



SAFE. SENSIBLE. SOCIAL.
SELLING ALCOHOL
RESPONSIBLY:
A CONSULTATION ON THE
NEW CODE OF PRACTICE
FOR ALCOHOL RETAILERS

England and Wales

Contents

| | |
|--|----|
| Ministerial Foreword | 3 |
| Chapter 1 – Executive summary | 5 |
| Chapter 2 – Overview | 9 |
| Chapter 3 – Mandatory licensing conditions | 17 |
| Chapter 4 – Discretionary local licensing conditions | 28 |
| Chapter 5 – Making the mandatory and locally applied conditions work | 44 |
| Chapter 6 – Statutory guidance | 51 |
| Chapter 7 – Responding to the consultation | 56 |
| Annexes | 58 |



Ministerial Foreword

Drinking alcohol plays a long-standing and generally positive role in British culture. Pubs, bars and clubs are an important part of many people's social and family life and contribute valuable revenue to the economy.

The Government plays an important role in ensuring people make informed choices about the amount they drink, and in making sure people who sell alcohol do so responsibly.

We are consulting on a new code of practice to ensure the responsible retailing of alcohol. This consultation seeks your views on a range of proposed mandatory licensing conditions across England and Wales, on a series of proposed conditions that could be applied by licensing authorities at a local level, and on how they should operate. The consultation also seeks views on a proposed requirement to display alcohol unit information through the Food Safety Act.

Since the publication of the updated National Alcohol Strategy in 2007 a number of initiatives have been implemented. These include the development of 13 alcohol arrest referral pilots to influence the behaviour of those arrested for an alcohol-related offence, with a further 6 pilots targeting young people; a number of successful enforcement campaigns tackling under-age sales and selling to drunks; and enforcement campaigns including £3 million of alcohol-related partnership activity funding given to 198 areas and a £1.5 million enforcement campaign to tackle alcohol-related crime and disorder in the top 50 priority areas. In addition, we have published a Youth Alcohol Action Plan to tackle underage drinking and launched the £4 million 'Know Your Limits' campaign encouraging personal responsibility for drinking behaviour.

While we are seeing some success in making sure that people drink responsibly and that those who do not are dealt with swiftly, more needs to be done to tackle the way that alcohol is sold.

Last December we set out our intention to legislate for a mandatory code of practice for the alcohol retail industry. This code will set out a number of mandatory licensing conditions for alcohol retailers across England and Wales and will give local licensing authorities wide-ranging and flexible new powers to clampdown on specific problems that are linked to groups of premises in their area. These powers will not affect the majority of businesses, small or large, who behave responsibly – but it is intended to firmly target those that do not. Contrary to concerns raised at the time, the introduction of flexible opening hours has not led to an increase in violence; we have actually seen a reduction in violence, which has also been distributed more widely through the night making it more manageable. This code is the next step in our programme to continue to tackle alcohol-related crime and disorder.

I understand there may be concerns about imposing new costs on industry during a period of economic downturn. However, the benefits of the proposed package of measures not only include the prevention of crime, disorder and nuisance, but also support the Government's policy outlined in *'Looking after our town centres'*¹ by tackling places plagued by alcohol-related problems and helping to establish safer and more attractive town and city centres.

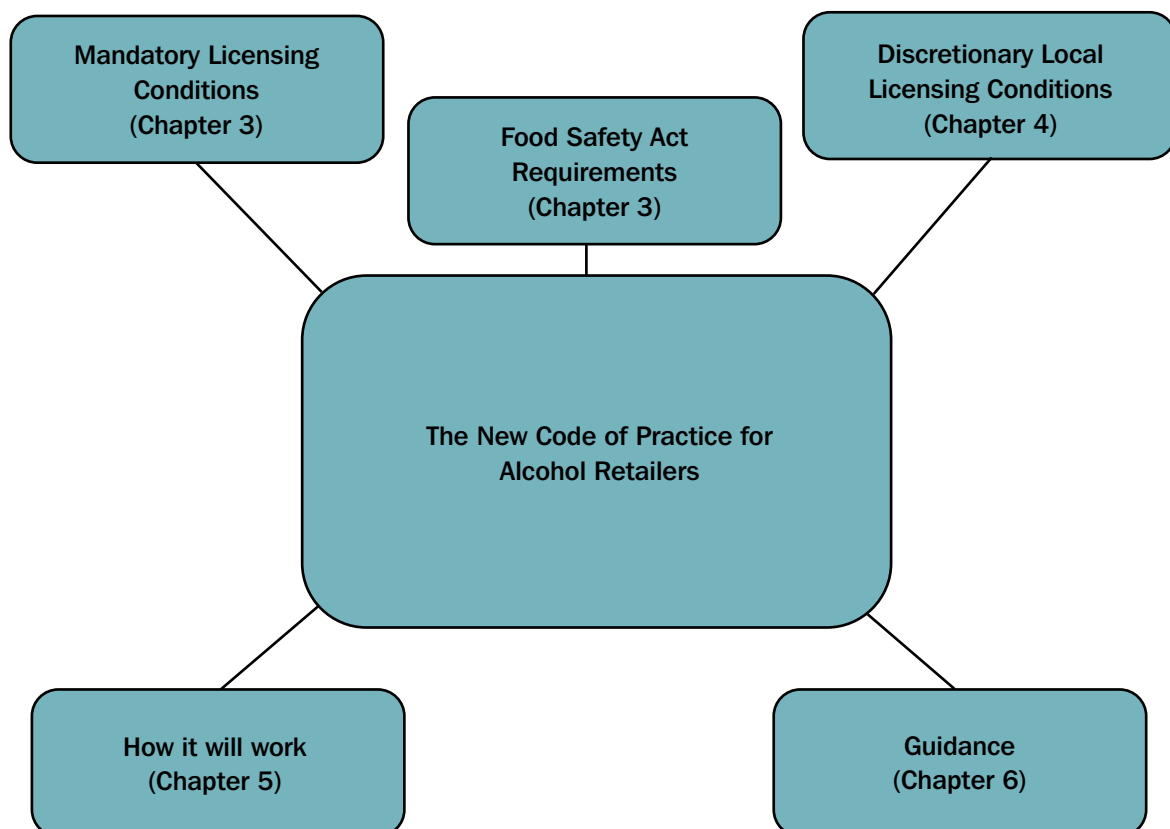
I want this consultation to engage with members of the public, all sectors of business, licensing authorities, enforcement bodies and the licensed trade. I very much encourage you to join the debate, have your say and help shape how alcohol is sold in the future.

Jacqui Smith
Home Secretary

¹ Communities and Local Government (2009) *Looking after our town centres*.

HOW TO USE THIS DOCUMENT

- A good place to start is with the Executive Summary on page 5 and the ‘at a glance’ table on page 7, which introduces the issues involved and the changes proposed;
- At the end of each section there is a set of consultation questions. We would particularly like to receive responses to these from: members of the public; those who sell and supply alcohol and their trade associations; and licensing authorities, enforcement agencies and health bodies. A printout response form with all the questions can be found at Annex A on page 58 or can be completed online at <http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/>; and
- A glossary explaining some of the terms and abbreviations used can be found at the end of the document in Annex D on page 78, and the information summary is in Annex C on page 75.



Chapter 1: Executive Summary

- 1.1 Enjoying alcohol is a positive part of the lives of many people, but the excessive drinking of a minority is clearly linked with the types of violence and antisocial behaviour that cause harm to them and those around them, turning some town centres into places avoided by most of the community.
- 1.2 There are also a minority of licensed premises that put people at risk by encouraging excessive drinking through irresponsible promotions and maintaining an environment that undermines the four licensing objectives that underpin the Licensing Act 2003; namely to prevent crime and disorder, prevent public nuisance, protect public safety and protect children from harm.
- 1.3 It is up to individuals to decide whether to drink and, if so, how much and how often. Furthermore, individuals must take responsibility for their actions when they are under the influence of alcohol. Those who retail alcohol also have a responsibility to protect their customers, members, the public and communities.
- 1.4 The public is rightly concerned about drunk and rowdy behaviour in their local areas: the level of violence in and around some pubs and clubs is unacceptably high; too many under-18s are able to purchase alcohol and put themselves and others at risk; and the cost of alcohol-related crime and disorder remains too high, estimated at between £8 billion and £13 billion per year.
- 1.5 The Government is taking a wide range of actions to tackle these problems, as set out in its Alcohol Strategy. This includes tough action on under-18s drinking in public places, more treatment for those with alcohol misuse problems and efforts to tackle the increasing numbers of alcohol-related hospital admissions.
- 1.6 In November 2005, 16 trade associations and organisations representing the alcohol industry published the *Social responsibility standards for the production and sale of alcoholic drinks in the UK*. This provided a voluntary code of conduct intended to promote the broader social responsibilities that go with the sale of alcohol and to ensure that the risk of crime and disorder resulting from alcohol consumption was minimised.
- 1.7 The Home Office commissioned an independent review of the implementation of this voluntary code in January 2008. Whilst the majority of premises are well-run, the review revealed a disturbing level of irresponsible and harmful practice in significant sectors of the industry, along with limited evidence that the current social responsibility standards are consistently applied or effective in promoting good practice.
- 1.8 The Government set out the case for the introduction of a set of mandatory conditions to improve the retail of alcohol, to ensure that irresponsible promotions were stopped and that licensed premises should be made to act responsibly towards their customers and the general public, in a consultation in July 2008. The responses to this consultation were overwhelmingly in support of such a code.
- 1.9 Moreover, the police and other key organisations have told us that more needs to be done to tackle groups of premises in areas where alcohol-fuelled crime and disorder is a problem.
- 1.10 We are committed to taking the action necessary to both prevent the sales practices that most clearly lead to alcohol-related violence, public nuisance, crime and disorder and to encourage best practice. The introduction of these conditions will be brought about through measures within the Policing and Crime Bill that is currently before Parliament.
- 1.11 Another important element of the Government's Alcohol Strategy is to raise awareness of the alcohol unit content of drinks and the health risks of excessive drinking. This consultation therefore also includes proposals for statutory requirements under the Food Safety Act for alcohol unit and health information to be displayed for customers.
- 1.12 So far as they are exercisable in relation to Wales, the relevant Food Safety Act powers rest with the Welsh Ministers, who are considering the position in relation to Wales. The Welsh Assembly Government supports the principle of providing better information to consumers about the alcohol unit content of drinks and the health risks of excessive drinking and likewise welcomes consultation responses.

