



Submission to the Review of the Late-Night Trading Code of Practice (Late Night Code)

Submission provided to: The Commissioner, Consumer and
Business Services

GPO BOX 1533 Adelaide SA 5000

CBSReforms@sa.gov.au

January 2023

About SACOSS

The South Australian Council of Social Service (SACOSS) is the peak non-government representative body for health and community services in South Australia, and has a vision of justice, opportunity and shared wealth for all South Australians.

Our mission is to be a powerful and representative voice that leads and supports our community to take actions that achieve our vision, and to hold to account governments, businesses, and communities for actions that disadvantage vulnerable South Australians.

SACOSS aims to influence public policy in a way that promotes fair and just access to the goods and services required to live a decent life. We undertake research to help inform community service practice, advocacy and campaigning. We have 75 years' experience of social and economic policy and advocacy work that addresses issues impacting people experiencing poverty and disadvantage.

Acknowledgement

We acknowledge the traditional lands of the Kurna people, and pay our respects and acknowledge the Kurna people as the custodians of the Adelaide region and the Greater Adelaide Plains. We acknowledge and pay our respects to the cultural authority of Aboriginal and Torres Strait Islander communities and organisations, and appreciate the cultural knowledge that is held and shared.

47 King William
Road Unley, SA, 5061
Australia
Ph (08) 8305 4222
Email: sacoss@sacoss.org.au
Website: www.sacoss.org.au

© South Australian Council of Social Service, 2022

This publication is copyright. Apart from fair dealing for the purpose of private study, research, criticism or review, as permitted under the Copyright Act, no part may be reproduced by any process without written permission. Enquiries should be addressed to the Communications Officer, South Australian Council of Social Service.

1. Introduction and Overview

As the peak organization for the non-government health and community services sector, we appreciate this opportunity to contribute to the Review of the Late-Night Trading Code (Late Night Code) of Practice. Our submission endorses and draws upon submissions made by our partner organisations in the SA Public Health Consortium, including those of the Public Health Association SA, the Alcohol and Drug Foundation (ADF), and the South Australian Network of Drug and Alcohol Services, all of whose specialist expertise we value and respect.

In conjunction with other members of the Public Health Consortium, the South Australian Council of Social Service (SACOSS) supports a comprehensive approach to preventing and reducing harms caused by alcohol consumption, and one that is informed by robust evidence. It is clear that many of the harms caused or exacerbated by alcohol affect not only the drinkers themselves but also children, families, and the broader community. It is essential that the focus and policy responses arising from this Review are not only directed towards the symptoms but also attend to the socio-economic and causal factors that perpetuate harmful drinking behaviours.

SACOSS supports an increase in accessible and affordable alcohol and other drugs treatment and rehabilitation services, and believes that contributory factors that enable the over-consumption of alcohol need to be addressed. While calling for a comprehensive and holistic response, it is also necessary to consider all appropriate policy levers to reduce the availability of alcohol and prioritise the health and safety of individuals and communities. These levers include placing restrictions on licensed venues that trade after 2:00am.

2. The harms of alcohol in South Australia

Alcohol harms are a significant public health concern, with alcohol contributing significantly to the overall burden of disease, and assessed as the sixth leading risk factor for preventable health concerns in the country.¹ The overall cost to the Australian community of alcohol harm was estimated at \$66.8 billion in 2017-18.²

A 2017 literature review found that heavy episodic drinking increased risk for some diseases and all injury outcomes, and that variation in alcohol consumption impacted many different disease outcomes.³ Mental ill health is also significantly associated with alcohol consumption, with those experiencing high or very high levels of distress being more likely to drink at risky

¹ Australian Institute of Health Welfare (2020). Australian Burden of Disease Study 2015: Interactive data on risk factor burden. Canberra: Commonwealth of Australia.

² Australian Institute of Health and Welfare (2022). Alcohol, Tobacco & other drugs in Australia. Canberra: Commonwealth of Australia.

³ Rehm J, Gmel GE, Sr., Gmel G, Hasan OSM, Imtiaz S, Popova S, et al. (2017). The relationship between different dimensions of alcohol use and the burden of disease-an update. *Addiction*. 112(6):968-1001.

levels,⁴ and increased alcohol consumption being associated with various mental health conditions.⁵

In addition to alcohol-related health harms, there are a range of other harms to the individual and community associated with alcohol consumption. Estimates of road crashes suggest that 19 per cent of road fatalities in SA involved alcohol-impaired drivers from 2015-2019, and that alcohol was present in almost 250,000 incidents of sexual, family, and other violence nationally in 2016.⁶ In SA in 2016, 23 per cent of individuals had been the victim of an alcohol-related incident, and 49 per cent of all overdoses were related to alcohol.

