

## **BRIEFING NOTE – JANUARY 2013**

# **GOVERNMENT CONSULTATION ON DELIVERING POLICIES TO CUT ALCOHOL FUELLED CRIME AND ANTI-SOCIAL BEHAVIOUR**

### **1.0 Introduction**

The Government have published a consultation document which outlines proposals and poses questions on five key areas previously set out in the Government's Alcohol Strategy which was first published in March 2012.

The five areas are:

- The price level and mechanisms for a minimum unit price for alcohol;
- Introducing a ban on multi-buy promotions in the off-trade;
- Reviewing the mandatory licensing conditions;
- Introducing health as a licensing objective for cumulative impact policies; and
- Reducing the burden of regulation on responsible businesses.

### **2.0 Government Alcohol Strategy**

The Government has given a commitment to the introduction of a minimum unit price for alcohol. However, in the other areas covered by this consultation, the Government is seeking views on the introduction of policies associated with the sale of alcohol.

The Government have indicated that the policies proposed in the consultation document are not intended to stop responsible drinking or adding unnecessary burdens on businesses, but is regarded as fast action that the Government can take to tackle the health and crime harms caused by excessive alcohol consumption.

The consultation document should be read in conjunction with the Alcohol Strategy together with the impact assessments produced in respect of the individual proposals. All these documents can be found on the Home Office website: [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk).

### **3.0 Proposals**

#### **3.1 A minimum unit price for alcohol**

The purpose of minimum unit<sup>1</sup> pricing is to reduce excessive alcohol consumption, in particular by the most hazardous and harmful drinkers who tend to show a preference for the cheapest alcohol products.

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<sup>1</sup> A "unit" of alcohol is defined as 10ml by volume or 8g by weight, of pure alcohol (ethanol). The number of units in a particular alcohol product will therefore depend on the volume of that product and its alcoholic strength (alcohol by volume or ABV).

The Government is of the view that:

- Unlike moderate drinkers, harmful drinkers are less likely to switch to cheaper drinks if prices rise;
- Harmful drinkers will reduce their consumption more as a result of a minimum unit price set at a proportionate level than moderate drinkers;
- As a result there will be a reduction in the associated crime and health harms, especially hospital admissions, alcohol-related deaths and alcohol related crimes.

The Government is seeking views on the appropriate price per unit and the mechanism by which minimum unit pricing would remain effective. It wants to ensure that the chosen price level is targeted and proportionate, whilst achieving a significant reduction of harm.

The consultation document suggests the introduction of a recommended minimum unit price of 45p

### **3.2 Consultation Questions**

1. Do you agree that this minimum unit price level is targeted and proportionate, whilst achieving a significant reduction of harm?
  - Yes
  - No
  - Don't know
2. Should other factors or evidence be considered when setting a minimum unit price for alcohol?
  - Yes (please specify these)
  - No
  - Don't know
3. How do you think the level of minimum unit price set by the Government should be adjusted over time?
  - Do nothing – the minimum unit price should not be adjusted
  - The minimum unit price should be automatically updated in line with inflation each year
  - The minimum unit price should be reviewed after a set period
  - Don't know
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?

- Yes (please specify)
- No
- Don't know

### **3.3 A ban on multi-buy promotions in the off-trade**

The term multi-buy promotions refers to alcohol promotions that offer a discount for buying multiple items.

The Government is concerned that these promotions contribute to the availability of irresponsibly priced alcohol, particularly through promotions which encourage large volumes of alcohol to be purchased.

The purpose of the introduction of a ban would be to stop promotions that encourage people to buy more than they otherwise would, making it cheaper (per item) to purchase more than one of a product than to purchase a single item.

This would include:

- 2 for the price of 1
- 3 for the price of 2
- Buy 1 get 1 free
- 3 for £10

The Government is consulting on the introduction of a ban on multi-buy promotions in the off-trade as part of its wider strategy to reduce excessive alcohol consumption, and alongside the introduction of a minimum unit price. A ban on multi-buy promotions does not apply to pubs, clubs, bars or restaurants.

### **3.4 Consultation Questions**

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

- Yes
- No
- Don't know

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

- Yes (please specify)
- No
- Don't know

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

- Yes (please specify)
- No
- Don't know

8. The aim of a ban on multi-buy promotions is to stop promotions that encourage people to buy more than they otherwise would, helping people to be aware of how much they drink, and to tackle irresponsible alcohol sales. Do you think that there are any other groups that could be particularly affected by a ban on multi-buy promotions?

