

Alcohol Consultation
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6th 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 Licensing Committee of Sandwell MBC to the above consultation paper.

Sandwell is one of the larger metropolitan Boroughs located at the centre of the West Midlands conurbation and is predominantly urban in character. The Borough is composed principally of six towns rather than a single, dominant centre and these form the basis of the Council's community focus. The towns are Oldbury, Rowley Regis, Smethwick, Tipton, Wednesbury and West Bromwich.

At the last count the population of the Borough was just under 300,000. As far as the economy is concerned, Sandwell is still heavily reliant on manufacturing although service industries now form almost 60% of total employment within the Borough.

Sandwell remains a densely populated area and has the highest number of residents per unit of residential land in the West Midlands. In contrast, the Borough also has the highest proportion of parks and open spaces amongst the seven metropolitan districts in the area.

The council's Licensing Committee is leading the way in promoting the licensing objectives under the Licensing Act 2003, having held more review hearings than any other local authority since the Act came into force.

The Committee has a particularly tough stance in relation to under age sales of alcohol to children and thanks to the efforts of trading standards officers, along with specific steps imposed on licensees as a result of the review process the number of under age sales has gone down during the past few years.

The Committee takes a keen interest in any proposed measures which are designed to tackle the problems associated with alcohol and the harm it does, and therefore welcomes the opportunity to comment on the proposals set out in the recent consultation document.

The Committee broadly supports the response made by the Local Government Group's Safer and Stronger Communities Board but wishes to make a number of specific comments based on its own experience of carrying out the various licensing functions under the Act.

General

Following the implementation of the Government's rebalancing proposals the Committee 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 any new powers which are given to licensing authorities must be matched by the appropriate 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 be recoverable from licensing fees.

The Committee 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 about social responsibility generally in order to address the underlying problems of excessive drinking in our society.

Minimum pricing

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, in principle, a minimum unit price would seem to be reasonable. The Committee's concerns, however 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 at 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.
- 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 could 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, and as 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 and, in the Committee's experience, most under age sales of alcohol to children involve the sale of a single bottle or can.

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 Committee 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 in relation to have a policy in place. There is no specific legal requirement for licensees to 'operate' the policy. This is not a technicality - for enforcement purposes, the age verification condition should be re-worded so that the requirement is for licensees to actually challenge those believed to be under age, and not simply to have a policy in place.
- Secondly, the Committee takes the view that the age at which someone is challenged should be 21 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.

In relation to 'irresponsible promotions' the mandatory conditions are clearly not working and should, as proposed, be subject to review. However, the Committee feels that, by defining what is

meant by an irresponsible promotion this again leads to grey areas so that some premises 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 'irresponsible'.

The Committee believes that this should be viewed as 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 treating all premises the same and is in line with the principles of natural justice where each case should ideally be considered on its own individual merits.

Health as an objective for cumulative impact

The Committee supports this proposal, especially as it is difficult to consider 'health' issues in connection with individual licence applications.

The Government should, however, 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 proposals in relation to ancillary sales are welcomed as they are designed to make it easier for businesses to operate while still maintaining an adequate level of consumer protection.

There would need to be safeguards built in to any new changes though to avoid an 'on licensed' premises being able to call itself a florist, hairdressers or beauty parlour. The Committee believes that option one (para 9.5) would be the preferred option in this case.

Trying to define what is a 'community centre' is a slightly different thing and the Committee believes that this is something which should be left to local discretion in line with guidance issued by the Secretary of State.

The Committee's general view with regard to any exemptions from licensing is that, whilst they can be supported in principle, there need to be safeguards built in, similar to those contained in the

Live Music Act 2012. In other words, premises can be exempt from certain requirements as long as they don't cause a problem and do not impact adversely on the promotion of the licensing objectives.

This applies particularly to late night refreshment premises which, largely, do not cause a problem at all. If a premises does become a problem, the review process should be available to deal with any concerns and the Committee should 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 Committee also supports the principles contained in the Live Music Act.

Miscellaneous

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

- The retail parts of motorway services areas should not be allowed to sell alcohol
- Hotels situated within the grounds of a motorway service areas should be able to sell alcohol 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. There are 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 Committee 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 Committee 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 Committee doesn't see any reason why the number of TENs could not be similarly increased to 21.

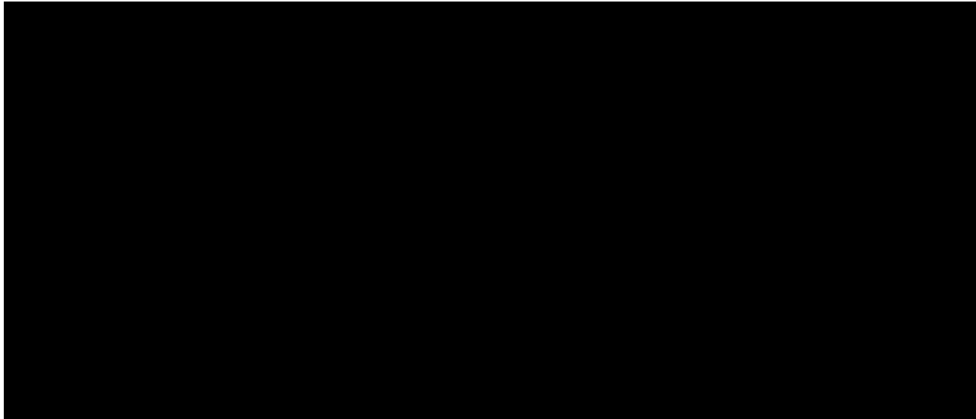
Summary

Some of the proposals contained in the consultation document are 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 Committee feels that more work needs to be done first in order to demonstrate that such proposals really will have the desired effect.

The Committee also wishes to support the principle of decisions being taken locally rather than centrally as those on the ground are 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.



6th February 2013