3. Evidence regarding the impact of the Late-Night Code on alcohol-related harm

The current Review of the Code is significantly constrained by the lack of contemporary, relevant and robust data and reliable evaluation. This makes it difficult to ascertain the efficacy of the Code and its operations. The absence of data points to the need to establish appropriate indicators and measures, which would be enhanced by the involvement of both government and non-government and community interest groups.

To date, the only publicly available review of the South Australian Late-Night Code was undertaken in 2016 by Tim Anderson QC as part of the Review of the *South Australian Liquor Licensing Act 1997*.⁷ Chapter 5 of Anderson's report specifically addresses the Late-Night Code and its impact. He notes that submissions from various medical, health and victim support bodies refer to evidence from Australia and overseas which in their view consistently demonstrate the correlation between increased liquor trading hours and an increase in harms and alcohol related assaults.

Anderson noted that in 2008-09, alcohol was responsible for 58 per cent of victim-reported crime and 65 per cent of serious assaults within the Adelaide CBD. However, the absence of more contemporary data makes an evaluation of the Late-Night Code difficult. Further research and analysis of existing datasets is necessary prior to drawing definitive conclusions regarding the impact of the code.

Aside from introducing pricing controls, restrictions on trading hours and outlet density are considered an effective policy lever to reduce alcohol-related harm.⁸ Increased liquor trading

⁴ Australian Institute of Health Welfare. National Drug Strategy Household Survey 2019 (2020). Canberra

⁵ Calina D, Hartung T, Mardare I, Mitroi M, Poulas K, Tsatsakis A, et al. (2021) COVID-19 pandemic and alcohol consumption: Impacts and interconnections. *Toxicology Reports* 8:529-35.

⁶ Jiang H, Doran CM, Room R, Chikritzhs T, Ferris J, Laslett A-M. (2022) Beyond the Drinker: Alcohol's Hidden Costs in 2016 in Australia. *Journal of Studies on Alcohol and Drugs*. 2022;83(4):512-24.

⁷ Anderson, T. R. (2016). Review of the South Australian Liquor Licensing Act 1997. Prepared for the Government of South Australia. Accessed 17 January 2023 from:

<https://www.aph.gov.au/DocumentStore.ashx?id=f3b6ce82-0cec-4580-9985-dc6d2b86b98d&subId=463299>.

⁸ Babor, T. F., Casswell, S., Graham, K., Huckle, T., Livingston, M., Osterberg, E., Rehm, J., Room, R., Rossow, I., & Sornpaisarn, B. (2023). *Alcohol: No ordinary commodity* (Third edition). Oxford, UK:

hours are associated with increased alcohol-related harms, while earlier closing times have been associated with reduced alcohol-related harm.⁹

A systematic review of 21 studies published between 2005-15 noted a significant body of Australian and international research which established a substantial relationship between trading hours of on-premises venues and rates of violence.¹⁰ This finding led the authors to conclude that ‘the evidence of effectiveness is strong enough to consider restrictions on late trading hours for bars and hotels as a key approach to reducing late-night violence in Australia’.¹¹

A further systematic review of literature published between January 2000 and October 2016 studied the impact of policies regulating alcohol trading times on other alcohol-related harms.¹² The findings indicate that policies regulating times of alcohol trading and consumption can contribute to reduced injuries, alcohol-related hospitalisations/emergency department visits, homicides, and crime. Evidence from both reviews demonstrated that a change in time of alcohol sales is associated with changes in alcohol-related harms in both directions, and a reduction of just one or two hours in late-night trading time could be enough to demonstrate a reduction in harms.

While there have been consistent findings regarding the relationship between trading hours and alcohol-related harms, particular evidence regarding the efficacy of late-night codes is more limited, as the quality of evaluation of the implementation of such codes has often been inadequate¹³, with limited monitoring or controls enabling robust conclusions to be drawn about the specific impact of the code itself.

Studies and strategies such as the collection of ‘last drinks’ data at emergency departments can provide useful insights as to where risky drinking is being enabled, and where the best return

Oxford University Press; and World Health Organisation (2007). WHO Expert Committee on Problems Related to Alcohol Consumption. Geneva: United Nations.

⁹ Wilkinson, C., Livingston, M., & Room, R. (2016). *Impacts of changes to trading hours of liquor licences on alcohol-related harm: a systematic review 2005–2015*. Public Health Research & Practice, 26(4), e2641644; and

Sanchez-Ramirez, D. C., & Voaklander, D. (2018). *The impact of policies regulating alcohol trading hours and days on specific alcohol-related harms: a systematic review*. Injury Prevention, 24(1), 94-100.