The new code of practice for the retail of alcohol would include:

- **mandatory licensing conditions** that will apply to licensed premises;
- a requirement to display **alcohol unit content and health related information**;
- **discretionary local licensing conditions** that can be applied to groups of two or more premises in any local area that have been clearly linked to alcohol-related nuisance and disorder; and
- **statutory guidance** to support the conditions and requirements, maximising the positive impact of the code, and good practice guidance.

1.13 The conditions, requirements and guidance contained in the code are designed to bring about real reductions in crime and disorder, making it safer for people to enjoy alcohol responsibly and to go out at night. The licensing conditions are designed to be targeted on the minority of businesses who do not behave responsibly and therefore will not affect the responsible majority of businesses, small or large.

1.14 This consultation seeks your views on whether the suggested conditions and requirements will meet their objectives, and how they should be implemented most effectively. We are keen to hear from everyone who will be affected by the new code, including members of the public who are consumers of alcohol or who are affected by alcohol-related crime, those who run or work in pubs, clubs, supermarkets and shops, criminal justice agencies, licensing authorities, and trade associations representing those who produce and sell alcohol. This consultation seeks views, experiences and evidence of the practical impact, costs and benefits of the conditions outlined here, and also invites industry to contribute draft sections for consideration in the development of the good practice guidance. We are also seeking views on whether certain types of licensed premises should be exempted from the mandatory conditions and/or the national requirements.



© Mitchells & Butler (Crown & Sceptre, Foley St, London W1)

AT A GLANCE: A NEW CODE OF PRACTICE FOR THE RESPONSIBLE RETAIL OF ALCOHOL

1.15 Government is consulting in order to seek views on a new code of practice that aims to ensure the responsible retail of alcohol and to ban the sort of irresponsible promotions that encourage excessive binge drinking and lead people into crime and disorder. The code will help to meet the four licensing objectives of preventing public nuisance, crime and disorder and protecting children and the wider public from harm. The code consists of:

| Code | Purpose and Rationale | How will it work? | Conditions include |
|---|--|---|---|
| MANDATORY CONDITIONS (Chapter 3) | To bring into force an effective ban on irresponsible promotions and to enforce responsible behaviour by those licensed to sell or supply alcohol, ensuring that all licence holders fulfil their duty to promote the licensing objectives and protect their customers and the wider public. | There will be a maximum of nine conditions that will apply to all relevant alcohol licences consistently across England and Wales. The final set of mandatory conditions, and which types of premises they will apply to, will be agreed following the conclusion of this consultation and further work, and will then be set out in a Statutory Instrument that must be approved by Parliament before coming into force. | <ul style="list-style-type: none"> Prevention of irresponsible alcohol promotions such as 'women drink free' or 'all you can drink for £10'; Free tap water available for customers; and A requirement that the smallest standard measures be made available to prevent the automatic selling of doubles or large glasses of wine. |
| NATIONAL REQUIREMENT FOR INFORMATION AT THE POINT-OF-SALE (Chapter 3) | To enable customers to understand the alcohol content of drinks and the links between excessive or binge drinking and health risks to help people make informed choices about levels of alcohol consumption. | Regulations under the Food Safety Act 1990 would require premises licensed to sell alcohol to display the UK unit content of alcohol products, and for off-licensed premises to be required to display information about the health risks of regular excessive drinking and binge drinking. | Regulations would prescribe the type of information to be displayed, the means and location of displays on premises, which types of premises are included, and would take into account consultation responses. NB: <i>This is separate to, and so will not affect, the voluntary agreement the Government has with the industry to show the unit content and health guidelines on labels for each bottle or container. Compliance with this agreement is being assessed separately.</i> |
| DISCRETIONARY LOCAL LICENSING CONDITIONS (Chapter 4) | To provide a menu of potential conditions that can be applied to groups of two or more premises in an area where those premises are contributing to alcohol-related nuisance and disorder. This will allow local licensing authorities to tackle alcohol-related problems in their area which are contributed to by groups of licensed premises. | There will be a list of discretionary licensing conditions that can be chosen and applied to groups of two or more licensed premises by licensing authorities in England and Wales. The final set of local discretionary conditions will be agreed following the conclusion of this consultation and further work, and will then be set out in a Statutory Instrument that must be approved by Parliament before coming into force. | <ul style="list-style-type: none"> A requirement that those selling alcohol ask for identification from anyone who is thought to be under 21 years of age; Restrictions on happy hours and pub crawls during times associated with crime and disorder; Restrictions on bulk discounting of alcohol in shops and supermarkets; Alcohol must not be served in glasses during times associated with crime and disorder; and Licensees must implement an effective dispersal policy at closing time. |
| STATUTORY GUIDANCE (Chapter 6) | Accompanying guidance will be developed to ensure the effective implementation, use and enforcement of the code. | Extension to the statutory guidance under section 182 of the Licensing Act 2003 that licensing authorities must have regard to. Extension to the statutory guidance section 40 of the Food Safety Act 1990 that food authorities must have regard to. Both will be developed in partnership with key enforcement and alcohol industry stakeholders and experts. Good practice guidance will also be developed. | Additional guidance will draw on examples of good practice and existing codes of practice and standards. Examples of good practice include the Cambridge Community Alcohol Project, the Portman Group Code and the Social Responsibility Standards. NB: <i>Industry stakeholders are invited to develop and contribute sections of good practice to be considered in the development of the guidance.</i> |

AT A GLANCE: SUMMARY OF KEY PROBLEMS FOR THE CODE OF PRACTICE TO ADDRESS

| Licensing Objective | Crime and Disorder | Public Safety | Public Nuisance | Protection of Children from Harm |
|---|---|--|---|--|
| Problems for the Code to address | <ul style="list-style-type: none"> £8–13 billion cost of alcohol-related crime and disorder per year.² Nearly half of all violent crime occurs between Friday evening and Monday morning.³ A fifth of all violent crime occurs in and around licensed premises.³ Violent crime is falling but the proportion of alcohol-related violent crime remains static.³ 87,000 violent incidents involving a glass or a bottle as a weapon in 2007/08.³ 37% of domestic violence cases involve alcohol.³ | <ul style="list-style-type: none"> Injuries or accidents caused either to an intoxicated individual or others as a result of drunken behaviour. These may be evidenced by local A&E attendances, for example. People, in particular vulnerable groups, feel unsafe in the evening or after dark. | <ul style="list-style-type: none"> Public perceptions of drunk and rowdy behaviour as a problem in their area have risen to 26%.³ Noise pollution from those leaving licensed premises. Broken glass in the street. | <ul style="list-style-type: none"> Surveys suggest that among those young people who try to buy alcohol from shops or pubs, many are still successful in their attempts to purchase it while underage.⁴ Although the test purchase failure rate (i.e. where a premises is caught selling alcohol to underage people more than once) is falling, it remains too high. Growing concern about underage sales of alcohol online. |
| Policy | <p><i>Safe. Sensible. Social. The next steps in the National Alcohol Strategy</i></p> <p>Public Service Agreement 25 – <i>Reducing the harm caused by alcohol and drugs</i></p> <p><i>Youth Alcohol Action Plan</i></p> | | | |

POTENTIAL SOURCES OF PROBLEMS

| On-trade | Off-trade |
|--|---|
| <ul style="list-style-type: none"> Irresponsible promotions that lead to customers drinking in greater quantities or more quickly. Being denied the option of smaller measures, such as single spirits or small glasses of wine. No viable alternative to alcohol available – expensive soft drinks and no free tap water. Environments that are too noisy, leading to quicker drinking. Not having anywhere to sit down, leading to faster drinking. | <ul style="list-style-type: none"> 'Pre-loading' at home before going out by drinking large amounts of cheap alcohol. Deep discounting incentivising the purchase of very large quantities of alcohol. Cheap drinks with high alcohol content being sought after by street drinkers and young people. Alcohol purchases being consumed in public places – on the streets or in parks. |

² See Annex H.

³ According to the British Crime Survey.

⁴ NHS Information Centre (2007) *Smoking, drinking and drug use among young people in England in 2006*.

Chapter 2: Overview

INTRODUCTION

- 2.1 As we recognise in the National Alcohol Strategy^{5,6} our relationship with drink in this country is complex. Encouraging everyone who decides to drink to do so in a safe, sensible and social way is a big challenge. The majority of adults who drink do so sensibly – although we may drink more than we think we do, or plan to, at times. But drunken violence, vandalism and packed Accident and Emergency Departments remain an issue for many town and city centres up and down the country each week. The latest figures suggest that the estimated annual cost to society of alcohol-related crime and disorder is between £8 billion and £13 billion, with the costs for health harms estimated at approximately £2.7 billion.
- 2.2 The majority of individuals who drink alcohol, do so sensibly and should not be subjected to unnecessary restrictions. The majority of licensed premises sell alcohol responsibly⁷ and they should not be subjected to unfair burdens on their businesses. Pubs, bars, clubs, hotels and restaurants, which together employ over 1 million people in the UK, are an important part of many people's social and family life. Alcohol can enhance meal times, special occasions and time with friends.
- 2.3 Ultimately, the decision as to whether people drink or not and how much they drink is down to individual choice. But Government has an important role to play: in making sure that all businesses sell alcohol responsibly; in making clear that this individual choice is never an excuse for causing harm or distress to others or for turning certain places into 'no-go' areas; and in making sure that people are able to make informed choices if they choose to drink.
- 2.4 Getting this balance right is not easy. The challenge for Government is to tackle these problems in a way that does not unfairly punish the majority who drink responsibly or sell alcohol responsibly and provide valuable contributions to the economy.

- 2.5 The purpose of introducing a new code of practice for alcohol retailers is to raise standards in how licensed premises operate, ensuring that they are all safe places for the public to enjoy socialising, and that they take seriously their responsibility to promote the four licensing objectives, and promote specific information for consumers related to alcohol and health, to help people to make informed choices about alcohol consumption.
- 2.6 The Home Office is responsible for the Policing and Crime Bill which contains the provision for the new code, and has co-ordinated the development of the proposed conditions in this consultation. It has worked in close partnership with all interested Departments across Government. In particular, these include: the Department for Culture, Media and Sport, which is responsible for licensing law and policy and for sponsoring the hospitality industry; the Department of Health, which jointly leads on the Government's Alcohol Strategy; the Department for Children, Schools & Families, responsible for preventing harm to children; the Department for Business, Enterprise and Regulatory Reform, with responsibilities for better regulation, support for small businesses, competition policy and consumer protection; the Department for Environment, Food and Rural Affairs, which sponsors the off-trade and alcohol producers; and HM Treasury.

