out their role, when this is no fault of their own. This may bring about an increase in Unfair Dismissal or Constructive Unfair Dismissal claims.

#### A SMARTER APPROACH

Create additional guidelines for managers to consider when handling potential capability-performance dismissals.

### REDUNDANCY DISMISSALS

Responsible Department: Business, Innovation and Skills

Under The Employment Rights Act 1996, if a business is potentially going to make over 100 individuals redundant it must apply a minimum of 90-day consultation period. The first redundancy may not take effect until the end of this 90-day period.

#### A SMARTER APPROACH

We support the Business Secretary's consultation which could lead to the 90-day redundancy consultation period being ended early when agreement has been reached.

### EMPLOYMENT OF UNDER-18s

**Responsible Department: Business, Innovation and Skills**

Currently, a person ceases to be of compulsory school age on the last Friday of June of the school year of which he or she becomes 16. A child of 17 can never be of compulsory school age (but this is different for Scotland).

27

Under The Working Time Regulations, if workers are over the minimum school-leaving age but under 18, they must not work for more than eight hours a day or 40 hours a week. These hours worked cannot be averaged out and there is no opt-out available. Anybody in this age group must also be given:

- A break of 30 minutes every four-and-a-half hours worked
- A rest period of 12 hours between each working day
- Two days off a week

Young workers may not ordinarily work at night between 22.00 and 06.00. Employees aged 16 or 17 who have not achieved a certain standard in their education, may be entitled to paid time off for study or training.

These laws prevent young persons from taking paid employment within the hospitality industry due to the fact many of the roles involve working after 22.00, with no opt-out.

#### A SMARTER APPROACH

People who are under 18, in today's society, now have more responsibility and outgoings than they had in previous years (i.e. they can start a family and drive a car, some are even carers for their entire family by the time they reach this age). It therefore appears that the legal system has not progressed along with society to ensure it can work alongside adults without onerous H&S rules.

A complete review is required of the regulations affecting the employment of under-18s.

### HOTEL IMMIGRATION RECORDS

Responsible Department: Home Office

The Immigration (Hotel Records) Order 1972 requires all services and self-catering accommodation premises to keep a record of all guests over the age of 16. The specific requirements for all guests are that full name and nationality are recorded. Further details are not required for **British, Irish or Commonwealth** guests. For all other guests, the following must be recorded: passport number and place of issue (or other document showing identity and nationality) and details of the next destination, including address if known.

There is no set format for the records, but the details must be kept for at least 12 months and be available for inspection by a police officer or other person authorised by the Secretary of

State at all times. Diplomats, their families and staff do not have to register.

Penalties for failure to comply include a fine up to Level 5 and/or six months' imprisonment and the failure of a guest to supply information could make the premises manager/owner guilty of failing to keep records.

#### A SMARTER APPROACH

The Order should be revoked because hotels will collect (in most cases) more information than it requires and it imposes penalties for failure to do so. The derogation on passport particulars for Commonwealth citizens, but not for EU citizens, is inappropriate.

### NEWSPAPER ADVERTISEMENTS

Responsible Department: Home Office

The Licensing Act 2003 requires applicants for a Premises Licence to advertise in a local newspaper as well as provide on-site notices. This requirement is for both a new licence and the alteration to an existing licence. For all planning applications it is the role of the local authority to provide notices to local residents. For a liquor licence the burden falls on the applicant and this requirement includes advertisements in local newspapers.

Advertising of licensing applications in newspapers is costly. In London, advertising in the Evening Standard, for example, might cost £500 per insertion (£200-300 in many UK regions). Yet we are unconvinced that interested parties read them or would not know already of an application.

We believe the requirement to advertise in a local newspaper is bureaucratic, unnecessary and ineffective in eliciting responses from residents. A nationally renowned firm of licensing solicitors has indicated to us that, of some 8,000 premises licence applications lodged under the Licensing Act 2003 requiring public notice, they are not aware of any application which has attracted a representation because of the newspaper advertisement.

#### A SMARTER APPROACH

The requirement to advertise in newspapers should be removed. It should be sufficient for owners to place notices outside the premises. In addition many local authorities already place information on their websites and could be encouraged to notify local residents' groups where such groups exist.

### PERSISTENT SELLING

Responsible Department: Home Office

The Violent Crime Reduction Act, Section 23 creates an absolute offence of **persistent selling** of alcohol to under-18s. If caught twice, the business loses its Premises Licence.

