

Consultation Question 9:

Do you think each of the mandatory licensing conditions is effective in promoting the licensing objectives (crime prevention / public safety / public nuisance / prevention of harm to children - see glossary)?

Please state Yes / No / Don't know in each box:

		Prevention of crime and disorder	Public safety	Prevention of public nuisance	Protection of harm from children
A.	Irresponsible promotions (see condition i above)	YES	YES	YES	YES
B.	Dispensing alcohol directly into the mouth (see condition ii above)	YES	YES	YES	YES
C.	Mandatory provision of free tap water (see condition iii above)	YES	YES	YES	YES
D.	Age verification policy (see condition iv above)	YES	YES	YES	YES
E.	Mandatory provision of small measures (see condition v above)	YES	YES	YES	YES

- 7.4 Chapter 6 of this consultation invites views on whether or not to introduce a ban on multi-buy promotions in the off-trade. While the Government does not intend to apply any such ban to the on-trade, it has committed to reviewing whether the current mandatory licensing conditions sufficiently target problems such as irresponsible promotions in pubs and clubs.

Consultation Question 10:

Do you think that the mandatory licensing conditions do enough to target irresponsible promotions in pubs and clubs? (Please select one option):

Yes ☒ No ☐ Don't Know ☐

If no, please state what more could be done in the box below (keeping your views to a maximum of 100 words).

Consultation Question 11:

Are there other issues related to the licensing objectives (prevention of crime and disorder / public safety / prevention of public nuisance / protection of children from harm - see glossary) which could be tackled through a mandatory licensing condition? (Please select one option):

Yes

☐

No

☒

Don't Know

☐

If yes, please specify in the box below (keeping your views to a maximum of 200 words).

Consultation Question 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? (Please select one option):

Yes

☒

No

☐

Don't Know

☐

If no, please explain why you think the current approach is not the best approach in the box below (keeping your views to a maximum of 100 words).

8. Health as a licensing objective for cumulative impact policies

Introduction

- 8.1 We want to ensure that licensing authorities are able to take alcohol-related health harms into consideration when making decisions about cumulative impact policies (CIPs) which can be used to manage problems linked to the density of premises in specific areas. We consider that a new health-related objective for alcohol licensing related specifically to cumulative impact is the best way to achieve this.
- 8.2 Evidence shows that there is a relationship between the increased density of premises and alcohol consumption and also between density and harm.²⁰ The evidence suggests that limiting the density of premises can be an effective tool in reducing harm (see section B and Annex A of the relevant impact assessment published alongside this consultation on the Home Office website www.homeoffice.gov.uk). At the moment local areas can only take data linked to existing licensing objectives (that is usually crime and disorder, and public safety) into account when making decisions about cumulative impact and so cannot fully consider the full range of alcohol-related harms in their area (such as data on liver disease or alcohol-related deaths).
- 8.3 Cumulative impact can be considered by licensing authorities when developing their statements of licensing policy. A CIP can be introduced and included in this policy on the basis of any one or more of the four existing licensing objectives when problems are linked to the impact of a significant number of licensed premises concentrated in a specific area. The current process for CIPs is set out in paragraphs 13.19 - 13.38 of the amended guidance issued under section 182 of the 2003 Act. The guidance can be found on the Home Office website: www.homeoffice.gov.uk.
- 8.4 A CIP introduces a rebuttable presumption that all new licence applications and variations in that area will normally be refused if the licensing authority receives a relevant representation stating that the application will add to the cumulative impact. However each application must still be considered on its own merits and the licensing authority may still grant the application if it is satisfied that the application will not contribute to the cumulative impact.

Consultation

- 8.5 We are proposing that licensing authorities will be able to take evidence of alcohol-related health harm into account in deciding whether to introduce a CIP and the extent of that CIP. This would be a discretionary power and not an obligation. We expect that those areas with the highest levels of alcohol-related health harm, or fast rising levels of harm from alcohol, will be most likely to use this power. It will allow local health bodies to fully contribute to local decision making and mean licensing authorities can restrict the number of licensed premises in the local area on the basis of robust local evidence.