THE SCALE OF THE PROBLEM

- 2.7 Overall crime is falling and the number of violent offences has also fallen significantly in recent years (see *Figure 1*), with the numbers of violent offences that are alcohol-related also falling.
- 2.8 For the last few years, the evidence from victims responding to the British Crime Survey suggests that alcohol-related crime makes up almost half of all violent crime committed in England and Wales⁸, equivalent to 947,000 violent offences.

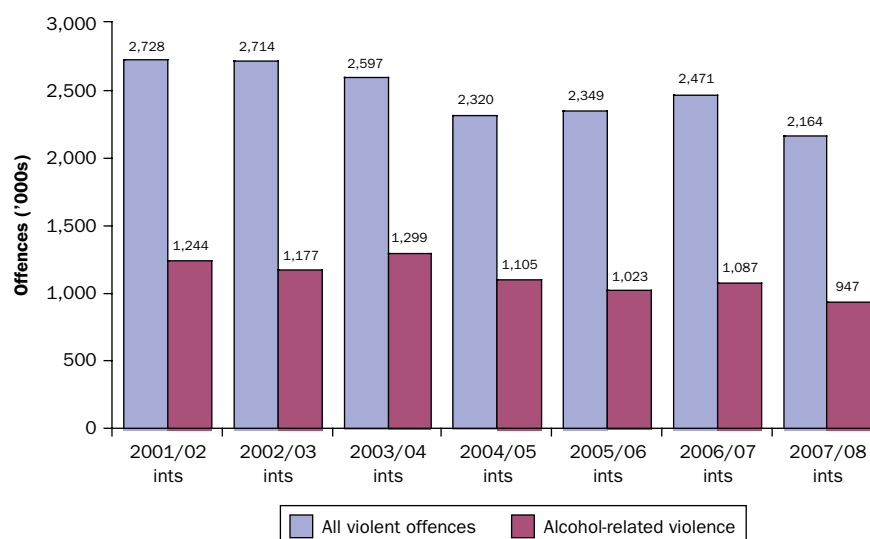
⁵ Prime Minister's Strategy Unit (2004) *Alcohol Harm Reduction Strategy for England*.

⁶ HM Government (2007) *Safe, Sensible, Social. The next steps in the National Alcohol Strategy*.

⁷ See Chapter 6 for examples of good practice.

⁸ British Crime Survey (2007-08).

Figure 1: Violent incidents and alcohol-related violence, 2001/02 to 2007/08⁹



2.9 *Safe. Sensible. Social.* – *The next steps in the National Alcohol Strategy* identified 18 – 24-year-old binge drinkers as a key target group as they are responsible for the majority of alcohol-related crime and disorder in the night-time economy. This age group is also the most likely to report that drunk or rowdy behaviour is a problem in their area.

2.10 In 2007-08, over 1,000 licensing reviews took place on individual premises – with nearly 90% (890) of these being for premises licences following an application for a review of the premises licence. In addition to this local action, nationally Government has recently:

- completed £4.5 million of enforcement campaigns; comprising £3 million of alcohol-related partnership activity funding given to 198 local partnerships for multi-agency working to tackle alcohol-related crime and disorder, and a £1.5 million enforcement campaign to tackle drinking in public by young people, underage sales and alcohol-related crime and disorder in the top 50 priority areas;

- developed 13 alcohol arrest referral pilots to tackle alcohol-related offending, with an additional 6 pilots focussed on young people; and
- run a series of regional workshops to train over 1,200 front line enforcers, including police, PCSOs and licensing authority staff, on the effective use of the many tools and powers that are already available to them.

ABOUT THIS CONSULTATION

2.11 To date, Government action to tackle alcohol-related crime and disorder has focussed on three specific areas:

- individuals who cause or contribute to alcohol-related crime and disorder;
- dealing with problems caused by people drinking in public places; and
- targeting irresponsible licensed premises.

⁹ Table 3.11, Crime in England and Wales 2007/08, Home Office Statistical Bulletin 07/08.

- 2.12 The Government has introduced a wide range of tools and powers, through the Licensing Act 2003, Antisocial Behaviour legislation, and more recently the Violent Crime Reduction Act to tackle alcohol-related harms. A summary of the main tools and powers available to the police and licensing authorities is set out in a practical guide¹⁰.
- 2.13 While much is being done to deal with those individuals who cause or contribute to alcohol-related crime and disorder, the Government considers that those selling alcohol need to play a greater role in addressing the problem.
- 2.14 Last year the Government carried out an independent review¹¹ which found that many retailers are not abiding by their own voluntary standards¹² for responsible selling and marketing of alcohol; and that the voluntary nature of the standards meant that they are not having an impact on reducing crime and disorder or on reducing harms from alcohol more widely. Following this review, the Department of Health issued a consultation¹³ seeking views on whether the Government should introduce a code of mandatory conditions for the alcohol retail industry.
- 2.15 That consultation received over 2,000 responses, with the vast majority (90%) being in support of a mandatory code for the alcohol industry¹⁴. When asked about the most important issues that needed to be addressed in an alcohol retailing code, of those who responded to the question, unprompted responses covered: restrictions on alcohol promotions; proof of age schemes; requirements to sell the smallest measure; mandatory standards; compulsory training; ending cut-price promotions; providing information at point-of-sale; and ensuring that water and soft drinks are available at cheaper prices.
- 2.16 As a result of the independent review, and the responses to the Department of Health consultation, the Government announced last December that it would introduce a new code of practice for alcohol retailers.
- 2.17 This consultation seeks views on what should be contained in that code of practice for those that sell or supply alcohol, how it will work, and specifically what it will mean for the public, enforcement agencies and those selling alcohol. This consultation also seeks views on whether there are any types of premises that the mandatory conditions and/or the national requirements should not apply to.
- 2.18 In developing this code, the Government is particularly keen to hear from: individual members of the public; those who run or work in pubs, clubs, bars, nightclubs, off-licences, hotels, restaurants and supermarkets; those who enforce the provisions of the Licensing Act; and those who work to tackle alcohol-related crime and disorder, such as the police, trading standards officers and Crime and Disorder Reduction Partnerships, NHS bodies, and those with expertise in health promotion.
- 2.19 We would also welcome further evidence of the impact and costs of the particular conditions proposed in the consultation, and information on existing good practice.

¹⁰ Home Office (2008) *A practical guide for dealing with alcohol-related problems: What you need to know* (Available to download from <http://drugs.homeoffice.gov.uk/publication-search/drug-strategy/alcoholguide?view=Binary>)

¹¹ KPMG (2008) *Review of the Social Responsibility Standards for the production and sale of Alcoholic Drinks*.

¹² (2005) *Social Responsibility Standards for the Production and Sale of Alcoholic Drinks in the UK*.

¹³ Department of Health (2008) *Safe, Sensible, Social. – Consultation on further action*.

¹⁴ Department of Health (2008) *Safe, Sensible, Social. Consultation on further action: Consultation report – December 2008*.

THE LICENSING ACT AND GROUPS OF PREMISES

2.20 The principal legislative framework for ensuring that licensed premises are run in a responsible way is the Licensing Act 2003. The Licensing Act provides a clear focus on the promotion of four statutory objectives which must be followed by premises when selling alcohol (for licensed premises such as pubs, nightclubs, supermarkets, off-licences, village halls, hotels and restaurants etc.) or supplying alcohol (for members' clubs such as sports and social clubs, the Royal British Legion and working men's clubs etc.).

The four statutory licensing objectives:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

2.21 Licensing legislation is not intended to be the primary mechanism for the general control of individuals once they are away from licensed premises and therefore beyond the direct control of individual licensees or certificate holders. Such control is a matter for other legislation such as those relating to antisocial behaviour, criminal damage and violent crime.

2.22 Currently where individual premises are *directly contributing* to a breach of one or more of the licensing objectives, then conditions may be placed upon their licence to deal with the problem, following a review of the licence and representations made by certain groups such as police or local residents. Ultimately, failure to comply with any conditions attached to a licence or certificate is a criminal offence, which, on conviction, would be punishable by a fine of up to £20,000, or up to six months imprisonment, or both.



2.23 However, it is more likely that a premises in breach of its licensing conditions will have those conditions reviewed by the local licensing authority, and have tougher conditions imposed, the designated premises supervisor removed, or the licence suspended or revoked. This process, and the threat of a suspension or revocation of the licence, can have a powerful deterrent effect.

2.24 While the Licensing Act can be a very useful tool for dealing with individual premises that are causing crime and disorder, it is not designed to deal with groups of licensed premises, or with problems occurring in public places which are not easily attributable to an individual premises but are linked to a number of licensed premises collectively.

NEXT STEPS

THE POLICING AND CRIME BILL

2.25 Recognising that the Licensing Act was not designed to deal with groups of premises that might collectively contribute to alcohol-related crime and disorder, the Government announced in December 2008 that legislation would be introduced in the Policing and Crime Bill¹⁵ to address this. The Bill is currently being debated in Parliament.

2.26 Subject to the Bill being passed by Parliament, it will give the Home Secretary the power to impose up to nine mandatory licensing conditions on any new or existing premises that is licensed to sell or supply alcohol.

2.27 The Bill also gives licensing authorities the powers to impose licensing conditions on two or more existing premises licences in its area if, in the case of each of the premises concerned, the licensing authority considers that there has been alcohol-related nuisance or disorder on or near the premises that would be mitigated or prevented by the conditions they impose.

2.28 Any condition applied to a group of premises will have to apply equally to each of the premises within that group. This will allow licensing authorities to rapidly tackle those premises that are contributing to nuisance and disorder.

FOOD SAFETY ACT REGULATIONS

2.29 In addition, a new requirement is being proposed through the Food Safety Act 1990 to ensure that those retailing alcohol must display alcohol unit content information for a representative sample of drinks, and that off-trade premises must also display health information. An important element of the Government's Alcohol Strategy is to raise awareness of alcohol units, to enable consumers to estimate their own consumption of alcohol better. It is equally an objective to raise understanding of the health risks resulting from excessive drinking, both those from regular drinking and binge drinking on single occasions. As this objective is directly related to the wider aims of health improvement, it is more appropriate to achieve this aim through separate regulations under the Food Safety Act, rather than through the Licensing Act.

2.30 There is confusion amongst the general public about the number of units in different drinks and the current guidelines on consumption. In this situation, it is difficult for customers to make informed choices and to regulate their alcohol intake so as to protect their own health and reduce the likelihood of intoxication. There is clear scope for improving customer knowledge and awareness of alcohol units and the risks of alcohol consumption.