The licensed retail sector takes its responsibility of preventing sales to the under-aged extremely seriously and over recent years voluntary measures such as Challenge 21 have been introduced to ensure staff are complying with the law.

However, the legal definition of **persistent selling** of alcohol to under-18s, as contained in the Violent Crime Reduction Act 2006, is just two occasions during a period of three consecutive months. A study of BBPA members indicated that more than 1m young people a month are being refused service in pubs for being under 18 or failing to have acceptable proof of age. The industry is doing its best to stem the tide of demand, but, clearly, with this volume of young people attempting to buy alcohol, legitimately or otherwise, some mistakes on age will be inevitable.

#### AREAS OF REGULATORY BURDEN

The current offence is absolute with no margin for human error. The number of premises deliberately and persistently selling to under-18s remains extremely small and the law in this area is becoming increasingly disproportionate and requires review.

The cost to the industry is estimated to be £25m or £625 per pub.

#### A SMARTER APPROACH

The regulations should be amended to reference **intent** to sell to those who are under the legal age. In circumstances where the business is deliberately setting out to break the law, or is so neglectful that it is inevitable that the law will be broken, then it is right that full legal sanction should be brought to bear.

However, where a mistake is made due to a genuine error of judgment about the age of a person, other remedies, such as an increased emphasis on staff training, which could be achieved through the introduction of Training Orders, would be more proportionate. It would also address the issue, rather than criminalising bar staff, many of whom are young people themselves.

**THE REGULATIONS SHOULD BE AMENDED  
TO REFERENCE INTENT TO SELL TO THOSE  
WHO ARE UNDER THE LEGAL AGE.**

### BAN ON RELIGIOUS IMAGES/PICTURES DURING MARRIAGES AND CIVIL PARTNERSHIPS

Responsible Department: Home Office

The Civil Partnerships Act 2004 and the Marriages and Civil Partnerships (Approved Premises) Regulations 2005) precludes the use of any building with a recent or continuing religious connection for either marriages or civil partnerships.

This also includes a building or room whose description, purpose or appearance is still considered to be linked to religion. For stately homes this rules out the use of a chapel or any room which has a stained glass window depicting a religious image. The only exception is premises in which a religious group meets occasionally, if the primary use of the premises is secular.

#### AREAS OF REGULATORY BURDEN

Many historic houses welcome civil weddings and partnerships at their properties and these celebrations are becoming ever more significant in ensuring the viability and survival of historic houses. The current ban seems extreme.

#### IMPACT ASSESSMENT

For many historic houses and other private homes, this ban represents a real loss of business. It is not possible to remove stained glass windows, and even religious paintings are costly to remove temporarily .

#### A SMARTER APPROACH

The Regulations for the Civil Partnerships Act 2004 defines religious premises as:

- (2) 'Religious premises' means premises which –
  - a) are used solely or mainly for religious purposes, or
  - b) have been so used and have not subsequently been used solely or mainly for other purposes.

The ban implied by this definition should be removed.

## EQUALITY ACT 2010 – AGE DISCRIMINATION PROVISIONS

Responsible Department: Home Office

Under the Age Discrimination provisions of the Equality Act 2010, it will be illegal for a company to differentiate in the provision of goods or services to customers over the age of 18 on the basis of age.

There is a proposed exemption for businesses to continue to sell package holidays such as Club 18-30 and Saga holidays on the basis of age. However, the limitation of the exemption to tour operators only has no logical basis and simply creates a distortion in the marketplace.

The indirect discrimination provisions of the Equality Act also mean that it is difficult for a business to try to avoid age discrimination. For example, an accommodation provider such as a B&B with a policy of **no stag or hen parties** to protect their home from noise and/or damage could be legally challenged on the basis that most participants are young people.

The second problem is that the proposed exemption for tour operators means that accommodation and attraction businesses are at a competitive disadvantage. Having legislation that allows tour operators to send guests to a hotel on the basis of age, but makes it illegal for the hotel operator to choose their guests on the basis of age, does not make sense.

### IMPACT ASSESSMENT

In consulting on the age discrimination provisions of the Equality Act, the Government Equality Office presented no evidence that there was either a problem created by age discrimination within the tourism industry or a benefit to be derived by either customers or tourism businesses from removing the ability of businesses to undertake market segmentation on the basis of age.

### A SMARTER APPROACH

The proposed exemption provided to businesses that sell packages defined by the Package Travel Regulations should be expanded to include businesses that provide single components of the defined package.

