

Alcohol Consultation  
Drugs and alcohol Unit  
Home Office  
4<sup>th</sup> Floor, Fry Building  
2 Marsham Street  
London  
SW1P 4DF

6<sup>th</sup> February 2013

**RESPONSE TO THE CONSULTATION ON DELIVERING THE  
GOVERNMENT'S POLICIES TO CUT ALCOHOL FUELLED  
CRIME AND ANTI SOCIAL BEHAVIOUR**

This is a response on behalf of the Midlands Neighbouring Authority Working Group to the above consultation paper.

The Group was originally formed in 1989 and comprised the 7 west midlands districts at that time, but has since expanded to include 29 member authorities across the region.

The Group exists primarily to provide a forum for the exchange of information for those involved in day to day licensing matters, but is also used to share examples of good practice throughout the region and to promote a common approach to compliance and enforcement, where possible.

**General**

Following the implementation of the Government's rebalancing proposals the Group supports the view that decisions on how to tackle the problems associated with alcohol should be taken locally by those who know the area best, but that any new powers which are given to licensing authorities must be matched by the relevant funding in relation to enforcement, particularly for trading standards and environmental health who are at the forefront of tackling issues arising from problem premises.

We therefore expect the Government to make it clear, when introducing new powers shortly for licensing authorities to be able to set their own fees under the Act, that 'enforcement' costs will also be recoverable from licensing fees'

The Group is also concerned that these latest proposals appear to be directed primarily at the effects of excessive drinking and not the root cause. More needs to be done at a national level by way of education so that the measures proposed can sit alongside issues around social responsibility generally in order to address the underlying problems of excessive drinking in our society.

### **Minimum pricing**

There were mixed views from the Group as to whether minimum pricing was a good idea in principle. The Group recognises that research by health professionals over the years has shown that the higher the unit price, the more lives which can be saved each year so, on that basis, a minimum unit price could be seen as reasonable, especially as it is likely to be supported by existing primary care trusts. The Group's specific concerns are :

- Will the introduction of the unit price at 45p really make 'hazardous and harmful' drinkers consume less, or will it have more impact on the majority of 'responsible' drinkers ?
- At 45p it is estimated that 714 lives would be saved each year, whereas research has shown that a 5p increase to 50p per unit up to 3000 lives could be saved
- There isn't a lot of information about in relation to what constitutes a 'unit' of alcohol. The committee therefore feels that there should be information available, at the point of sale, in relation to the alcoholic unit content of drinks, in the same way that food products are labelled in supermarkets.
- The Group also expressed the view that, in the same way that organisations such as Gamcare help to raise the awareness of problem gambling in premises licensed under the Gambling Act 2005, consideration should be given to similar information being available in outlets selling alcohol to remind people of the dangers of excessive consumption
- By introducing a 'pricing' regime it could well lead to a return of 'cross channel hopping' with consumers going on day trips to French supermarkets to purchase cheap alcohol, thereby defeating the object of the minimum price in the first place.
- Equally, it is suggested that the proposal may well be contrary to European law so, given that there is an existing challenge against the introduction of a similar minimum pricing system in Scotland, the Government should consider

delaying the introduction of a system in England and Wales pending the outcome of any ongoing legal challenge.

- There is an added concern that by imposing a minimum price at the bottom end, retailers would take advantage by putting prices up across the board, which would again penalise responsible drinkers. Can the Government guarantee that this will not happen ?
- Any new measures will need to be properly enforced so resources will need to be found from the income received from licensing fees.
- If the resources for enforcement cannot be raised through licence fees, it is expected that both the retailers and the Government will benefit from the increased price of alcohol, Will the additional income be put towards the enforcement costs of licensing authorities ?

### **A ban on multi-buy promotions**

There is a danger that any new measures to curb multi buy promotions will lead to grey areas and lead to a similar situation which occurred in relation to irresponsible promotions.

There is some confusion over whether 'half price' or 'two for the price of one' would be a banned promotion, especially as the consultation paper contradicts itself by implying that 'three for £10' would **not** be subject a ban.

Equally, retailers will surely find a way round a 'ban' while consumers will always be looking for opportunities to maximise their purchasing power so there will still be 'cheap' promotions available and this will add to the public confusion.

There is no real evidence either that purchasing 'multi-packs' actually leads to more alcohol consumption, particularly among 'harmful and hazardous drinkers'. The experience of officers on the ground is that most under age sales of alcohol to children involve the sale of a single bottle or can.

The Group feels that, as is the case with irresponsible promotions, more thought needs to be given to this proposal to ensure it is aimed at the right people. If this measure is introduced there needs to be clear guidance so that there are no grey areas as to what retailers can or cannot do.

## **Mandatory Licensing Conditions**

There is general agreement that the conditions in relation to free tap water for customers and the requirement for smaller measures to be available are working well and need to be retained.