¹⁵ HM Government (2008) *Policing and Crime Bill*.

2.31 Enabling the public to understand the links between the alcohol unit content of different drinks, and the risks to health of excessive drinking and binge drinking would also help to avoid the risks of crime and antisocial behaviour associated with drunkenness. It is therefore appropriate to take forward this proposal alongside the new mandatory licensing conditions, so that licensed businesses have clarity about the Government's expectations of them across the whole Alcohol Strategy.

2.32 We propose to make regulations under the Food Safety Act 1990 to require all licensed premises where alcohol is for sale to display information about the alcohol unit content of drinks offered for sale. In addition, off-trade premises would be expected to display health guidelines about regular consumption and information about the health risks of regular excessive drinking and binge drinking and the risks of drinking alcohol during pregnancy. The impact assessment for this consultation shows that only a very small reduction in the level of alcohol consumption (0.0012%) is needed in order to balance out the costs to business of complying with the requirements.

A NEW CODE FOR THE RESPONSIBLE RETAILING OF ALCOHOL

2.33 The new code of practice for alcohol retailers will raise standards, promote the four licensing objectives and ensure the provision of information for consumers related to alcohol and health.

2.34 This approach should contribute to reducing the prevalence of binge drinking and excessive drunkenness which often leads to crime and disorder. Therefore, we expect that the application of the code will result in a reduction in alcohol-related crime and disorder and an improvement in public safety in and around licensed premises. The licensing conditions in the code should not greatly affect the majority of businesses, small or large, but will target the minority who behave irresponsibly.

The code will be broken down into four distinct sections:

- **mandatory conditions** that will apply nationally to new and existing alcohol licences;
- **point-of-sale alcohol unit content and health information**, a requirement through the Food Safety Act;
- **discretionary local conditions** that can be applied at local level by licensing authorities to groups of two or more licensed premises in their area experiencing particular problems; and
- **guidance** that will support the effective implementation of national and local conditions and requirements and promote wider good practice in the area of social responsibility.

2.35 While the primary aim of the code will be to ensure premises fully promote the four licensing objectives and improve the information given to consumers, we consider that the component parts of the code will address a series of distinct aims to:

- put a stop to promotions and activities that encourage people to drink irresponsibly, which, in turn, creates a greater risk of crime and disorder and a threat to public safety;
- give customers the information and choices they need to ensure that they can drink responsibly and in ways that do not damage health;
- protect children from harm by strengthening the response for preventing the sale and/or supply of alcohol to under-18s;
- ensure the responsible management of licensed premises to minimise the likelihood of crime, nuisance and disorder; and
- ensure the safety of members of the public in and around licensed premises.

2.36 This document does not specifically deal with the issue of drinking and driving. However, the Government is discussing with the alcohol industry ways of co-operating more closely to combat the problem. A working group led by the Department for Transport has been established to develop this initiative.

2.37 It is worth noting that this code is consistent with the Alcohol Social Responsibility Principles set out in the alcohol industry's Social Responsibility Standards. These are principles that alcohol retailers would be expected to observe and promote within their own areas of responsibility and in all their commercial activities. They should also be reflected in good practice guidance. They are set out in the following box.

ALCOHOL SOCIAL RESPONSIBILITY PRINCIPLES

- To promote responsible drinking and the 'Sensible Drinking Message'.
- To avoid any actions that encourage or condone illegal, irresponsible or immoderate drinking such as drunkenness, drink driving or drinking in inappropriate circumstances.
- To take all reasonable precautions to ensure people under the legal purchase age cannot buy or obtain alcoholic drinks.
- To avoid any forms of marketing or promotion which have particular appeal to young people under the age of 18 in both content and context.
- To avoid any association with violent, aggressive, dangerous, illegal or antisocial behaviour.
- To make the alcoholic nature of their products clear and avoid confusion with non-alcoholic drinks.

- To avoid any suggestion that drinking alcohol can enhance social, sexual, physical, mental, financial or sporting performance, or conversely that a decision not to drink may have the reverse effect.
- To ensure their staff and those of companies acting on their behalf are fully aware of these Standards and are trained in their application in their own areas of responsibility.
- To ensure that all company policies work to support these standards.

THE CONSULTATION PROCESS

2.38 This consultation runs for 12 weeks from 13th May to 5th August 2009 and covers England and Wales, where the code will apply. This document sets out the issues and the case for further action; presents a set of firm proposals for mandatory conditions that would apply to all relevant new and existing alcohol licences; complementary proposals for national requirements under the Food Safety Act 1990; a range of possible permitted conditions that would be applied by local licensing authorities to groups of two or more licensed premises in an area experiencing particular problems; and presents some proposals for further action. It then sets out the proposed process for implementation and enforcement.

2.39 In preparation of the possible conditions outlined here, the Government has already consulted a number of key stakeholders, including holding eight meetings with over 50 stakeholders from the on and off trade, alcohol producers, police and local authorities, health, voluntary and community sectors and received 30 written pre-consultation responses from participants of these meetings.

IMPACT ASSESSMENT

2.40 The impact assessment which accompanies this public consultation sets out further details of estimated potential benefits and costs for the proposed conditions. It has not been possible to quantify all of the expected costs and benefits of the proposals at this stage and we urge respondents to the consultation to supply any additional evidence they may have with regards to costs and benefits.

2.41 Where costs have been estimated, these estimates should be viewed as indicative estimates only. All cost estimates are economic costs and not financial costs. A large proportion of the estimated costs are due to staff abstraction from other duties which will not necessarily have any financial impact. We will continue to assess the costs and benefits of these proposals and will publish a final impact assessment once the consultation responses have been analysed and the final content of the code of practice has been developed.

A COMMITMENT TO FUTURE WORK ON THE IMPACT OF ALCOHOL PRICE AND PROMOTIONS ON HARM

2.42 As announced in December 2008, the Government has decided not to proceed with any local or national measures concerning a minimum unit price. It will, however, look to develop further the evidence base in this area with a view to identifying concrete proposals for action which reduce irresponsible, harmful and/or binge drinking without impacting unduly on the majority of responsible drinkers.

2.43 The Department of Health will commission independent advice to look into certain key evidence gaps, for example, on the impact of any legislative interventions on price for industry; regional variations in the impact of price changes; and the effect on particular social groups. This work will draw on the research already done by Sheffield University¹⁶ to inform Government on the impact of alcohol pricing on alcohol-related harm, and any new work with a view to advising a set of options for Government to consider that best balance the costs and benefits to different groups.

2.44 In addition, the Government will work to build the evidence base on the impact of the advertising and display of alcohol promotional offers (in the off-trade) on consumer choice and harm.

2.45 The Government has also decided at this stage not to pursue measures to further restrict the marketing, promotion and display of promotional offers in the off-trade. However, over the coming 12 – 24 months the Government will examine what further work is needed in this area as the evidence base is not fully developed at present. We will build on what currently exists in terms of evidence and good practice to get a deeper understanding of the impact on consumer choice of the advertising and display of such promotions, and how that choice then impacts on harm in terms of health harm, harm from crime and disorder and harms to young people.

2.46 We will look at what is evidenced as effective at both national (e.g. how central government could intervene) and local levels (e.g. the powers local areas could be given to tackle local problems).

¹⁶ Sheffield University (2008) *Independent review of the effects of alcohol pricing and promotion*. Summary of evidence to accompanying report on phase 1: Systematic Reviews. To download at: http://www.dh.gov.uk/en/consultations/closedconsultations/DH_086412

Chapter 3: Mandatory licensing conditions

INTRODUCTION

- 3.1 The Government has been clear that one of the key functions of this code is to stamp out the irresponsible promotions that lead to people drinking more and faster than they otherwise might. This type of promotion is often aimed at young adults, particularly at the 18 – 24-year-old target group, who are most likely to binge drink. This group is responsible for a disproportionate amount of crime and disorder.
- 3.2 We also want consumers to be able to make more informed choices about how much they wish to drink during a night out. All too often, people asking for a single measure of drink are told that only doubles are available. This also means that people are likely to drink more or faster than they otherwise might, which can also lead to increases in crime and disorder.
- 3.3 To tackle these types of irresponsible promotions and practices and ensure that positive, responsible action is taken to reduce alcohol harms, by promoting the four licensing objectives, the Government is seeking views on a number of conditions which we consider should apply to all relevant licensed premises across England and Wales in one or more of the following three categories:
- **on-trade** – pubs, nightclubs, bars, restaurants, hotels, theatres, cinemas, village halls etc;
 - **off-trade** – supermarkets, convenience stores, off-licences etc; and
 - **those with a qualifying club premises certificate** – sports clubs, political clubs, members' clubs etc.
- 3.4 Specifically, we wish to hear the public's views on how effective these conditions will be in reducing or preventing alcohol-related crime, disorder and antisocial behaviour in their area.

- 3.5 In addition, we are seeking views on proposed requirements under the Food Safety Act to display alcohol unit information in all types of licensed premises; and to display information relating to alcohol and the health risks of excessive consumption in off-licensed premises.
- 3.6 We are interested in hearing views on whether these conditions and proposals together are likely to make a positive contribution to your local community.¹⁷ We also seek views on whether any types of premises should be made exempt from the proposed mandatory conditions or national requirements.

IMPACT ASSESSMENT

- 3.7 Finally, it is important to add that while the conditions set out below will affect large numbers of premises, they are focused only on ruling out the most irresponsible practices of a minority or encouraging good practices that are already widespread. As such, they should not impose significant burdens on most responsible businesses and community organisations. The accompanying impact assessment¹⁸ sets out the likely costs of these proposals in more detail.
- 3.8 There may be some costs to business when conditions are imposed, but this needs to be balanced against the cost to society if no action is taken to stop alcohol-related crime and disorder. Less serious wounding is the best proxy for alcohol-related violent crime, and the impact assessment for this consultation shows that a reduction of just 0.6% (approximately 2,646 offences) is needed in order for the benefits to outweigh the potential additional costs of the mandatory licensing conditions to business.

¹⁷ HM Government (2007) *Public Service Agreement 25: Reduce the harm caused by alcohol and drugs*, and the National Alcohol Strategy, set out the aims to reduce the levels of alcohol-related violent crime, disorder and antisocial behaviour and to reduce the public's perception of drunk and rowdy behaviour as a problem in their area. This also links to *Public Service Agreement 23: Making communities safer*.