HAVING LEGISLATION THAT ALLOWS TOUR OPERATORS TO SEND GUESTS TO A HOTEL ON THE BASIS OF AGE, BUT MAKES IT ILLEGAL FOR THE HOTEL OPERATOR TO CHOOSE THEIR GUESTS ON THE BASIS OF AGE, DOES NOT MAKE SENSE.

### DE MINIMIS FEES FOR PREMISES LICENSES

Responsible Department: Home Office

The Licensing Act 2003 was introduced to consolidate and simplify legislation relating to the sale of alcohol and the provision of public entertainment and late night refreshment.

**In formulating the Act, the government's objectives were to:**

- a) Reduce crime and disorder
- b) Encourage tourism
- c) Reduce alcohol misuse, and
- d) Encourage self-sufficient rural communities.

However, the implementation of the Act has primarily focused on reducing crime and disorder and reducing alcohol misuse. As such, changes need to be made more easily to enable small tourism businesses such as hotels, B&Bs, self-catering cottages, holiday parks and guest houses to pass on small quantities of alcohol as a service rather than at a profit. Currently they need to go through the hassle and expense of obtaining a standard licence to sell alcohol.

**Examples include:**

- a) Self-catering cottages and boat hire firms that provide complimentary welcome packs for guests that include a bottle of wine.
- b) Small hotels and B&Bs that provide a drink for guests that dine in.
- c) Small hotels that promote romantic breaks that include a bottle of champagne in the guest's room.
- d) Holiday parks and attractions that have small shops or cafes.

Typically, revenue from alcohol sales at these places is less than £1,000 per annum.

Prior to the Licensing Act, these businesses were able to register to sell small quantities of alcohol at their local authority by completing a one-page form and paying £30 for a licence that was valid for three years.

As a consequence of the introduction of the Licensing Act, these businesses are required to complete the standard licensing form which is often over 20 pages, include plans of the property where the alcohol is sold, advertise that a licence has been applied for and pay the same fee as a pub or bar with the same rateable value (typically around £300). As a result, it is now uneconomic for many of these businesses to provide alcohol to customers and they have either not applied for a new licence or have had to bear the cost with little prospect of recovering their outlay.

#### AREAS OF REGULATORY BURDEN

One of the purposes of implementing the new licensing system was to simplify the licensing regime. This improvement came at the expense of increasing the cost and complexity of the application process. These costs arise from the increased complexity of the application forms and the approach taken by licensing authorities in processing applications.

Because of the increased complexity, many businesses have sought legal help in order to complete and submit the application. This has significantly increased costs further still. Another example of the unforeseen costs imposed upon businesses has been the requirement for a plan to be supplied of the premises drawn to a particular scale.

### A SMARTER APPROACH

In 2006, the Independent Fees Review Panel established by the Secretary of State for Culture, Media and Sport produced a report on the implementation of the Licensing Act. This made a series of recommendations as to how the fee structure could be amended to better provide an equitable distribution of costs and, in so doing, better enable the objectives of the Act to be achieved.

The report, known as the Elton Report, considered the impact of the licensing regime on small businesses with low alcohol sales and stated:

**‘We recommend that the future fees regime should be *de minimis* for certain premises types where alcohol activity is peripheral to overall activity... We do not believe that these fee payers should be captured by the new licensing regime until their alcohol trade/activity reaches a certain level. We also recommend that DCMS should undertake further work to determine what that (reasonable) level should be, and that a suitable definition reflects that alcohol sales are purely incidental to the main purpose of the premises activity’.**

#### **This can be achieved through three mechanisms**

- a) Introduce a *de minimis* level under which a full licence is not required. This level could either be a monetary value or a percentage of total turnover to reflect the fact that the sale of alcohol is peripheral to the core activity of the business.
- b) Set the fee for the *de minimis* licence at a low level. For SMEs, the fee should be set at a level that reflects the processing cost. For larger businesses with high rateable values and low alcohol sales such as holiday parks, which have small shops that sell provisions to customers, the fee should be based on the rateable value of the part of the property where the alcohol is sold (i.e., the store rather than the holiday park as a whole).
- c) Introduce a simple application form for *de minimis* licences. The application form used by businesses with low alcohol sales should be reduced to a single page which simply states the name, location and type of business being operated and the contact details of the responsible person. There should be no requirement to supply plans of the property or to advertise that a licence has been applied for.

As a safeguard to avoid businesses trying to use a *de minimis* licence as a loophole to avoid the need to gain a full licence, there should be a provision that if a public disorder complaint is upheld against a property with a *de minimis* licence, the licence is revoked and the business must apply for a standard licence.