- Yes (please specify)
- No
- Don't know

### **3.5 Reviewing the mandatory licensing conditions**

The Government made a commitment to reviewing the impact of the current mandatory licensing conditions to ensure they are sufficiently targeting problems such as irresponsible promotions in clubs or pubs. This commitment includes consultation as to whether the mandatory licensing conditions should, where relevant, apply to both the on and off-trade.

The five mandatory licensing conditions currently set out in regulations in relation to the supply of alcohol are:

- A ban on irresponsible promotions
- A ban on dispensing alcohol by one person directly into the mouth of another;
- A requirement to provide free tap water on request to customers;
- A requirement to have an age verification policy to prevent the sale of alcohol to persons under 18 years of age;
- A requirement to make available to customers small measures such as half pints or beer or cider or 125ml glasses of wine.

### **3.6 Consultation Questions**

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)?

- Yes
- No
- Don't know

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

- Yes
- No (please state what more could be done)
- Don't know

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

- Yes (please specify)
- No
- Don't know

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?

- Yes
- No (please explain why)
- Don't know

### **3.7 Health as a licensing objective for cumulative impact policies**

The Government want to ensure that licensing authorities are able to take alcohol-related health harms into consideration when making decisions about cumulative impact policies which can be used to manage problems linked to the density of premises in specific areas.

The Government has considered evidence that:

- There is a relationship between the increased density of premises and alcohol consumption; and
- That limiting the density of premises can be an effective tool in reducing harm.

The Government proposes that:

- Licensing authorities will be able to take evidence of alcohol-related health harm into account when deciding to introduce a cumulative impact policy;
- 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;
- Will allow health bodies to fully contribute to local decision making; and
- Will allow licensing authorities to restrict the number of licensed premises in the local area on the basis of robust local evidence.

Whilst cumulative impact policies are already being successfully used by licensing authorities to promote the licensing objectives where evidence is available linked to a particular area, health evidence is population based (e.g. linked to a broader area rather than individual streets).

Therefore the Government wants to give consideration as to how health evidence can be incorporated within the cumulative impact process.

### **3.8 Consultation Questions**

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

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

- Yes (please specify)
- No
- Don't know

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?

### **Freeing up responsible businesses**

### **3.9 Ancillary sales of alcohol**

For many businesses, the sale of alcohol is only a small part of, or incidental to, their wider activities, and takes place alongside the provision of another product or service (the consultation document refers to this as an “ancillary sale”). Examples include:

- Guest house might provide a glass of wine with an evening meal for guests;
- Complimentary bottle of wine in a guest's room; or
- Hairdresser offering clients a glass of wine.

Currently, the above examples would constitute a sale and therefore require a licence.

The Government believes that there is scope to develop options to reduce some of the burden on “ancillary sellers” but also want to ensure that irresponsible businesses cannot take advantage of any unintended loopholes and allow the police and other enforcement agencies to enforce the law effectively.

One of the key questions in reducing any burden will be defining what constitutes an “ancillary sale” The right balance needs to be struck so as to reduce the burden but ensuring at the same time that appropriate safeguards are in place.

The Government have put forward two options to achieve this which are:

- Define ancillary sellers by reference to specific types of businesses and the kinds of sales they make; or
- Broaden the definition of “ancillary sales” to included all businesses (and/or not for profit activities) through the use of a general set of qualification criteria

Under either of the above options, a premises or business would be restricted to making only those limited sales of alcohol. 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 be regarded as an “ancillary sale”.

### **3.10 Consultation Questions**

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 for each statement)

A. The provision should be limited to a specific list of certain types of business and the kinds of sales they make.

- Yes
- No
- Don't know

B. The provision should be available to all businesses providing they meet certain qualification criteria to be an ancillary seller.

- Yes
- No
- Don't know

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.

- Yes
- No
- Don't know

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 for each statement)

A. Accommodation providers, providing alcohol alongside accommodation as part of the contract.

- Yes
- No
- Don't know

B. Hair and beauty salons providing alcohol alongside a hair or beauty treatment.

- Yes
- No
- Don't know

C. Florists, providing alcohol alongside the purchase of flowers.

- Yes
- No
- Don't know

D. Cultural organisations, such as theatres, cinemas and museums, providing alcohol alongside cultural events as part of the entry ticket.

- Yes
- No
- Don't know



E. Regular charitable events, providing alcohol as part of the wider occasion<sup>2</sup>

- Yes
- No
- Don't know

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?

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 that the proposal to broaden the definition of “ancillary sales” meets this aim?

- Yes
- No (please describe the changes you would make)
- Don't know

20. Do you think that any of the following proposals would significantly reduce the burdens on ancillary sellers? (Please select one option for each statement)

A. Allow premises making ancillary sales to request in their premises licence application that the requirement for a personal licence holder be removed.