¹⁸ The accompanying impact assessment is available to download from <http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/>

3.9 Tables 2 and 3 in the accompanying impact assessment set out estimates of the costs of individual conditions in greater detail, however the costs presented in the impact assessment are initial estimates only. These are economic costs and may not necessarily represent a financial cost to these premises. For example, a large proportion of the estimated costs is staff abstraction for other duties. Furthermore, as some premises will be affected by some conditions and not others, it is not correct to simply sum the figures presented here. Based on the assumptions set out in the impact assessment, the estimated total economic cost of implementing the proposed mandatory licensing conditions and the requirements would be £28.8 million in the first year and £1.97 million in subsequent years.

3.10 We will continue to revise these estimates throughout the consultation and we encourage consultees to submit views and evidence on these partial estimates.



AT A GLANCE: Summary of mandatory licensing conditions and Food Safety Act requirements

| Condition and Intention | Applies to |
|--|---|
| 1. Bans irresponsible promotions, such as ‘ <i>all you can drink for £10</i> ’ or speed drinking competitions, or any promotion that encourages the consumption of large quantities of alcohol or the rapid consumption of alcohol that could increase the risk of alcohol-related crime and disorder, public nuisance, and cause a risk to public safety. | On-trade and qualifying club premises certificate |
| 2. Bans alcohol from being dispensed directly into the mouth of any customer, which encourages the type of excessive and irresponsible drinking that could increase the risk of alcohol-related crime and disorder, public nuisance, and risk to public safety. | On-trade and qualifying club premises certificate |
| 3. Ensures that smaller measures (not smaller glass sizes) of alcohol are made available to customers to help them manage their alcohol consumption and reduce the risk of alcohol-related crime and disorder. | On-trade and qualifying club premises certificate |
| 4. Ensures that free tap water is available to customers to help them manage their alcohol consumption and reduce the risk of alcohol-related crime and disorder. | On-trade and qualifying club premises certificate |
| 5. Seeks to ensure that online or mail order alcohol retailers have robust age-verification systems in place to prevent underage sales. | Off-trade |

| Requirement and Intention | Applies to |
|--|---|
| 6. Through the Food Safety Act, ensuring that there is point-of-sale information visible to all customers of licensed premises about the unit content of a representative sample of drinks, and in the off-trade there is further information about health guidelines and risks. | Off-trade; on-trade; qualifying club premises certificate |

PROPOSED MANDATORY LICENSING CONDITIONS IN FULL

Further details of benefits and costs for conditions are supplied in the impact assessment¹⁹

| Condition | Applies to | Why do it? |
|---|--|--|
| <p>1. The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that staff of licensed premises must not carry out (or arrange or participate in) any promotions or activities on the premises for the purpose of promoting the supply, sale or consumption of alcohol which encourage the irresponsible drinking of alcohol, including:</p> <ul style="list-style-type: none"> ● Games or other activities that require or encourage (or are designed to require or encourage) individuals to drink a quantity of alcohol against a time limit (except for finishing already purchased drinks at closing time), or to drink as much alcohol as they can (whether within a time limit or otherwise), or which requires or encourages (or is designed to require or encourage) individuals to drink alcohol irresponsibly; ● Promotions for free or discounted alcohol to any group that is defined by sex, age, appearance, vocation, dress or numbers within the group. This excludes any promotion or discount that is made with a table meal as defined Section 159 of the Licensing Act 2003; ● Providing unlimited or unspecified quantities of alcohol for a fixed or discounted fee which relates to alcohol only offers or alcohol and entry to the premises offers; ● Selling or supplying alcohol subject to conditions that encourage or reward (or are designed to encourage or reward) the purchase and consumption of alcohol in one 24 hour period by the awarding of a prize, including the award of free gifts or free alcohol; ● Selling or supplying alcohol for free or at a discounted price dependent upon the occurrence or non-occurrence of unpredictable events occurring or being viewed on the premises; and ● Promotions on the premises, other than those already covered by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP), advertising codes, for the sale or supply of alcohol that could be interpreted as condoning, encouraging or glamorising irresponsible drinking or drunkenness or encouraging antisocial behaviour; or referring to the effects of alcohol intoxication in any favourable manner. | <p>On-trade and qualifying club premises certificate</p> | <p>The Government considers that these types of promotional activities encourage and condone irresponsible drinking behaviour which can all too often lead to crime and disorder or can negatively influence how people feel about an area. This condition would not prevent 'happy hours', many of which may be run and managed responsibly. We do not however wish to prevent activities that are consistent with responsible drinking. We welcome comments and ideas on how to prevent this condition from being circumvented and on preventing acceptable practices from being caught unintentionally.</p> |

¹⁹ The accompanying impact assessment is available to download from <http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/>

| Condition | Applies to | Why do it? |
|--|--|---|
| <p>2. The responsible person(s) (as defined in Section 153(4) of the Licensing Act 2003) shall ensure that alcohol is not dispensed directly into the mouth of any customer by any member of staff working at a licensed premises. Devices for dispensing alcohol in this way must not be provided to customers or be permitted to be used for so dispensing alcohol on the premises.</p> | <p>On-trade and qualifying club premises certificate</p> | <p>The Government is concerned about pubs and clubs employing people to dispense alcohol, typically shots of spirits, directly into the mouths of customers. This type of activity is clearly linked to people drinking excessively and quickly, which in turn makes them more likely to commit crime, disorder or behave antisocially.</p> |
| <p>3. The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that, if sold for consumption on the premises, alcoholic drinks of the kinds referred to below must be available and offered for sale or supply in the measures stated. These measures are based on the standard quantities specified in existing Weights and Measures legislation:</p> <ul style="list-style-type: none"> ● beer, lager or cider: ½ pint; ● gin, rum, vodka or whisky: 25ml or 35 ml; and ● still wine in a glass: 125ml (except where a wine is only sold by the bottle). | <p>On-trade and qualifying club premises certificate</p> | <p>This condition would stop the practice of only offering large glasses of wine, double measures of spirits or pints of beer/ cider. It would mean greater consumer choice when deciding how much they wish to drink. It would not prevent other measures being offered, such as pints of beer, lager or cider, or 250ml of still wine, although any measures offered must comply with Weights and Measures legislation.</p> <p>A present, premises may choose whether to provide spirits in measures of 25ml or 35ml or multiples thereof, and are specifically prohibited from using both.</p> <p>It is intended that this condition would not apply in respect of:</p> <ul style="list-style-type: none"> ● drinks that are pre-packaged for sale in sealed containers; and ● cocktails that include 3 or more different drinks (excluding ice). <p>This condition would not require licensed premises to purchase new glassware, but does, under existing legislation, require the use of an approved measure. There is a choice as to how this is achieved, and premises may use a measured optic, a measured pump, a government-stamped measure or a government-stamped glass.</p> |

| Condition | Applies to | Why do it? |
|--|--|---|
| <p>4. The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that free tap water is provided on request to customers where it is reasonably available.</p> | <p>On-trade and qualifying club premises certificate</p> | <p>Advice and guidance on how to reduce the harms associated with drinking alcohol often advise people to drink water alongside alcoholic drinks, or to alternate between an alcoholic drink and a soft drink, in order to prevent intoxication and therefore reduce the risk of being involved in crime and disorder. We consider that customers should be given the chance to drink a non-alcoholic drink for free in order to prevent or mitigate intoxication and the associated effects. The vast majority of premises already do offer free tap water and some late-night venues already proactively have a supply of free water available at the bar near closing time. This condition simply ensures that free tap water will be available wherever possible.</p> |
| <p>5. The Government is committed to preventing people from being able to purchase alcohol under the age of 18, through a number of initiatives, such as test purchase campaigns of licensed premises and supporting the adoption of Challenge 21 or 25 Schemes. With this in mind, we want to ensure that those selling alcohol online or by mail order have a clearly identifiable and robust process for age verification for these sales of alcohol.</p> <p>This is a complex issue. No licence is required in order to sell alcohol online or by mail order because the law requires instead that the company that has the warehouse and delivers the alcohol to the purchaser must hold the licence. There are also complexities regarding the location in which these activities take place with, for example, the purchaser living in one area, the company providing the online sales service based in another area and the distributing warehouse based in a third area and therefore subject to different licensing authorities or even legislation (if based outside England and Wales).</p> | <p>Off-trade</p> | <p>In this consultation we invite evidence and suggestions about how to ensure robust age verification for online and mail order sales of alcohol.</p> <p>The level of underage alcohol sales purchased online or by mail order is uncertain. But there is a risk that by making it more difficult for young people to obtain alcohol from licensed premises directly, more under 18s may seek alcohol in this way.</p> <p>A Mandatory Condition would ideally require those who sell alcohol online or by mail order to have a robust age verification scheme in place.</p> |

Food Safety Act Requirements

| Requirement | Applies to | Why do it? |
|------------------------------|--|---|
| 6. Point-of-sale information | Off-trade, on-trade and qualifying club premises certificate | <p>We propose to make regulations under the Food Safety Act 1990 to require licensed premises to display information about the alcohol unit content of a representative sample of drinks offered for sale. In addition, off-trade premises would be required to display health guidelines about regular consumption and information about the health risks of regular excessive drinking and binge drinking and the risks of drinking alcohol during pregnancy.</p> <p>An important element of the Government's Alcohol Strategy is to raise awareness of alcohol units and health risks of excessive drinking. It is appropriate to achieve this aim through separate regulations under the Food Safety Act, rather than through the Licensing Act, as the direct objective is health improvement.</p> <p>There is confusion amongst the general public about the number of units in different drinks and the current guidelines on consumption. It is difficult in this situation for customers to make informed choices and to regulate their alcohol intake so as to protect their own health and reduce the likelihood of intoxication. There is clear scope for improving customer knowledge of alcohol units and the risks of alcohol consumption. The impact assessment accompanying this consultation sets out that only a very small reduction in consumption is needed to generate a net benefit over the costs of complying with the requirement. There are already a number of requirements for licence holders to display information, such as the premises licence, for exit policies, food safety requirements etc. In addition, smaller premises may have difficulty displaying the signage due to lack of available space. We would welcome views on whether any types of premises should be made exempt from these requirements, and any evidence of the potential costs and benefits of this proposal.</p> <p>Enabling the public to understand the links between the alcohol unit content of different drinks and the risks to health of excessive drinking and binge drinking should help to avoid the risks of crime and antisocial behaviour associated with drunkenness. It is, therefore, appropriate to take forward this proposal alongside the new mandatory licensing conditions, so that licensees have clarity about the Government's expectations of them across the whole Alcohol Strategy.</p> |

3.11 Under the new powers contained in the Policing and Crime Bill, there is the ability to apply mandatory conditions to ‘all relevant premises or relevant premises of a particular description’. This gives the Home Secretary the ability to define what relevant premises are and to exclude certain types of premises. It is worth noting that licensed premises and premises with club premises certificates that supply alcohol is a very broad category, including: pubs, bars, restaurants, cafes, night clubs, university bars, casinos, supermarkets, small convenience stores, farm shops, gift shops, art galleries, museums, theatres, cinemas, hotels, holiday parks, bed and breakfasts, community-owned pubs, working men’s clubs, political clubs, the Royal British Legion, sports and leisure clubs, sports stadia, music venues, schools, church halls, village halls, community premises, village squares, licensed outside spaces and public land, farmers markets and others. This consultation seeks your views as to whether any types of premises should be made exempt from the national mandatory conditions and the national requirement for information at the point-of-sale.

