

**Response to Home Office Consultation on policies to cut alcohol
fuelled crime and anti-social behaviour**



Minimum pricing

Q. 1. Do you agree that this MUP level would achieve these aims?

Ans. No

We understand the Government's aim for the introduction of a MUP is to reduce excessive alcohol consumption. However, the measure is a blunt instrument which will have the effect of penalising moderate drinkers as well as those who may drink excessively. The recommended price per unit of 45 pence, or any other amount, will inevitably be arbitrary and will affect different individuals in different ways and we are not persuaded that ultimately it will reduce excessive alcohol consumption by hazardous and harmful drinkers.

We are concerned that the measure is a disproportionate response to the Government's objective and will set a dangerous precedent to restraint of trade is likely to offend both UK and EU competition laws.

The impact assessment observes the consumption of alcohol is expected to fall by 3.3%. We suggest that those who drink excessively and at whom this measure is targeted will be a very small percentage of that 3.3% and in consequence the health benefits identified will not be as stated but considerably less, perhaps even negligible.

Q. 2. Should other factors be considered or evidence be considered when setting a minimum unit price for alcohol?

Ans. No

Please refer to answer to Q.1 above.

Q.3. How do you think the minimum unit price set by the Government should be adjusted over time?

Ans. Don't know

Please refer to answer to Q.1 above

Q.4. The aim of minimum unit pricing is to reduce the consumption of harmful and hazardous drinkers, while minimising the impact on responsible drinkers. Do you think that there are any other people, organisations or groups that could be particularly affected by a minimum unit price for alcohol?

Ans. Yes

Please refer to answer to Q.1 above.

Q.5. Do you think there should be a ban on multi-buy promotions involving alcohol in the off-trade?

Ans. No

Q.6. Are there any further offers which should be included in the ban on multi-buy promotions?

Ans. No. There appears to be insufficient reason given on why such a prohibition should only be imposed on the off trade and such a consideration appears to be based on little or no evidence.

Q.7. Should other factors or evidence be considered when considering a ban on multi-buy promotions?

Ans. Yes. It would be totally unnecessary to ban multi buy promotions if a minimum unit price were introduced; on the assumption of course that a MUP achieves the outcome it is stated it will achieve. Introducing both would be over-regulation and adds unnecessary burden on the retailer without any benefit to the public.

The evidence from Scotland is that a ban on discounting alcohol for multiple purchases has had no effect on reducing the consumption of alcohol. Further there is no evidence to our knowledge which concludes that such a ban effectively targets the minority of people who drink to excess.

Greater weight should be given to the fact that the majority of people drink responsibly and this proposal removes a freedom of consumer choice and retailer competition.

A closer analysis of all available evidence is required not just that evidence which supports the outcome. So for example acknowledging the fact that alcohol consumption in the UK has been declining for a number of years and understanding why that is. The impact assessment report in 2011 alcohol was 45% more affordable in 2011 than in 1980 and highlighting the overall trend of increasing affordability. If consumption were linked to price this statistic would have seen a corresponding increase in alcohol consumption in the UK over the last 2-3 year at least, which is not the case.

The impact assessment highlights that consumption in the home has increased 45% but outside the home decreased 44% between 1992-2010 and 2001 and 2010 respectively. There is therefore evidence available of an overall reduction in alcohol consumption.

Also, in our view much greater thought should be given to a voluntary agreement with the retailers to reduce the number of units of alcohol available with an emphasis on consumers purchasing lower alcohol by volume % products.

The issue of pre-loading needs further consideration. Pre-loading can mean having one alcoholic drink before going out and much of the research and commentary we have seen does not distinguish the difference between drinking responsibly in the home before going out and those who consume excessive quantities of alcohol before going out. We would question whether there is any real evidence to support the argument that a MUP or a ban on promotions will curb the consumption of alcohol in the home before going out in the evening.

Q.8. Do you think there are other groups that could be particularly affected by a ban on multi-buy promotions?

Ans. Yes.

On the assumption that the ban will only apply to retailers with a premises licence for a "retail sale" defined by s192(1) Licensing Act 2003:

Responsible consumers – paying more for consuming the same

Retailers – the principle of free trade and competition

Local Authority and Police - in monitoring compliance

If the ban extends to sales specified in s192(2), considerably more businesses will be affected. Care should be taken to ensure the exemptions in s192(2) are not affected by any prohibition as the sale of alcohol in these circumstances is in no way linked to consumption of alcohol by the public.

Reviewing the mandatory licensing conditions

Q.9. Do you think each of the mandatory licensing conditions is effective in promoting the licensing objectives?