The Group also supports the retention of the requirement for premises selling alcohol to have an age verification policy in place. However, this could be improved upon in two ways :

- The current requirement is to have an age verification policy in place. There is no specific legal requirement for licensees to 'operate' that policy. This may appear to be a slight technicality but, for enforcement purposes alone, the age verification condition should be re-worded so that the requirement is for licensees to actually 'challenge' those believe to be under age, and not simply have a policy in place.
- Secondly, the Group takes the view that the age at which someone is challenges should be 21 (or even 25) and not 18. The vast majority of licensees, when challenged after an under age sale, maintain that they thought the under age volunteer 'looked 18'. Raising the challenge level to 21 would impose a greater requirement on licensees to ask for proof of age before selling alcohol. This should not affect businesses as most of the leading supermarket chains already operate a challenge 25 policy.

In relation to 'irresponsible promotions' the mandatory conditions are clearly not working and should, as proposed, be subject to review. However, the Group feels that, by attempting to define what is meant by an irresponsible promotion leads to grey areas, meaning that some premises can continue to have 'happy hours' while others can still get away with promoting '£10 for 10 pints', whereas 'All you can drink for £10' is currently defined as an 'irresponsible' promotion.

The Group feels believes that this should essentially be a local issue and if a premises is causing a problem as a result of a particular drinks promotion, the premises licence should be subject to review. This avoids tarring all premises with the same brush and

is in line with the principles of natural justice where each case should be considered on its own individual merits.

The Government should also look at tackling the issue of retailers selling 'soft' drinks at inflated prices. In most people's experience, a 'soft' drink can often cost more than a pint of lager. The Group therefore takes the view that the Government should do something about the soft drinks issue alongside, and at the same time as, these proposed reforms.

### **Health as an objective for cumulative impact**

Now that 'health' bodies are responsible authorities, the Group understands why this measure is being proposed, especially as it is difficult to consider 'health' issues in connection with individual licence applications.

There are concerns however that the measure will have little or no impact on hazardous and harmful drinkers as they are likely to be dependant on alcohol to some extent and will get it from existing outlets anyway. Reducing the number of outlets is not the answer and, in line with the Government's social responsibility agenda. More work needs to be done in educating people on the dangers of consuming too much alcohol.

If it was to be introduced, the Government should consider giving the principle of cumulative impact greater legal status rather than leaving it to the Guidance, to avoid licensing authorities being challenged in the courts as to the legality of such policies.

### **Reducing burdens on businesses**

The Group understands why the Government wants to reduce the burden on businesses but generally feels the situation could be made worse if legislation is drafted which allows 'loopholes' and results in 'grey' areas. To enforce the law a degree of certainty is required so that, whilst ancillary sales appears to be a good idea on the surface, there would need to be adequate safeguards built in to avoid, say, an 'on licensed' premises being able to call itself a florist, hairdressers or beauty parlour.

Defining what is a 'community centre' should be left to local discretion in line with guidance issued by the Secretary of State.

In relation to late night refreshment, we appreciate that many licensing authorities may be in favour of having some local discretion but the Group's view is that this will lead to inconsistency between authorities and would result in a type of 'postcode lottery', meaning owners of take-aways and late night restaurants will be subject to differing licensing requirements depending on where their business is and this would be unfair to those businesses.

If the Government is minded to introduce exemptions to the Act the Group believes there must be safeguards built in, similar to those contained in the Live Music Act 2012. In other words, premises, such as take-aways and late night restaurants could become exempt from the licensing requirements as long as they don't cause a problem and do not impact adversely on the promotion of the licensing objectives.

However, if a premises does subsequently become a problem, the review process should be available to licensing authorities in order to deal with any concerns and be able to take steps to address the problem. That way, the vast majority of premises that do not cause a problem will be left alone and only those 'problem' premises will be targeted for action.

This fits in with the 'light touch' approach upon which the Act itself was founded which is why the Group also supports the principles contained in the Live Music Act.

### **Miscellaneous**

With regard to the other proposals the Group's views are :

- There are mixed views as to whether retail parts of motorway services areas should be allowed to sell alcohol, however, the majority view is that hotels situated within the grounds of a motorway service areas should be able to sell alcohol, but to their guests only.
- Personal licences should be subject to renewal every 10 years. This fits in with the Government's requirements for passports to be renewed every 10 years. In addition, there are specific concerns about licence holders having changed

address and not having reported convictions as well as photo ID being out of date after a period of time.

- The Group did wish to express a strong desire however, to see powers to review personal licences being given to licensing authorities rather than the Courts.
- The Group supports the proposal that applicants should not be required to advertise their applications in a local newspaper as this is felt to be an unnecessary burden on businesses
- The Group also has no adverse comments in relation to the proposal to increase the number of TENs that can be given in any calendar year. As long as the overall number of days is not exceeded, ie 21, the Group doesn't see any reason why the number of TENs could not be similarly increased to 21.

## **Summary**

Some of the proposals contained in the consultation document can be supported as long as the necessary safeguards in relation to protecting the public remain.

However, with regard to minimum pricing proposal and a ban on multi buy promotions the Group feels that more work needs to be done first in order to demonstrate that such proposals really will have the desired effect, and are lawful.

The Group also wishes to endorse the principle of decisions being taken locally rather than centrally as those on the ground are far better placed to know what is happening in their area and what solutions might be appropriate.

That said, any new powers which are given to licensing authorities to tackle the problems associated with the consumption of alcohol must be matched by the right resources enabling these measures to be properly enforced.