POINT-OF-SALE REQUIREMENTS

3.12 It is proposed that regulations require that:

- (a) for on- and off-trade premises, the UK unit content of a representative sample of alcoholic products must be visibly and legibly displayed to all customers buying alcohol and for off-trade premises; and
- (b) for off-trade premises, information about the health risks of excessive regular drinking and binge drinking and drinking alcohol during pregnancy must be visibly and legibly displayed to all customers.

3.13 The additional requirement proposed for off-trade premises both recognises practical limitations in the display of information in on-trade premises and focuses information where the majority of consumers buy alcohol, and particularly cheaper alcohol, in off-trade premises.

3.14 We propose that ‘visibly and legibly’ is defined as being within sight of every point-of-sale in the on-trade (e.g. pubs, bars and clubs) and within sight of every display of alcohol stock offered for sale in the off-trade (e.g. shops and supermarkets). Regulations would need to set out, reinforced by explanation in guidance where needed, where requirements apply.

3.15 For the off-trade, Government has a voluntary agreement with industry to show the unit content and health guidelines on labels for each bottle or container and this is not affected by this proposal. Compliance with this agreement is being monitored separately.

3.16 Under (a): We propose that unit information must be provided for a representative sample of alcoholic drinks for which the price is displayed or provided in the on-trade. The Consumer Protection from Unfair Trading Regulations 2008 requires retailers to provide ‘material information’ to consumers, defined as ‘the information which the average consumer needs, according to context, to take an informed transactional decision’. The regulations then go on to say that, in the context of an invitation to purchase, price is material information. Displaying additional information on the alcohol unit content of drinks alongside price information should not create an undue burden.

3.17 A possible alternative approach would be to require that unit information must be provided for a representative sample of drinks. This would be similar to the Food and Drinks Services Order 2003, which formerly required premises to display the price of 30 products. There would be a minimum requirement per category of drink.

3.18 Such a Regulation might also allow for flexibility in implementation, provided that standards of accuracy, clarity and visibility are met, and that the prescribed information is used. For example, a premises selling several vodka brands at 40% alcohol by volume (ABV) need only state that 25 ml of vodka is equivalent to one unit of alcohol,

rather than duplicate for each product. Similar concessions could be made for wine or beer products of similar strengths. There could also be options for unit information to be provided in different ways, for example, on posters, wine menus in restaurants, price lists, or alongside the ABV on beer pumps.

- 3.19 Under (b): Off-trade premises would also need to provide information about the current guidelines on regular daily unit consumption and prescribed messages about the health risks of excessive alcohol consumption and drinking alcohol during pregnancy. This should follow a format and rules on size and placement prescribed by government. This would also include educational messages aimed at reducing binge drinking.

We propose standard wording such as:

Alcohol: Know Your Limits

*Do not regularly exceed 3-4 units daily (for men)
and 2-3 units daily (for women)*

*For advice contact Drinkline, the national
24-hour helpline,
on 0800 917 82 82 or visit
Drinkaware at www.drinkaware.co.uk.*

- 3.20 We also propose to require the display of standard messages concerning health risks consistent with the Department of Health 'Know Your Limits' unit campaign.
- 3.21 Comments are invited through this consultation on the size and position of display to ensure that these signs are clear and visible, as well as on other possible approaches to providing unit and health information. The final requirement could stipulate the size and positioning of these signs.

- 3.22 We are aware of the joint good practice initiative by the Drinkaware Trust and the Wine and Spirits Trade Association in 2008 for information on sensible drinking to be displayed in the off-trade, including major supermarkets. We commend this initiative and would wish to ensure that our proposals will not impede such good practice initiatives, or future good practice initiatives of this nature. We welcome comments and suggestions from industry and others in this area.

CONSIDERATION FOR FUTURE ACTION: THE SIZE OF SINGLE STANDARD SPIRIT MEASURES

- 3.23 In the proposed mandatory condition 3, on-trade premises would be required to make single measures of spirits (i.e. gin, rum, vodka and whisky) available to customers. Weights and Measures legislation currently specifies that the smallest standard "single" serving for certain spirits can either be 25 ml or 35 ml, with licensed premises having to choose to serve either one or the other. We consider that there is potential to cause confusion for customers if, after introducing proposed condition 3, the smallest measure was not the same in every premises. We are therefore seeking views on whether there should be a change to the Weights and Measures legislation so that the smallest standard measure for spirits in England, Wales and Scotland would be the same in all on-trade premises. There are 3 options for consideration:

- 25 ml only;
- 35 ml only; or
- whether it should remain the choice of the individual licence holder to supply either 25 ml or 35 ml.

- 3.24 A consistently-sized single measure of spirits across all on-trade premises would enable customers to more easily understand how much alcohol they have consumed.
- 3.25 It is difficult to predict with certainty how customers used to one measure or the other may

react to any change. For example, customers used to the 35ml measure, if served 25ml measures, may reduce consumption or may be encouraged to switch to doubles; similarly in reverse, customers used to 25ml singles may consume more if served 35ml singles or switch from doubles to singles.

confident that this would be an effective and proportionate proposal. At this stage we are interested in consultees' views and also invite respondents to reference or submit evidence that is relevant to whether such a proposal would help to meet the goals of the Government's Alcohol Strategy.

3.26 There would be initial costs for any on-trade premises that were required to switch measure sizes as a result of any change in legislation. Any change in the current position would need an amendment to Weights and Measures regulations, and it should be noted that these also apply in Scotland, and so any decision would need to include consideration of the position in Scotland.

3.30 The level of duty levied varies between different types of alcohol and according to alcoholic strength, therefore the effect of this proposal would not be uniform but would vary according to particular products.

3.27 We invite consultees to give their views on the three options, along with their reasons or any evidence of the potential impact.

CONSIDERATION FOR FUTURE ACTION: PROHIBITING SALES BELOW DUTY PLUS VAT

3.28 We recognise that there is public concern about the links between the availability of very low-price alcohol and health, crime and other harms; in particular with regards to supermarkets using 'loss leaders' to sell alcohol at below-cost price, or even at a price below the rate of duty and VAT paid on the product. We want to explore the principle of prohibiting retailers from offering alcohol for sale at prices below the level of the excise duty paid on the product plus the VAT due.

3.29 We know that in taking any final decision on whether to prohibit sales below duty plus VAT, further research is needed to understand how this proposal would be most likely to impact on specific types of alcohol and whether such a measure would work in the way intended, supporting the Government's strategy of reducing irresponsible, harmful and/or binge drinking without impacting unduly on the majority of responsible drinkers. We need to understand the potential impacts on health, public safety, consumers, business and competition, as well as the wider economy, so that we are

CONSULTATION QUESTIONS ON THE PROPOSED MANDATORY LICENSING CONDITIONS

For the public:

- Do the proposed mandatory licensing conditions and the reasons for having them make sense to you?
- Can you see the benefits of restricting certain promotions in pubs, bars, and clubs to reduce levels of crime and disorder?
- Will these mandatory licensing conditions affect you? If so, how?

For licensing authorities, enforcement agencies and health bodies:

- Do you have any suggestions that will improve the proposed mandatory licensing conditions and requirements to reduce crime and disorder?
- Is the drafting of these mandatory licensing conditions explicit enough to capture the intended activities? If not, can you provide alternative wording that may be more effective?

For those who sell or supply alcohol:

- What do you think the impact (in terms of costs and benefits) of these mandatory licensing conditions will be on your business?

For all:

- Are there any of the mandatory licensing conditions that you would not wish to be made mandatory for licensed premises? If so, why?
- Would you support the requirements for licensed premises to have to display unit and health information? Are there any types of licensed premises that you feel should be exempt from the requirements? If so, which types and why?
- Are there any types of licensed premises that you feel should be exempted from one or more of the mandatory conditions? If so, which types and why?

CONSULTATION QUESTIONS ON CONSIDERATIONS FOR FUTURE ACTION

For all:

- Do you think that weights and measures legislation should continue to allow individual licence-holders to choose whether to offer either 25 ml or 35 ml single measures of certain spirits (i.e. gin, rum, vodka and whisky) or do you think that all on-trade premises should be required to offer only single spirit measures of 25 ml? Or do you think that all on-trade premises should be required to only offer single spirit measures of 35 ml? Please explain your choice.
- Do you think that banning sales below the price level of excise duty plus VAT would be effective and proportionate in reducing irresponsible, harmful and/or binge drinking? Do you have evidence to support your view? What would be the potential costs and benefits of the impact on health, public safety, consumers, business and competition of introducing such a policy?

Chapter 4:

Discretionary local licensing conditions

INTRODUCTION

4.1 As set out in Chapter 2, the Licensing Act can be a very useful tool for dealing with *individual premises* that are causing crime and disorder but it is not designed to deal with problems occurring in public places which are not easily attributable to an individual premises but are linked to *several premises*.

4.2 In these circumstances, it is not always possible to say that the activity of any one particular premises is the sole cause of the problem. This makes it much harder for the police and licensing authorities to take the actions necessary to tackle these problems.

4.3 To address this, through the Policing and Crime Bill, we will be giving licensing authorities the power to impose licensing conditions on *two or more premises* in an area if they consider that:

- there has been nuisance to members of the public, or a section of the public, or disorder, on or near the premises;
- the nuisance or disorder is associated with the consumption of alcohol on the premises or supplied by the premises;
- there is likely to be a repetition of nuisance or disorder that is so associated; and
- it is appropriate to impose the conditions for the purposes of mitigating or preventing the nuisance or disorder concerned²⁰.