²⁰ For example the National Institute for Health and Clinical Excellence guidance Alcohol use disorders: Preventing the development of hazardous and harmful drinking (June 2010) and its underlying evidence review.

- 8.6 CIPs are already being used successfully by many licensing authorities to promote the existing licensing objectives. Unlike evidence currently used to support the introduction of CIPs, such as data on crime and disorder incidents, health evidence is population based (for example linked to a broader area rather than individual streets), and consideration needs to be given to how this could be incorporated within the CIP process. We want to learn from the experiences of interested parties and explore how health information could best be used in developing such policies to enable local health harms to be reduced. We will be seeking, gathering and using additional input from licensing authorities, those with experience of health data, and other practitioners on the technical details of this proposal through individual meetings and technical consultation groups.

Consultation Question 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?

Please specify in the box below, keeping your views to a maximum of 200 words.

HEALTH POLICING NOT REQUIRED.
PEOPLE (ADULTS) HAVE A RESPONSIBILITY FOR THEIR
OWN HEALTH AND LAWS SHOULD NOT BE BROUGHT
IN AFFECTING THE MAJORITY OF SENSIBLE LAW
ABIDING DRINKERS IN ORDER TO AFFECT A SMALL
MINORITY OF DRINKERS.

Consultation Question 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? (Please select one option):

Yes

☐

No

☒

Don't Know

☐

If yes, please specify which aspects in the box below, keeping your views to a maximum of 200 words.

Consultation Question 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? Please specify in the box below, keeping your views to a maximum of 200 words. Please provide evidence to support your response.

ANSWER SAME AS Q. 13.
C.I.P. NOT REQUIRED.

9. Freeing up responsible businesses

Redacted
S40
Personal Information

- 9.1 The Government has committed to consult on giving licensing authorities greater freedom to take decisions that reflect the needs of their local community. Following the Government's Red Tape Challenge in 2011, three areas of reform were specified: alcohol licensing for certain types of premises providing minimal alcohol sales, temporary event notices (TENs) and the licensing of late night refreshment. This chapter asks for views on these proposals and suggests further ways to reduce burdens on business. The proposals set out here can be considered alongside work undertaken by the Department for Culture, Media and Sport to remove unnecessary red tape from regulated entertainment.²¹

Ancillary sales of alcohol

- 9.2 For many businesses, the sale of alcohol is only a small part of, or incidental to, their wider activities, and occurs alongside the provision of another product or service (which this document refers to as an "ancillary sale"). For example, a guesthouse might wish to provide wine to its guests with an evening meal or a complimentary bottle of wine in a guest's room, while a hairdresser might wish to offer clients a glass of wine. In law, providing alcohol so that it is part of a wider contract such as this is likely to constitute a sale and therefore require a licence. Therefore such businesses are currently subject to the same licensing process as a large bar or off-licence and often may not find it worthwhile to obtain a licence for the low level of alcohol likely to be sold. For instance, these types of premises currently need to hold a premises licence and would need to have at least one personal licence holder working at the premises to authorise sales of alcohol.
- 9.3 The Government believes that there is scope to develop options to reduce some licensing burdens on such "ancillary sellers" while ensuring that irresponsible businesses cannot take advantage of loopholes and that the police and other enforcement agencies are able to enforce the law effectively.
- 9.4 In considering such proposals for deregulation, a key question will be the definition of an "ancillary sale". Here, striking the right balance between reducing burdens and ensuring that appropriate safeguards remain will be key. This consultation sets out two mechanisms to achieve this, which may not be mutually exclusive.
- 9.5 The first option (see Question 16 A) is to define ancillary sellers by reference to specific types of businesses and the kinds of sales they make, such as those examples of guesthouses or hairdressers given above in paragraph 9.2. Some specific types of businesses on which we are seeking views on including can be found in Question 17, with further suggestions invited in Question 18. This proposal would have the effect of excluding other types of businesses where sales of alcohol might still be incidental to the main business, but the risk of creating loopholes might be seen by some as higher.

²¹ The Government has consulted on proposals to deregulate entertainment licensing. The Government will publish its response to the consultation shortly.