### REQUIREMENT FOR QUINQUENNIAL REVIEWS

Responsible Department: Home Office

The Police Reform and Social Responsibility Act 2011 requires all local authorities to review and consult on their licensing policies every five years. The local authority can consult on amending its policy at any time.

#### AREAS OF REGULATORY BURDEN

For pub owning companies and trade associations, as well as individual local authorities, the cost of reviewing all their policies every five years is considerable. In 2007 the cost to the British Beer and Pub Association alone of scrutinising and monitoring draft revised policies was

£60,000 as it sought to reply to as many policies in English and Welsh local authority areas as possible. Other trade associations and companies operating large pubs were similarly inconvenienced. There are also considerable costs for individual local authorities in undertaking the consultation exercise.

#### A SMARTER APPROACH

The five year requirement has only just been put into place but the Act already provides for a review by individual local authorities as and when they consider it necessary. We would urge an early review of the legislation.

### CIRCULATION OF LICENCE APPLICATIONS

Responsible Department: Home Office

The licensing authority is responsible for the distribution of licensing applications received electronically to each responsible authority, but, when a paper-based application is made (save in respect of a minor variation application where the authority retains this responsibility), the applicant is responsible for sending copies of their application to the eight responsible authorities in addition to the licensing authority.

#### AREAS OF REGULATORY BURDEN

The Licensing Act 2003 requires that all responsible authorities as defined by the Act (i.e. police, fire authority, planning, environmental health, health and safety, children's services, and trading standards) receive a copy of all licence applications, in addition to the Licensing Authority. This includes copies of any plans accompanying the application.

If the submission is made electronically, which is possible for some local authorities, but by no means all, then the local authority is responsible for the distribution. The same would be true for all planning applications whether made electronically or not.

Sending eight copies of their application to the various responsible authorities and the licensing authority incurs an average cost of £70 to £80. Often many of these authorities are co-located. Given over 100,000 alcohol licences in the UK this is a considerable burden.

#### A SMARTER APPROACH

It is proposed that licensing authorities be required to take overall responsibility for the distribution of all applications to responsible authorities.

### FOOD LABELLING REGULATIONS

Responsible Department: DEFRA

The range of regulations relating to food labelling is complicated and confusing and difficult to find. For the sake of clarity and to reduce confusion for businesses, these regulations relating to food labelling (both food and drink) should be consolidated into a Food Labelling Act.

**Regulations to be amalgamated include:**

- The Food Labelling (Declaration of Allergens) (England) Regulations 2011
- The Food Labelling (Declaration of Allergens) (England) Regulations 2008
- The Food Labelling (Amendment) (England) Regulations 2005
- The Food Labelling (Amendment) (England) Regulations 2004
- The Food Labelling (Amendment) (England) Regulations 2003
- The Food Labelling (Amendment) Regulations 1998

Amalgamating this legislation would provide ease of access to information relevant to a business. This would reduce costs in terms of employing consultants to decipher legislation and would lead to fewer minor transgressions. The rules would also be more likely to be implemented in a consistent manner.

### ALCOHOL LIQUOR DUTY ACT 1979 (ALDA regime)

Responsible Department: HM Revenue and Customs

Beer producers who also operate secondary re-packing facilities should also be regulated under the ALDA regime section 41a, so the brewer can operate a single system (and return) for all beer produced and packaged.

#### AREAS OF REGULATORY BURDEN – BEER SAMPLES

Compliance with the legislation, particularly when sending samples to another member state is problematic as laboratories and factories may not be registered consignees under the Excise Movement and Control System. Samples for Quality Assurance and machine trials should be exempt from duty in the EU as long as a proper audit trail and destruction certificate is provided.

#### A SMARTER APPROACH

Samples should be exempt from the duty regime within the EU. This would allow greater flexibility in the shipment of samples to other EU member states. It will remove a potential barrier to export for UK brewers and should reduce the administrative work needed by HMRC.

### BEER DUTY: BEER REGULATIONS 1993

Responsible Department: HM Revenue and Customs

The Alcohol Liquor Duties Act 1979 causes complexity and bureaucracy. There are a number of areas where procedures and systems could be improved to minimise the bureaucracy and compliance costs on companies and excise enforcers without any risk to the Revenue.

#### AREAS OF REGULATORY BURDEN

##### Move to online completion of Beer duty returns (EX46)

The current paper-based returns system that requires submission by post is a hugely inefficient and antiquated system which is out of line with other excise and indirect tax payment systems. Risks of late-payment and errors are amplified. An online entry with an electronic payment facility would also yield significant cost savings. More than 800 brewers make payments totalling £3.3bn in duty every year.