4.4 The reason for specifying the above tests is to make clear that licensing authorities will only be able to take action on two or more premises where there has been alcohol-related nuisance, crime and disorder associated with those premises. This is to ensure that only those premises that are actually *contributing* to the problems have additional conditions imposed upon them.

4.5 The following tables set out the list of licensing conditions that we consider licensing authorities should be able to impose on two or more premises. However, we are keen to hear views on whether this list captures all the actions needed to tackle problems at a local level. We are also interested in hearing views on those conditions that should not appear in this list.

4.6 Chapter 5 explores in more detail how the *process* for imposing these conditions might work in practice.

4.7 There may be some costs to individual businesses if local conditions are imposed, but this needs to be balanced against the cost to society if no action is taken to stop alcohol-related nuisance and disorder. Further details are set out in the accompanying impact assessment²¹.

IMPACT ASSESSMENT

4.8 Through this consultation, we are inviting views on whether these proposed discretionary local conditions will be effective in tackling local levels of alcohol-related nuisance, crime and disorder. We are also interested in how these conditions might impact on competition, responsible promotions, or whether there might be any unintended consequences.

4.9 These proposed conditions are based on existing conditions that are currently applied by licensing authorities as part of an individual premises licence review. It is possible that some of the conditions may be more difficult than others to apply to groups of two or more premises (as factors such as layout, clientele and size will need to be taken into consideration).

²⁰ HM Government (2008) *Policing and Crime Bill*.

²¹ The accompanying impact assessment is available to download from <http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/>

4.10 It will ultimately be a matter for licensing authorities, having regard to the legislation and any guidance issued, to decide whether imposing one or more of these conditions is appropriate and proportionate for the purposes of tackling local levels of alcohol-related nuisance, crime and disorder.

4.11 The costs presented in Tables 4 and 5 in the accompanying impact assessment are initial estimates of the costs to the directly affected premises (i.e. those that operate the practice or promotions in question) of complying with the proposed conditions. These are economic costs and may not necessarily represent a financial cost to these premises. For example, a large proportion of the estimated costs is staff abstraction for other duties. Furthermore, as some premises will be affected by some conditions and not others, it is not correct to simply sum the figures presented here. Based on the assumptions set out in the impact assessment the estimated total economic cost of implementing the proposed local discretionary conditions would be £37.5 million in the first year and £32.7 million in subsequent years. These figures are also based on an assumption that each condition is applied to 1% of premises and are applied for the full twelve months of the year.

4.12 It has not yet been possible to estimate the costs to those premises who are indirectly affected by these conditions (e.g. costs of familiarisation and training in premises which currently do not operate irresponsible promotions) although we anticipate that most of these premises will face no additional costs. We will continue to revise these estimates throughout the consultation and we encourage consultees to submit views and evidence on these partial estimates.

AT A GLANCE: Discretionary Local Conditions

| Summary of each Condition and its Intention | Applies to |
|---|--|
| 1 Bans the discounted sale of alcohol where the discount applies at particular times of the day or week, or is for less than 72 continuous hours in duration (e.g. 'happy hours'), during periods of time most associated with alcohol-related nuisance or disorder (i.e. evenings and weekends) to help to prevent nuisance and disorder. | On-trade and qualifying club premises certificate |
| 2 Bans the sale of alcohol at a discounted price where the discount applies according to whether the customer has purchased alcohol at other licensed premises in one 24-hour period (e.g. 'pub crawl' offers) during periods of time most associated with alcohol-related nuisance and disorder (i.e. evenings and weekends) to help to prevent crime and disorder and reduce the risk of public nuisance. | On-trade and qualifying club premises certificate |
| 3 Ensures that a risk review of the premises is carried out by the licence holder, and a management plan is put in place which must be agreed with the licensing authority and then regularly reviewed to help to prevent crime and disorder, keep the public safe and prevent public nuisance. | On-trade, off-trade and qualifying club premises certificate |
| 4 Ensures the regular collection of empty or abandoned glasses during periods of time most associated with alcohol-related crime and disorder (i.e. evenings and weekends) to help to prevent nuisance or disorder. | On-trade and qualifying club premises certificate |
| 5 Bans the serving of alcohol in glass containers during periods of time most associated with alcohol-related nuisance or disorder (i.e. evenings and weekends) to help to prevent nuisance or disorder. | On-trade and qualifying club premises certificate |
| 6 Stops customers leaving licensed premises with unsealed glass containers during periods of time most associated with alcohol-related nuisance or disorder (i.e. evenings and weekends) to help to prevent nuisance or disorder. | On-trade and qualifying club premises certificate |
| 7 Ensures that toilets are checked regularly during periods of time most associated with alcohol-related nuisance and disorder (i.e. evenings and weekends) to help to prevent nuisance and disorder. | On-trade and qualifying club premises certificate |
| 8 Ensures that Security Industry Authority licensed door staff conduct checks for weapons and drugs and manage admissions to licensed premises during periods of time most associated with alcohol-related nuisance or disorder (i.e. evenings and weekends) to help to prevent nuisance or disorder and keep the public safe. | On-trade and qualifying club premises certificate |
| 9 Ensures that an incident record is maintained to keep police and licensing authorities informed and to help to prevent future nuisance or disorder. | On-trade, off-trade and qualifying club premises certificate |
| 10 Ensures the preparation and implementation of a dispersal policy for a licensed premises in consultation with police and licensing authorities to help to prevent nuisance or disorder and help people to get home safely. | On-trade, off-trade and qualifying club premises certificate |
| 11 Ensures that CCTV is in operation during periods of time most associated with alcohol-related nuisance or disorder (i.e. evenings and weekends) to help to prevent nuisance or disorder. | On-trade, off-trade and qualifying club premises certificate |
| 12 Ensures the display of information to customers on the location of local public transport links and telephone numbers for local licensed taxi companies to get people home safely and prevent potential nuisance or disorder. | On-trade and qualifying club premises certificate |
| 13 Ensures the provision of a direct telephone line to local licensed taxi companies to get people home safely and prevent potential nuisance or disorder. | On-trade, off-trade and qualifying club premises certificate |
| 14 Ensures that a senior member of staff, together with any door supervisors, maintains a live text or radio pager link for instant communication with local police to facilitate a rapid response to any nuisance or disorder. | On-trade, off-trade and qualifying club premises certificate |
| 15 Ensures that a 'Challenge 21' scheme is in operation to reduce underage sales of alcohol and prevent potential nuisance or disorder. | On-trade, off-trade and qualifying club premises certificate |
| 16 Ensures that bulk discounts cannot be offered during stipulated times. | Off-trade |

DISCRETIONARY LOCAL LICENSING CONDITIONS IN FULL

Further details of the benefits and costs associated with these conditions are set out in the accompanying impact assessment²²

| Condition | Applies to | Why Do It? |
|---|--|---|
| <p>1 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that alcohol is not supplied, sold or offered for sale at a discounted price where the discount applies at particular times of the day or week, or is for less than 72 continuous hours in duration (e.g. ‘happy hours’), during one of the following periods:</p> <p>(i) weekend evenings – from 5pm to closing time on Friday, Saturday and Sunday;</p> <p>(ii) evenings – from 5pm to closing time every day;</p> <p>(iii) weekends – from 5pm on Friday to 6am on the following Monday; or</p> <p>(iv) evenings – from 5pm to closing time – and weekends – from 5pm on Friday to 6am on the following Monday.</p> | <p>On-trade and qualifying club premises certificate</p> | <p>While we accept that most happy hours are run responsibly (which is why we are not addressing them at a national level in the mandatory conditions) there are likely to be some that are not.</p> <p>In areas with a large number of licensed premises all competing for customers, it is likely that promotional activities will be aimed at getting lots of people into premises and selling very large quantities of discounted alcohol. As this type of activity can lead to nuisance or disorder, we think it is appropriate that licensing authorities have the ability to restrict happy hours in those premises that are contributing to problems.</p> |
| <p>2 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that alcohol is not supplied, sold or offered for sale at a discounted price where the discount applies according to whether the customer has purchased alcohol at, or attended, other licensed premises in one 24-hour period (e.g. ‘pub crawl’ offers) during one of the following periods:</p> <p>(i) weekend evenings – from 5pm to closing time on Friday, Saturday and Sunday;</p> <p>(ii) evenings – from 5pm to closing time every day;</p> <p>(iii) weekends – from 5pm on Friday to 6am on the following Monday;</p> <p>(iv) evenings – from 5pm to closing time – and weekends – from 5pm on Friday to 6am on the following Monday; or</p> <p>(v) at any time.</p> | <p>On-trade and qualifying club premises certificate</p> | <p>Whilst we expect that most pub crawls are run in a responsible way (which is why we are not addressing them at a national level in the mandatory conditions), there are likely to be some that are not in certain areas.</p> <p>Where licensing authorities have evidence of pub crawls being run and contributing to local disorder, they will be able to take action to prevent future occurrences.</p> |

²² The accompanying impact assessment is available to download from <http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/>

| Condition | Applies to | Why Do It? |
|---|---|--|
| <p>3 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that:</p> <p>3a) a risk review for the premises is carried out and covers:</p> <ul style="list-style-type: none"> ● the number of incidents of violence, alcohol-related disorder or criminal activity for the previous six months; ● the number of times the police and ambulance services were called to respond to incidents within the previous six months; and ● any measures in place to mitigate the likelihood of breaching the four licensing objectives. <p>3b) a copy of the risk review must be provided on request to an authorised person (as defined in part 3, section 13 of the Licensing Act 2003) or constable.</p> <p>3c) the premises must put in place a management plan, agreed with the licensing authority, to address the problems highlighted by the risk review.</p> <p>3d) the risk review and management plan must be reviewed every (apply one of the following):</p> <ul style="list-style-type: none"> (i) 3 months; (ii) 6 months; and (iii) 12 months. | <p>On trade, off-trade and qualifying club premises certificate</p> | <p>By maintaining an up-to-date risk review for each one of a group of premises, licensing and responsible authorities can build up a better picture of the types of risks related to nuisance and disorder that occur in a group of premises and use this to improve their own responses to these risks in future.</p> <p>This also encourages partnership working between the premises, the licensing authority and the police.</p> <p>This provision would also allow some flexibility in applying certain conditions. Having conducted a risk review, the measures in the management plan could be tailored to the problems in that particular premises and can take into account the nature of the premises (layout, opening hours etc.). This would ensure that the measures applied are proportionate and targeted.</p> |