- Yes
- No
- Don't know

B. Introduce a new, light-touch form of authorisation for premises making ancillary sales – an “ASN” but retain the need for a personal licence holder.

- Yes
- No
- Don't know

C. Introduce a new, light touch form of authorisation for premises making ancillary sales – an “ASN” – with no requirement for a personal licence holder.

- Yes

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<sup>2</sup> 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.

- No
- Don't know

21. Do you think that the following proposals would impact adversely on one or more of the licensing objectives? (Please select one option for each statement)

A. Allow premises making ancillary sales to request in their premises licence application that the requirement for a personal licence holder be removed.

- Yes
- No
- Don't know

B. Introduce a new, light-touch form of authorisation for premises making ancillary sales an – “ASN” but retain the need for a personal licence holder

- Yes
- No
- Don't know

C. Introduce a new, light touch form of authorisation for premises making ancillary sales – an ASN – with no requirement for a personal licence holder.

- Yes
- No
- Don't know

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

### **3.11 Occasional provision of licensable activities at community events**

The Licensing Act 2003 provides for a system of notifications for temporary events (TENS) in order to provide occasional events where licensable activities are intended to take place. The Government has recently amended the law so as to allow environmental health to make objections and also has made the process more flexible by:

- Enabling licensing authorities to accept “late” TENS
- Extending the maximum duration of a TEN.

The Government are now considering whether there is scope to make further radical changes to allow individual licensing authorities to determine their own, less burdensome, TEN processes should they so wish.

It is proposed that licensing authorities should be able to allow holders of community events to notify them of their intention to provide licensable activities by way of a process determined by the licensing authority (ie by way of email or letter) instead of applying for a TEN. For example, this could mean that community groups could notify their licensing authority of all their upcoming events involving licensable activities for a certain period (such as the year ahead).

It is recognised that licensing authorities and Police could have concerns that such a mechanism could create loopholes or make processes more bureaucratic locally. However, the Government intends that any decision to introduce a local approach would be entirely at the discretion of the Licensing Authority.

As an additional safeguard, it is proposed that the current TEN process should continue to be available in conjunction with any local approach to ensure that a consistent process remains available.

### **3.12 Consultation Questions**

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?

- Yes
- No
- Don't know

24. What impact do you think a locally determined notification would have on organisers of community events? (Please select one option for each statement)

A. Reduce the burden

- Yes
- No
- Don't know

B. Increase the burden

- Yes
- No
- Don't know

### **3.13 Extension of the TEN limit at individual premises**

There is currently a limit of 12 TENs per year at individual premises. The Government is proposing that the number of TENs which can be given in respect of individual premises can be increased from 12 to either 15 (an increase of 25%) or 18 (an increase of 50%).

### **3.14 Consultation Questions**

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

- Yes
- No
- Don't know

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

- 15
- 18
- Don't know

### **3.15 Late night refreshment**

Late night refreshment is the provision of hot food and drink to the public after 11pm and before 5 am. Such activities need a licence because of the problems that can occur, eg, disturbance outside late night takeaways etc.

Whilst the Government consider that regulation of late night refreshment should continue, it believes that there is scope to reduce the burdens of licensing requirements for businesses that provide late night refreshment but do not sell alcohol and are not associated with the alcohol-related late night economy.

Therefore, the Government is consulting on two proposals, which are not mutually exclusive, as follows:

- The introduction of local discretion as to whether late night refreshment should be licensable, which can be achieved in two ways by either:
  - Licensing authorities could be given powers to determine that premises providing late night refreshment (and no other licensable activities) should be exempt from the requirement to have an authorisation under the Act in certain parts of their area; or
  - Licensing authorities could exempt certain types of premises in their area.

- To add new centrally prescribed exemptions to the Act, similar to those that already apply to the provision of late night refreshment to which access is limited (such as workplace canteens or private clubs) and other exemptions which include hot-drink vending machines and the provision of late night refreshment by a charity.

The Government also is proposing to exempt motorway service areas (MSAs) on the basis that they are not part of the wider night time economy, and indeed could be considered as totally separate because the late night refreshment they provide is not linked to alcohol consumption.

### **3.16 Consultation Questions**

27. Do you think that licensing authorities should have local discretion around late night refreshment in each of the following ways (Please select one option for each statement)

A. Determining that premises in certain areas are exempt.

- Yes
- No
- Don't know

B. Determining that certain premises types are exempt in their local area.

- Yes
- No
- Don't know

28. Do you agree that motorway service areas should receive a nationally prescribed exemption from regulations for the provision of late night refreshment (Please select one option)

- Yes
- No
- Don't know

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

### **Further proposals to reduce burdens on business**

#### **3.17 Removal of requirement to advertise licensing applications in a local newspaper**

Currently, those applying for new premises licences and club premises certificates or making an application to vary a licence or certificate must advertise their applications in a

local newspaper or circular. (This does not apply to minor variations of a licence or certificate).