#### ADJACENT PREMISES

Functionality rather than geography is required. The 5km rule is a problem for a number of brewers and an extension of the limit, or preferably a relaxation of the restriction, would be extremely beneficial. There should also be the ability to dispatch product directly from over-flow annexes.

#### CONSTRUCTIVE REMOVAL

It is unnecessarily complex and frustrating that beer that has been duty paid under the constructive removal system cannot be returned to duty-suspense. A real simplification would be that all forms of 'failed' delivery should be allowed to be returned to duty-suspense.

#### BREWERY REGISTRATION

There is no continuing need for the four different classes of brewery and packaging facility registration (A,B,C,D).

#### ACCOUNTING PERIODS

Common accounting procedures other than calendar month should be allowed in line with other financial regimes. Duty payment would be due 25 days after the end of the accounting period so there would be no disadvantage to the Revenue.

#### SMALL PACK VOLUME CONTROL

Due diligence around small pack volume control for duty purposes is no longer necessary and provides additional audit work for HMRC. The duty payable should be the nominal volume specified on the bottle or cans which contain an e-mark. Volume control is already undertaken and monitored under weight and measures legislation and there is no commercial incentive to overfill bottles and cans.

### DESTRUCTION OF SPOILT BEER

Responsible Department: HM Revenue and Customs

The requirement of five days' notice for destruction of spoilt beer at premises other than the brewers registered premises is burdensome and unnecessary in most cases. This, at most, should be something that 'may be' required by HMRC.

#### A SMARTER APPROACH

- Online completion of duty returns to be permitted
- Allow all forms of 'failed' delivery to be returned to duty-suspense
- Remove the 5km rule for 'adjacent premises'
- Streamline facility registration classifications

- Provide more flexibility in accounting periods for duty returns
- Abolish the need for small pack volume control due diligence
- Remove the requirement of five days' notice for the destruction of spoilt beer.

Reform of all of the above areas would significantly reduce the administration burden associated with the payment of beer duty, both for brewers and for HMRC.

## BEER DUTY: THE FINANCE ACT

Responsible Department: HM Revenue and Customs

The Finance Act creates unnecessary complexity and negative cash flow issues for brewers. Improvements could be made to the legal regime and the guidance available.

### AREAS OF REGULATORY BURDEN

This VAT EX46 system can result in an unfair and large negative cash flow situation for brewers. All VAT payment in relation to beer sales should be consolidated in a single system via the VAT100 form with the inputs and outputs aligned.

## SMALL BREWERY BEER

Responsible Department: HM Revenue and Customs

There are 14 pages of guidance on this element alone highlighting the complexity of the system. It also presents problems for brewers handling beer from small brewers. The complexity of the small brewery beer system can act as a barrier to entry of the market and can be a deterrent for contract brewing and packaging which can limit company growth and increase production costs.

### A SMARTER APPROACH

- VAT payment should be consolidated into a single system
- Simplify the guidance on small brewer beer

Reduced administrative strain on brewers and more control over cash flow would be gained from consolidation within a single system.

## BEER DUTY: REVENUE TRADER REGULATIONS

Responsible Department: HM Revenue and Customs

We believe changes should be made to the Customs and Excise Management Act 1979 to reduce the need to keep records for six years.

### A SMARTER APPROACH

The Taskforce believes it should be reduced to four years in line with assessment periods and other systems. This policy would bring excise duty into line with other regimes, thereby reducing the resources necessary to maintain appropriate records.

# CONCLUSION

This report has outlined areas where we believe there is a real opportunity to make good the Prime Minister's promise to apply common sense to regulation. This will help the tourist industry, help the economy by growing, and create new jobs.

Our Taskforce did not have the time to undertake detailed impact assessments on the recommendations we have made but would be pleased to work with government departments to research any particular area further.

## TASKFORCE MEMBERS

Thanks are due to the members of the Tourism Regulation Taskforce:

**Alan Parker CBE** Chairman, Taskforce; President, British Hospitality Association

**Simon Barratt\*** Whitbread Group

**Richard Compton DL** Historic Houses Association

**Andrew Cooper** Thomas Cook Group Plc

**Maria da Cunha** British Airways

**Sandie Dawe\* MBE** VisitBritain

**Karen Friebe** DLA Piper UK LLP

**Jeremy Goring** The Goring Hotel, London

**Neil Haskins** Merlin Entertainment Group

**Michael Hirst\* OBE** Business Visits & Events Partnership

**Ufi Ibrahim** British Hospitality Association

**Kurt Janson** Tourism Alliance

**Brigid Simmonds\* OBE** British Beer and Pub Association

**Peter Taylor OBE** The Town House Collection

**George Turner** InterContinental Hotels Group

Secretariat:

**Martin Couchman OBE** British Hospitality Association

\*Also chaired sub-groups.