¹⁰ Wilkinson, C., Livingston, M., & Room, R. (2016). *Impacts of changes to trading hours of liquor licences on alcohol-related harm: a systematic review 2005–2015*. Public Health Research & Practice, 26(4), e2641644.

¹¹ Wilkinson, C., Livingston, M., & Room, R. (2016). *Impacts of changes to trading hours of liquor licences on alcohol-related harm: a systematic review 2005–2015*. Public Health Research & Practice, 26(4), e2641644.

¹² Sanchez-Ramirez, D. C., & Voaklander, D. (2018). *The impact of policies regulating alcohol trading hours and days on specific alcohol-related harms: a systematic review*. Injury Prevention, 24(1), 94-100.

¹³ Babor, T. F., Casswell, S., Graham, K., Huckle, T., Livingston, M., Osterberg, E., Rehm, J., Room, R., Rossow, I., & Sornpaisarn, B. (2023). *Alcohol: No ordinary commodity* (Third edition). Oxford, UK: Oxford University Press.

on investment in terms of staff training and compliance activities can be achieved.¹⁴ The collection of ‘last drinks’ data would involve asking people presenting to an emergency department with an injury about their consumption of alcohol in the 12 hours prior to being injured or becoming ill, including the specific location or premises where they consumed their last drink. The collection of this data as part of the triage process has been piloted in Australia, and the method proved to be feasible to implement, and was effective at mapping the source of alcohol-related emergency department attendances.¹⁵ A broader Australian trial, including nine emergency departments across Victoria, New South Wales and the ACT, is currently underway.¹⁶ A similar approach could be trialed in Adelaide as part of developing a robust evidence base for the efficacy of the Late-Night Code.

4. Suggested amendments to the Code

In general, the purpose of the Code is clearly and appropriately articulated. However, some minor changes would be of value in clarifying the meanings of harm and the intent of the Code. The details of proposed amendments to the Code are not set out in this submission but SACOSS wishes to point the Commission to the more detailed amendments proposed in the submissions made by the Public Health Association, the Alcohol and Drug Foundation, and SANDAS, in this regard.

In summary, the following primary amendments to the Code are supported:

Clarify the purpose of the Code:

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

Review the role of the Drink Marshal:

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

Expand and clarify Schedule 1:

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

¹⁴ Babor et al. (2023)

¹⁵ Miller, P., Droste, N., Baker, T., & Gervis, C. (2015). *Last drinks: A study of rural emergency department data collection to identify and target community alcohol-related violence*. *Emergency Medicine Australasia*, 27(3), 225-231.

¹⁶ Miller, P., Droste, N., Egerton-Warburton, D., Caldicott, D., Fulde, G., Ezard, N., Preisz, P., Walby, A., Lloyd-Jones, M., Stella, J., Sheridan, M., Baker, T., Hall, M., Shakeshaft, A., Havard, A., Bowe, S., Staiger, P.K., D'Este, C., Doran, C., Coomber, K., Hyder, S., Barker, D. and Shepherd, J. (2019), *Driving change: A partnership study protocol using shared emergency department data to reduce alcohol-related harm*. *Emergency Medicine Australasia*, 31: 942-947.

5. Recommendations

SACOSS supports the following recommendations regarding the Late-Night Code:

1. The State Government undertakes public educational campaigns about the effects of alcohol consumption and provides accessible and clear information about the Late-Night Code and its conditions.
2. The Late-Night Code should be extended for a further two-year period, with the incorporation of the proposed amendments.
3. The continuation of the Code be predicated on a comprehensive monitoring and evaluation process that involves all relevant stakeholders.
4. The State Government commit to implementing the following recommendations from the 2016 Anderson review to strengthen the Code:
 - a. Licensees found to be in breach of the lockout provisions of the Code may have their lockout time shifted earlier as a penalty
 - b. Strengthened Responsible Service of Alcohol (RSA) training and competency, including ongoing refreshment of the training similar to CPR or gambling accreditations.
 - c. Strengthening the right of a licensee to refuse entry to intoxicated persons
 - d. Requiring all licensed venues be closed for a minimum of three continuous hours between 3:00am and 9:00am.
5. Exemptions from the Code for the casino be reconsidered in light of concerns about its compliance with other liquor and gaming regulations.

Contact

SACOSS appreciates the opportunity to make this submission. Please do not hesitate to contact the Chief Executive Officer, Ross Womersley, at Ross@sacoss.org.au should you require additional information or have any queries in relation to this submission.