We have answered for each of the mandatory conditions in turn:

A. Irresponsible promotions

Yes: Crime and disorder; public nuisance; protection of children

B. Dispensing alcohol directly into mouth

Yes: Crime and disorder; public nuisance; protection of children

C. Free tap water

Yes: Protection of children

D. Age verification policy

Yes: Crime and disorder; protection of children

E. Small measures

No: All objectives

Q. 10. Do you think that the mandatory licensing conditions do enough to target irresponsible promotions in pubs and clubs?

Ans. Yes.

The mandatory conditions in our view play a fairly limited part in the targeting of irresponsible promotions. The very large majority of operators adopt responsible policies and the authorities have wide-ranging powers to target individual operators who fall below expected standards.

Q.11. Are there other issues related to the licensing objectives which could be tackled through a mandatory licensing condition?

Ans. No

Q.12. Do you think the current approach, with five mandatory licensing conditions applying to the on-trade and only one of those to the off-trade, is appropriate?

Ans. Yes

We do not believe that it is necessary to extend the current mandatory conditions

Health as a licensing objective in cumulative impact areas

Q.13. What sources of evidence on alcohol-related health harm could be used to support the introduction of a cumulative impact policy (CIP) if it were possible for a CIP to include consideration of health?

The first part of the question presupposes that evidence of alcohol-related health harm could support the introduction of a cumulative impact policy and we do not believe that this is either necessary or appropriate.

The purpose of cumulative impact policies is to enable licensing authorities to apply a higher burden for applicants for new licences (and variations to existing licences) for specific and defined areas in their district. The evidence to support these policies is invariably based on police statistics of crime and disorder in the specific area and its association with the number of licensed premises and the fact that many licensing authorities have already adopted such policies is testimony to the fact that the existing policy approach is effective. Any policy is also capable of review by the authority based on new evidence.

The difficulty in our view with extending the grounds to include evidence of alcohol-related harm is that it would completely remove the 'objectivity' of justification for the policy. It would be extremely difficult and arguably impossible to obtain cogent evidence of alcohol-related health harm which is specific to a defined area and the number of licensed premises. More likely, such evidence if it was obtained is likely to be linked to individual premises in which case the existing enforcement powers of authorities are more than adequate to target any offenders. By its nature, harm to health as a result of alcohol consumption is personal to individuals and its cause cannot be generalised on a group of premises that happen to fall within a particular geographical area.

It also follows that the consequence of imposing a CIP based on 'sources of evidence' of alcohol-related health harm would impose an almost impossible burden on an applicant to justify departure from that policy. This would not only be harmful to positive development of licensed premises in the particular area but would also potentially result in no improvement in standards due to the absence of competition.

Q.14. Do you think any aspects of the current cumulative impact policy process would need to be amended to allow consideration of data on alcohol-related health harms?

Ans. No. Please refer to answer to Q.13 above.

Q.15. What impact do you think allowing consideration of data on alcohol-related health harms when introducing a cumulative impact policy would have if it were used in your local area?

Ans. Please refer to the answer to Q.13 above.

Freeing up responsible businesses

Q.16. Should special provision to reduce the burdens on ancillary sellers be limited to specific types of business, and/or available to all types of business providing the meet certain criteria for limited or incidental sales?

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|----------|---|------------|
| A | Limited to a specific list of certain types of business and the kind of sales they make | No |
| B | Available to all businesses providing the meet certain criteria to be an ancillary seller | Yes |
| C | Available to both A and B | Yes |

Q.17. If special provision to reduce licensing burdens on ancillary sellers were to include a list of certain types of business, do you think it should apply to the following?

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|-----------|--|------------|
| A. | Accommodation providers, providing alcohol alongside accommodation | Yes |
| B. | Hair and Beauty Salons | Yes |
| C. | Florists | Yes |
| D. | Cultural organisations | Yes |
| E. | Regular charitable events | No |

With respect to regular charitable events this should continue to remain authorised by either TEN's or a premises licence on the basis of the potential level of consumption of alcohol at such events by large numbers of people.

Q.18. Do you have any suggestions for other types of businesses to which such special provision could apply without impacting adversely on one or more of the licensing objectives?

Visitor attractions and places of entertainment where the alcohol is provided alongside and ancillary to the entertainment. For example, The London Eye.

Q.19. The aim of a new "ancillary seller" status is to reduce burdens on businesses where the sale of alcohol is only a small part of their business and occurs alongside the provision of a wider product or service, while minimising loopholes for irresponsible businesses and maintaining the effectiveness of enforcement. Do you think the qualification criteria proposed meets this aim?

Ans. The qualification criteria do meet the aim, subject to the value attributed to the transaction and the maximum quantity of alcohol permitted.