And to the following who contributed to the work of the Taskforce and its sub-groups:

**Margaret Baddeley** Senior Associate Director, Nathaniel Lichfield & Partners

**Katherine Barwell** Marketing Coordinator, DLA Piper UK LLP

**Howard Bassford** Partner DLA Piper UK LLP

**David Bishop** VisitBritain

**Joan Clark** British Holiday and Home Parks Association

**Yvonne Colman** DLA Piper UK LLP

**Teresa Hitchcock** Partner, DLA Piper UK LLP

**Nicholas Thompson** Director, Nathaniel Lichfield & Partners (NLP)

**Jim Winship** Secretary, Event Industry Forum

## APPENDIX 1: INTERNATIONAL VISA COMPARISONS

|                               | United Kingdom   | France (Schengen)  | Germany (Schengen)   | United States   | Australia  |
|-------------------------------|--|--|--|---|--|
| Cost                          | £76  | €60 (£52.64)   | €60 (£52.64)   | \$140 (£85.32)  | AU\$110 (£73.75)   |
| Validity of visa              | 6 months, single entry.  | 3 months, single entry.  | 3 months, single entry.  | 3 months, however the number of entries and duration of the visa varies by country. For e.g. a visitor visa for Belarus allows multiple entries, each up to a duration of 3 months, for one year. For India: multiple entries, up to a duration of 3 months, for ten years. | 3 months, single entry.  |
| Processing time               | Service standard: 90 per cent of visa applications in not more than three weeks, 98 per cent in six weeks and 100 per cent in 12 weeks. Performance data is published. | Majority of applications within 3 weeks.<br><br>Passports returned in 5 working days.                | Majority of applications within 3 weeks.<br><br>Passports returned in 5 working days.                | No published service standard.<br><br>Real time information available for every location.   | Service standard: all applications within 1 month<br><br>Performance data available for all locations. |
| Current performance (Aug2011) | New Delhi: 98% processed within 3 weeks.<br><br>Beijing: 92% within 3 weeks.   | No performance data published.   | New Delhi: 4 weeks<br><br>Beijing: up to 5 weeks to process an application.                          | New Delhi: 11 days for interview, 2 days to process application.<br><br>Beijing: 56 days for interview, 3 days to process.  | New Delhi: 15 working days.<br><br>Beijing: 5-10 working days.   |
| Interview required?           | Not in all cases, but biometrics need to be provided at a VAC.   | Yes  | Yes  | Yes   | Yes  |
| Biometrics required?          | Yes  | No – biometric procedure expected to be introduced gradually region by region between 2011 and 2013. | No – biometric procedure expected to be introduced gradually region by region between 2011 and 2013. | Yes   | Yes  |
| Online application?           | Yes, in some countries including China and India.  | No. Application is made in person.   | No. Application is made in person.   | Yes   | Yes  |