9.6 The second option (see Question 16 B) is to broaden the definition of “ancillary sales” to include all businesses (and/or not for profit activities²²) through the use of a general set of qualification criteria, for example, to the effect that:

- alcohol must be sold or supplied as a small part or proportion of a sales transaction or contract for a wider service; and
- the amount of alcohol that could be supplied as part of that contract cannot exceed a prescribed amount.

These qualification criteria have the potential to significantly widen the types of businesses included. For example, this could include the kinds of sales that could be made where there are regular events in businesses such a book shop where an alcoholic drink is included as part of entry to a book signing event, or at a tourist attraction, such as a tour of a vineyard or distillery, where a glass of wine or whisky is included in the ticket price.

9.7 As an “ancillary seller” under either option, a premises or business would be restricted to making only those agreed limited sales of alcohol. So, for example, if a bed and breakfast wish to give guests a glass of wine as a “welcome drink” that would meet the definition of an ancillary sale, but if the business was supplying an unlimited amount through a bar, mini-bar or room service, it could not fit the definition of an “ancillary sale”. We will be exploring further as part of the technical consultation what reasonable limits could apply.

²² Subsequent references to “businesses” include not-for-profit organisations and activities.

Consultation Question 16:

Should special provision to reduce the burdens on ancillary sellers be limited to specific types of business, and/or be available to all types of business providing they meet certain qualification criteria for limited or incidental sales? (Please select one option in each row):

		Yes	No	Don't know
A	The provision should be limited to a specific list of certain types of business and the kinds of sales they make (see paragraph 9.5).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
B	The provision should be available to all businesses providing they meet certain qualification criteria to be an ancillary seller (see paragraph 9.6).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C	The provision should be available to both a specific list of premises and more widely to organisations meeting the prescribed definition of an ancillary seller, that is, both options A and B.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation Question 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? (Please select one option in each row):

		Yes	No	Don't know
A	Accommodation providers, providing alcohol alongside accommodation as part of the contract.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B	Hair and beauty salons, providing alcohol alongside a hair or beauty treatment.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C	Florists, providing alcohol alongside the purchase of flowers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
D	Cultural organisations, such as theatres, cinemas and museums, providing alcohol alongside cultural events as part of the entry ticket.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E	Regular charitable events, providing alcohol as part of the wider occasion. ²³	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation Question 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 (see glossary)? (Please write your suggestions in the box below, keeping your views to a maximum of 200 words):

²³ It should be considered that, for businesses that wish to sell alcohol on an occasional basis, the use of a Temporary Event Notice (TEN) is likely to remain a preferable option. Paragraph 9.13 describes changes we have already made to make TENs more flexible, and makes further proposals.

Consultation Question 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 (see paragraphs 9.2 and 9.3). Do you think that the qualification criteria proposed in paragraph 9.6 meet this aim? (Please select one option):

Yes

☒

No

☐

Don't Know

☐

If no, please describe the changes you would make in the box below (keeping your views to a maximum of 200 words).

- 9.8 The Government is consulting on two basic approaches which could be used to reduce the burden on premises where they have been given the status of an ancillary seller.

Option A - Removing the need for a personal licence holder

- 9.9 The first option would be to reduce the requirements and costs associated with a premises licence by enabling ancillary sellers to apply to remove the requirement that all premises have at least one member of staff acting as a Designated Premises Supervisor (DPS) and for that person to be a personal licence holder (PLH). In most cases, this requirement is necessary to ensure that a qualified person is authorising sales of alcohol and that premises are fully complying with the law.
- 9.10 However, the 2003 Act already recognises that this requirement (which means a member of staff possessing an accredited PLH qualification and meeting the cost of the personal licence fee on top of the premises licence fee) can be overly onerous and disproportionate in some cases, such as for community premises (e.g. village halls). The 2003 Act therefore currently allows community premises to apply to their licensing authority for an exemption from this requirement and we are considering broadening this to also exempt ancillary sellers. As for community premises, it would be expected that an ancillary seller would apply for this exemption at the same time as making an application for a premises licence, with no extra fee or process necessary.