The Government are proposing to remove this requirement.

**3.18 Remove the centrally imposed prohibition on the sale of alcohol at Motorway Service Areas for the on and off-trade, or remove the centrally imposed prohibition on the sale of alcohol at Motorway Service Areas but only in respect of overnight accommodation – “lodges”**

The Government is considering deregulating more widely elements of the ban on alcohol sales that apply to motorway service areas (MSAs). Current licensing legislation and Government guidance results in a general prohibition of the sale of alcohol at MSAs.

Options under consideration are:

- Lifting the centrally imposed restriction and make on-sales and off-trade sales of alcohol at MSAs a matter for licensing authorities to determine locally; and
- Whether lodges and other overnight accommodation at MSAs should be able to serve alcohol to residents.

The Government acknowledges that these proposals must be balanced against strong messages against drink-driving.

**3.19 Remove or simplify requirements to renew personal licences under the 2003 Act**

Under the Licensing Act, each sale of alcohol under a premises licence must be made under the authority of a personal licence holder. All personal licences must be renewed after a ten-year period.

The consultation seeks views on whether this requirement should be removed or simplified to reduce the burden on responsible businesses.

The onus would continue to be on holders of personal licences to ensure that their licences are up-to-date in terms of personal details and photograph and to declare any convictions for any relevant offences.

Various criminal offences exist for failing to make these declarations and the police have powers to check personal licences.

Additionally, sentencing guidelines also refer to powers to order forfeit of a personal licence if a holder is convicted of a relevant offence.

### **3.20 Consultation Questions**

30. Do you agree with each of the following proposals? (Please select one option for each statement)

A. Remove requirements to advertise licensing applications in local newspapers.

- Yes
- No
- Don't know

B. Remove the centrally imposed prohibition on the sale of alcohol at motorway service areas for the on and off-trade.

- Yes
- No
- Don't know

C. Remove the centrally imposed prohibition on the sale of alcohol at motorway service areas but only in respect of overnight accommodation – “lodges”.

- Yes
- No
- Don't know

D. Remove or simplify requirements to renew personal licences under the 2003 Act.

- Yes
- No
- Don't know

31. Do you think that each of the following would reduce the overall burdens on business? (Please select one option for each statement)

A. Remove the requirements to advertise licensing applications in local newspapers

- Yes
- No
- Don't know

B. Remove the centrally imposed prohibition on the sale of alcohol at motorway service areas for the on and off trade.

- Yes

- No
- Don't know

C. Remove the centrally imposed prohibition on the sale of alcohol at motorway service areas but only in respect of overnight accommodation – “lodges”.

- Yes
- No
- Don't know

D. Remove or simplify requirements to renew personal licences under the 2003 Act.

- Yes
- No
- Don't know

32. Do you think that the following measures would impact adversely on one or more of the licensing objectives? (Please select one option for each statement)

A. Remove the requirements to advertise licensing applications in local newspapers

- Yes
- No
- Don't know

B. Remove the centrally imposed prohibition on the sale of alcohol at motorway service areas for the on and off trade.

- Yes
- No
- Don't know

C. Remove the centrally imposed prohibition on the sale of alcohol at motorway service areas but only in respect of overnight accommodation – “lodges”.

- Yes
- No
- Don't know

D. Remove or simplify requirements to renew personal licences under the 2003 Act.

- Yes
- No
- Don't know



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?

34. Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposals? (Please select one option for each statement)

A. Minimum unit pricing

- Yes
- No
- Don't know

B. Multi-buy promotions

- Yes
- No
- Don't know

C. Health as a licensing objective for cumulative impact.

- Yes
- No
- Don't know

D. Ancillary sales of alcohol

- Yes
- No
- Don't know

E. Temporary Event Notices

- Yes
- No
- Don't know

F. Late night refreshment

- Yes
- No
- Don't know

G. Removing the duty to advertise licence applications in a local newspaper

- Yes
- No
- Don't know

H. Sales of alcohol at motorway service stations

- Yes
- No
- Don't know

I. Personal licences

- Yes
- No
- Don't know

35. Do you have any comments on the methodologies or assumption used in the impact assessments? If so please detail the, referencing clearly the impact assessment and page to which you refer.

- Yes (please specify)
- No
- Don't know