|                    | United Kingdom  | France (Schengen)   | Germany (Schengen)  | United States  | Australia  |
|--------------------|---|---|---|--|--|
| Documents required | <ul style="list-style-type: none"> <li>• Passport</li> <li>• Any previous passports</li> <li>• Evidence of permission to be in country of application</li> <li>• Evidence of marital status</li> <li>• Pay slips or bank statements (6 months)</li> <li>• Tax returns</li> <li>• Accommodation and travel details</li> <li>• Letter from sponsor</li> <li>• Evidence of sponsor's immigration status</li> <li>• All documents must be originals.</li> </ul> | <ul style="list-style-type: none"> <li>• Passport</li> <li>• Copies of current US/UK visas, and any previous Schengen visas</li> <li>• Hotel reservation or sponsorship letter</li> <li>• Bank statements (3 months) or tax returns (1 year)</li> <li>• Proof of medical insurance</li> <li>• Copy of air tickets</li> <li>• Copies of some documents permitted.</li> </ul> | <ul style="list-style-type: none"> <li>• Passport</li> <li>• Copies of current US/UK visas, and any previous Schengen visas</li> <li>• Hotel reservation or sponsorship letter</li> <li>• Bank statements (3 months) or tax returns (1 year)</li> <li>• Proof of medical insurance</li> <li>• Copy of air tickets</li> <li>• Copies of some documents permitted.</li> </ul> | <ul style="list-style-type: none"> <li>• Passport</li> <li>• Any previous passports</li> </ul> <p><b>Online completion of form DS-160 requires:</b></p> <ul style="list-style-type: none"> <li>• Passport</li> <li>• Itinerary</li> <li>• Details of all international travel for last 5 years.</li> <li>• CV</li> </ul> | <ul style="list-style-type: none"> <li>• Passport</li> <li>• Birth certificate</li> <li>• Bank statement, or pay slips, or tax records, or credit limit</li> <li>• Evidence of employment</li> <li>• Invitation from friends or relatives (if relevant)</li> <li>• Proof of 'incentive and authority' to return home</li> <li>• Copies of some documents allowed.</li> </ul> |
| Languages          | <p>Applications in English only.</p> <p>Guidance in 6 languages (Chinese, Hindi, Arabic, Turkish, Thai, Russian).</p> <p>All documents must be translated.</p>  | <p>Application forms in French, Spanish or English, and can be completed in these languages.</p> <p>Guidance in French and English.</p> <p>Documents must be translated into English or French.</p>   | <p>Application form in German, Spanish, French, Russian, Chinese and English, and can be completed in these languages.</p> <p>Guidance in German and English (English versions not always available).</p> <p>Documents must be translated into English or German.</p>   | <p>Applications in English only.</p> <p>Guidance for form DS-160 available in 9 languages (Chinese, Hindi, Russian, Portuguese, Spanish, Arabic, Indonesian, Japanese).</p> <p>All documents must be translated.</p>   | <p>Applications in English only.</p> <p>Documents must be translated.</p>  |

Source: Official government websites

## APPENDIX 2

The following case histories illustrate the difficulties faced by historic houses and historic hotels when implementing fire safety procedures.

42

### CATTON HALL, DERBYSHIRE

The use of the house falls into the grey area of whether by definition it should comply with all the regulations which apply to a hotel, or whether it can be considered a private house with a very limited commercial use. Professional advice was sought to prove successfully to the local authority that the owners had not made a change of use, so Catton is still regarded as a private home. The accommodation business is very much small time: 20-30 nights per year in nine double rooms.

For overnight accommodation, the fire service requested reasonable requirements such as risk assessment and clear plans, training and instructions for staff and guests. Others requirements required major works such as automatic fire doors and emergency lighting which would have been prohibitively expensive and out of proportion, as well as adversely affecting the character of the house and necessitating listed building consent. The alarm system and other recommendations have cost £20,000 so far.

### HOMEWOOD, HERTFORDSHIRE

Grade II\* Lutyens House built 1901 has two family rooms plus four guest rooms. Open all days except Christmas. 160 guests in the year 2009/10, April to November, (13.5 a month). Fire service forced closure in November 2010.

Fire service demands with which the house was unable to comply:

- 17 original Lutyens beech and oak doors to be either replaced with modern half hour proof doors or fitted with intumescent strips, smoke seals and a self closing device.
- Protection to the existing main staircase to be upgraded to provide a protected escape route from the first floor. The protected route had to lead directly to a final exit. This, in effect meant:
  - Fire resistant glazing eg 6mm Georgian wired glass in frames fixed shut, with individual panes not exceeding 1.2m squared, emergency lighting inset into the side of the stair treads.
  - The hall (which is large and used as a sitting room) to be cleared of all furniture
  - The door to the West lawn to be replaced with one which used a Yale lock so that it could be opened by anyone at any time.
  - The front door also to be fitted with a Yale lock. All guests are given a house key when they arrive but this was not deemed sufficient. There are never any guests in the house when there is not a family member present.
  - There are several doors with brass inserts designed by Lutyens for air circulation, ie wine cellar

door and airing cupboard door. These were unacceptable and were to be either blocked up or the doors replaced.

- All ceilings to be constructed of materials to give a half hour of fire resistance.
- Electrical sockets to hold rechargeable electric torches were to be provided outside each of the bedroom doors. (Wind up torches were not deemed suitable as they could be removed.)