Q.20. Removing the need for a premise licence. Do you think that these proposals would significantly reduce the burden on ancillary sellers?

A. Allow premises making the ancillary sales request in their premises licence application that the requirement for a personal licence holder would be removed? **No**

B. Introduce a new light touch form of authorisation for premises making ancillary sales but retain the need for a personal licence holder? **No**

C. Introduce a new light touch form of authorisation – an ASN – with no requirement for a personal licence holder? **Yes**

Q.21. Do you think that the following proposals would impact adversely on one or more of the licensing objectives.

A. Allow premises making the ancillary sales request in their premises licence application that the requirement for a personal licence holder would be removed? **No**

B. Introduce a new light touch form of authorisation for premises making ancillary sales but retain the need for a personal licence holder? **No**

C. Introduce a new light touch form of authorisation – an ASN – with no requirement for a personal licence holder? **No**

Q.22. What other issues or options do you think should be considered when taking forward proposals for a lighter touch authorisation?

There should be a mechanism to review an ASN with appropriate powers to the Local Authority to revoke an ASN and disqualify an individual or business from re-applying. Prosecution for offences under the Licensing Act 2003, where proof beyond reasonable doubt is required, would be extremely unlikely to succeed.

There should be no advertisement requirement and service on the Local Authority and Police only.

Q.23. Do you agree that licensing authorities should have the power to allow organisers of community events involving licensable activities to notify them through a locally determined notification process?

No

Q.24. What impact do you think a locally determined notification would have on organisers of community events?

A. reduce the burden **No**

B. increase the burden **No**

Q.25. Should the number of TENs which can be given in respect of individual premises be increased?

Ans. Yes

Q.26. If yes, please select one option to indicate which you would prefer.

Ans. 18.

Q.27. Do you think that licensing authorities should have local discretion around late night refreshment in each of the following ways?

A. Determining that premises in certain areas are exempt. **Yes**

B. Determining that certain premises types are exempt in the local area. **No**

Q.28. Do you agree that motorway service areas should receive a nationally prescribed exemption from regulations for the provision of late night refreshment?

Ans. Yes

Q.29. Please describe any other types of premises to which you think a nationally prescribed exemption should apply.

There should be no other nationally prescribed exemption. Such is the diversity of each Local Authority's area that it should be left to the Local Authorities to assess the impact on the promotion of licensing objectives for any other premises.

Q.30. Do you agree with each of the following proposals?

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|---|------------|
| A. Remove requirements to advertise licensing applications in local newspapers | Yes |
| B. Remove centrally imposed prohibition on MSA's for the on and off trade | Yes |
| C. Remove centrally imposed prohibition on MSA's only for overnight accommodation | No |
| D. Remove/Simplify requirements to renew personal licences | Yes |

Q.31. Do you think that each of the following would reduce the overall burdens on business?

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|---|------------|
| A. Remove requirements to advertise licensing applications in local newspapers | Yes |
| B. Remove centrally imposed prohibition on MSA's for the on and off trade | Yes |
| C. Remove centrally imposed prohibition on MSA's only for overnight accommodation | Yes |
| D. Remove/Simplify requirements to renew personal licences | Yes |

Q.32. Do you think that the following measures would impact adversely on one or more of the licensing objectives?

- | | |
|---|-----------|
| A. Remove requirements to advertise licensing applications in local newspapers | No |
| B. Remove centrally imposed prohibition on MSA's for the on and off trade | No |
| C. Remove centrally imposed prohibition on MSA's only for overnight accommodation | No |
| D. Remove/Simplify requirements to renew personal licences | No |

Q.33. In addition to the suggestions outlined above, what other sections of or processes under the 2003 Act could in your view be removed or simplified in order to impact favourably on businesses without undermining the statutory licensing objectives or significantly increasing burdens on licensing authorities?

We believe that one additional area of simplification that would benefit businesses is to clarify the section 19 requirement which prohibits the supply of alcohol under a premises licence "when there is no designated premises supervisor" in respect of that licence.

The problem comes with interpreting that section. In a typical managerial situation, does it mean the DPS needs to be employed at the time at those premises before the supply of alcohol is lawful? What if he has been suspended; or is on long-term sick or perhaps is still employed by the management company that holds the premises licence but has been moved to another venue? These situations do happen in reality and give rise to uncertainty and no doubt different practices due to the absence of a clear legal definition of what is meant by "when there is no DPS".

We understand that best practice recommends some form of written authority from the DPS for others to supply alcohol in his absence but this is not always practical in emergency situations. We believe the opportunity should be taken therefore to amend section 19, or at least provide clarification in the amended section 182 Guidance, on the meaning of the requirement for there to be a DPS before alcohol supplies are permitted under the licence.