#### Impact on historic fabric

- Many of Lutyens original features would have to be removed, and the house turned into a guest house, rather than a characterful B&B. Publisher, Alastair Sawday visited a month before closure and said it was 'an original gem'.
- All the pipework, which in a house of this age has been added later, is boxed in, but would have had to be reboxed in 30 minute fire resistant materials.
- Automatic fire detection system to be installed in all bedrooms and hallways and on all escape routes and areas deemed to be of high risk to occupants.
- In addition outside lighting to be sourced from an outside supply. (Homewood already had installed this.)

The cost was estimated to be £30,000 set against annual profit £5k to £7k a year. Many of the changes were unacceptable to English Heritage; the cost of employing a conservation architect, a fire alarm expert and a structural engineer, as advised, to negotiate a compromise between English Heritage and the Chief Fire Officer was estimated at an additional £20,000.

## ARDGOWAN, RENFREWSHIRE

The house has accommodation for 19 to stay at any one time (if all double rooms are used as such) with 11 bedrooms in total. One is to be removed from the list as it is too far from the nearest staircase if its occupant stands in the furthest corner. Paying guests are limited to only 100 in total per year on five educational courses (each approximately eight days long). The intention is to increase to 150.

The Castle was served a prohibition notice by Strathclyde Fire Brigade two years ago as a result of difficulties caused by fire service's insistence on equating the castle with a purpose-built modern hotel. Historic Scotland was very supportive in helping to prevent the insensitive alteration of mahogany doors, to overturn the boxing-in of staircases and to save the William Burn glass doors in the entrance hall, which were to be replaced with fire doors, although the discussions over these issues took many months.

Inconsistencies in advice/directions from the fire officer and local authority building control department further compounded the problems.

The castle has:

- Put smoke alarms in every room
- Put 'emergency lighting' in the main reception rooms ceilings, and along all fire exit routes and on staircases (all furniture has had to be removed from fire exit corridors)
- Door closers on 80 per cent of the doors

## UGBROOKE, SOMERSET

Ugbrooke is open to the general public for 36-40 days per year (nine week season, open four days/week). It is also available for privately booked group tours April – September, up to 20 private tours per year.

Overnight accommodation is available in 13 double or twin rooms used for up to 11 days for commercial shoots, plus additional days for friends and guests. Two permanent staff are accommodated at Ugbrooke House and the fire officer's view was that this brought Ugbrooke within the regulations regardless of the use by paying guests.

Ugbrooke had completed a self-assessed fire risk assessment which was not taken into account. The first letter of non-compliance listed 10 failures covering every aspect of Ugbrooke's fire plan and listing all as inadequate or recorded incorrectly even though measures were clearly in place: fire alarm system, emergency lighting, signage, fire fighting equipment, service records and in many cases required minor

- Intumescent strips on a number of doors
- Put in additional doors to compartmentalise corridor spaces
- Reopened a disused back staircase route because the fire exit otherwise passed through a room, which was disallowed
- Boxed in all fanlights in the (very long) kitchen corridor and put fire proofing over all seven panelled doors in that area
- Placed double doors to the kitchen and pantry
- Put signage in the main reception rooms and along fire exit routes
- Greatly increased the number of fire extinguishers
- Had full staff training and initiated weekly fire drills
- Prepared a detailed photographic survey of all 103 doors in the house as some have a 1mm gap between the intumescent strip and the door frames
- Installed outdoor emergency lighting to light the drive in front of the house
- Continuing discussions on compartmentalising the roof spaces and on smoke extraction.

The work has cost around £120,000 to date. The loss of what amounts to three seasons' income has been catastrophic for the house. Half of the workforce has been made redundant and the house is under threat of sale.

alternations to remedy. The most onerous demands related to emergency escape routes and the fire officer's decision that all parts of the houses should be included (rather than just those occupied by paying guests and staff). This was subsequently resolved once the owners took advice from an external consultant. The most onerous requirements were those which impacted on the fabric of the building: notably upgrading doors to FD30 standard and installing/re-siting smoke alarms on all 'state' rooms and all bedrooms.

Original upgrading of doors to FD30 standard specified unsightly brass overhead door closers. The owners chose percol door closers instead; this is an acceptable alternative but not one that had been proposed. Unsightly plastic fire exit signs were required on many doors. Installation and re-siting of smoke detectors impacted on all rooms, particularly disappointing in Robert Adam designed rooms. Cost £12,773.

Copies of this report are available from:

The British Hospitality Association  
Queens House  
55/56 Lincoln's Inn Fields  
London WC2A 3BH  
Tel: 020 7404 7744  
Email: [bha@bha.org.uk](mailto:bha@bha.org.uk)  
[www.bha.org.uk](http://www.bha.org.uk)