| Condition | Applies to | Why Do It? |
|--|--|--|
| <p>4 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that empty or abandoned glasses and bottles are collected and cleared away every (apply one of the following):</p> <p>4a) 30 minutes;</p> <p>4b) 45 minutes; or</p> <p>4c) 60 minutes.</p> <p>To apply at one of the following times:</p> <p>(i) weekend evenings – from 5pm to closing time on Friday, Saturday and Sunday</p> <p>(ii) evenings – from 5pm to closing time every day</p> <p>(iii) weekends – from 5pm on Friday to 6am on the following Monday</p> <p>(iv) evenings – from 5pm to closing time – and weekends – from 5pm on Friday to 6am on the following Monday</p> <p>4d) a record shall be kept and provided on request to an authorised person (as defined part 3, section 13 of the Licensing Act 2003) or a constable.</p> | <p>On-trade and qualifying club premises certificate</p> | <p>The rate of violent crimes that involve glasses/glass bottles in and around pubs and clubs is worryingly high, with 87,000 glass and bottle related violent incidents resulting in injury in 2007/08²³. In order to reduce the incidence of this problem, this condition will ensure that glasses are collected regularly and not left available for people to use as weapons.</p> |
| <p>5 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that alcohol is not served in glass containers during one of the following periods:</p> <p>(i) weekend evenings – from 5pm to closing time on Friday, Saturday and Sunday;</p> <p>(ii) evenings – from 5pm to closing time every day;</p> <p>(iii) weekends – from 5pm on Friday to 6am on the following Monday; or</p> <p>(iv) evenings – from 5pm to closing time – and weekends – from 5pm on Friday to 6am on the following Monday.</p> | <p>On-trade and qualifying club premises certificate</p> | <p>To reduce the number of violent incidents involving glasses and bottles.</p> |

²³ British Crime Survey 2007/08.

| Condition | Applies to | Why Do It? |
|---|--|---|
| <p>6 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that customers are not allowed to leave the licensed premises with unsealed glass drinks containers (including glasses and bottles) – whether they contain alcohol or not – during one of the following periods:</p> <ul style="list-style-type: none"> (i) Weekend evenings – from 5pm to closing time on Friday, Saturday and Sunday; (ii) Evenings – from 5pm to closing time every day; (iii) Weekends – from 5pm on Friday to 6am on the following Monday; or (iv) Evenings – from 5pm to closing time – and weekends – from 5pm on Friday to 6am on the following Monday. | <p>On-trade and qualifying club premises certificate</p> | <p>To reduce the number of violent incidents involving glasses and bottles.</p> |

| Condition | Applies to | Why Do It? |
|--|--|--|
| <p>7 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that toilet facilities are checked for empty glasses, incidents of violence or any evidence of criminal activity – including drugs – at regular intervals and that a record is kept of the inspection. If evidence of criminal activity is found, the licence holder, designated premises supervisor or a member of staff delegated by them, must be informed immediately and a record kept. This must be provided on request to an authorised person (as defined in part 3, section 13 of the Licensing Act 2003) or a constable. These checks must take place every (apply one of the following):</p> <p>7a) 30 minutes;</p> <p>7b) 45 minutes;</p> <p>7c) 60 minutes; or</p> <p>7d) 90 minutes.</p> <p>To apply during one of the following periods:</p> <p>(i) weekend evenings – from 5pm to closing time on Friday, Saturday and Sunday;</p> <p>(ii) evenings – from 5pm to closing time every day;</p> <p>(iii) weekends – from 5pm on Friday to 6am on the following Monday; or</p> <p>(iv) evenings – from 5pm to closing time – and weekends – from 5pm on Friday to 6am on the following Monday.</p> | <p>On-trade and qualifying club premises certificate</p> | <p>Toilets in some licensed premises are used for criminal activity, such as drug taking or dealing, acts of violence etc. This condition would require a group of premises to all check toilet facilities regularly, thus cutting down on the risk of incidents spilling out into the night-time economy.</p> |

| Condition | Applies to | Why Do It? |
|---|---|--|
| <p>8 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that:</p> <p>8a) On seeking entry, all customers are searched for drugs or weapons by appropriate Security Industry Authority licensed door staff who shall manage admissions to the premises. This shall be in operation at one of the following times:</p> <ul style="list-style-type: none"> (i) weekend evenings – from 5pm to closing time on Friday, Saturday and Sunday; (ii) evenings – from 5pm to closing time every day; (iii) weekends – from 5pm on Friday to 6am on the following Monday; or (iv) evenings – from 5pm to closing time – and weekends – from 5pm on Friday to 6am on the following Monday. <p>8b) appropriate signage regarding these checks is displayed outside the entrance to the premises when these checks are in operation.</p> | <p>On-trade and qualifying club premises certificate</p> | <p>Every year there are a number of stabbings or violent incidents outside licensed premises. This condition would allow a licensing authority to require searches for weapons or drugs in those premises located in areas where trouble has occurred or is likely to occur.</p> |
| <p>9 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that an up-to-date incident record is maintained, and that it is used to record details of all incidents of violence, alcohol-related disorder or criminal activity on the premises or in those areas that are under the premises' control. The incident record must be provided on request to an authorised person (as defined in part 3, section 13 of the Licensing Act 2003) or a constable.</p> | <p>On trade, off-trade and qualifying club premises certificate</p> | <p>By maintaining accurate records of incidents occurring in premises, licensing and responsible authorities can build up an accurate picture of the types of nuisance and disorder that occur in a group of premises and use this to improve their own responses to these incidents and plan future preventative action in addition they will be able to work with the group of premises to help them to deal with these types of incidents better in future.</p> |

| Condition | Applies to | Why Do It? |
|--|---|--|
| <p>10 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure the preparation and implementation of a dispersal policy in consultation with the police and licensing authorities. This can include measures in one or more of the following areas:</p> <ul style="list-style-type: none"> (i) the inclusion of a specified ‘wind down’ plan with a specified period at specified times; (ii) ensuring that customers are not allowed to leave the premises with unsealed glass drinks containers at specified times; (iii) ensuring the operation of CCTV at specified times in positions agreed with the police, with all CCTV footage being kept for 28 days and made available on request to an authorised person (as defined in part 3, section 13 of the Licensing Act 2003) or a constable on request; (iv) ensuring that information is displayed for customers on the location of local public transport links and telephone numbers for local licensed taxi companies and ensuring the provision of a direct telephone line to local licensed taxi companies; and/or (v) ensuring that a senior member of staff, together with any door supervisors, must maintain a live text or radio pager link at specified times for instant communication with local police to facilitate a rapid response to any disorder. | <p>On trade, off-trade and qualifying club premises certificate</p> | <p>A lot of areas have problems after closing times with large numbers of people just outside the premises. This can often lead to disorder.</p> <p>Having effective dispersal policies helps to move people along and thus reduce the likelihood of incidents occurring.</p> <p>This provision would also allow some flexibility in applying measures such as the operation of CCTV. In preparing the dispersal policy, the measures applied could be tailored to the problems in that particular premises and can take into account the nature of the premises (layout, opening hours etc.). This would ensure that the measures applied are proportionate and targeted.</p> <p>The Government is committed to improving the safety of all patrons of the alcohol industry. Conditions 10-14 together make up a package of measures to help achieve the aim of enabling men and women to feel safer when out at night by ensuring that people are protected from violence when in licensed premises and that they get home safely when they have been out in licensed premises.</p> <p>As the Government’s recent consultation paper, <i>‘Together we can end violence against women and girls’</i>²⁴, explained women are often disproportionately more concerned about their safety at night. So through that consultation we made a commitment to continue discussions with the police, local authorities and alcohol industry trade associations to encourage pubs and clubs to improve women’s safety in and around licensed premises.</p> |

²⁴ HM Government (2009) *Together we can end violence against women and girls*.

| Condition | Applies to | Why Do It? |
|---|---|--|
| <p>11 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that CCTV is in operation in the licensed premises in positions dictated by the police, with all CCTV footage being kept for 28 days and made available on request to an authorised person (as defined in part 3, section 13 of the Licensing Act 2003) or a constable, and that it operates at one of the following times:</p> <ul style="list-style-type: none"> (i) weekend evenings – from 5pm to closing time on Friday, Saturday and Sunday; (ii) evenings – from 5pm to closing time every day; (iii) weekends – from 5pm on Friday to 6am on the following Monday; or (iv) evenings – from 5pm to closing time – and weekends – from 5pm on Friday to 6am on the following Monday. <p>Appropriate signage regarding the operation of CCTV must be displayed for customers.</p> | <p>On trade, off-trade and qualifying club premises certificate</p> | <p>The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises.</p> <p>This does not mean that areas should have blanket CCTV coverage but rather that it can be used to deter and detect in areas that have a high level of alcohol-related crime.</p> |
| <p>12 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure the display of information for customers on the location of local public transport links and telephone numbers for local licensed taxi companies.</p> | <p>On-trade and qualifying club premises certificate</p> | <p>A lot of areas have problems after closing times with large numbers of people just outside the premises. This can often lead to disorder.</p> <p>Helping people get to local transport links will help to address this.</p> |
| <p>13 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure the provision of a direct telephone line to local licensed taxi companies.</p> | <p>On trade, off-trade and qualifying club premises certificate</p> | <p>As above.</p> |
| <p>14 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that a senior member of staff, together with any door supervisors, maintains a live text or radio pager link for instant communication with local police to facilitate a rapid response to any disorder.</p> | <p>On trade, off-trade and qualifying club premises certificate</p> | <p>Text and radio pagers connecting premises to the local police can allow rapid response by the police to situations of disorder which may be endangering customers and staff on the premises.</p> |

| Condition | Applies to | Why Do It? |
|---|--|---|
| <p>15 The responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that:</p> <p>15a) staff do not sell or supply any alcoholic product to a person who could reasonably be suspected to be under the age of 21 unless proof of age has been provided, except where staff know that the person is aged 18 or over.</p> <p>15b) a written notice must be displayed for customers clearly, visibly and legibly, stating:</p> <ul style="list-style-type: none"> ● it is illegal to sell alcohol to, or to buy alcohol for, those aged under 18 (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider in the company of adults during a table meal) ● details of the potential penalties incurred ● that a ‘Challenge 21’ Scheme is in operation. <p>15c) an up-to-date refusals record is kept, logging all incidents of attempted underage and proxy purchases of alcohol, and that this is provided on request to an authorised person (as defined part 3, section 13 of the Licensing Act 2003) or a constable.</p> | <p>On trade off-trade and qualifying club premises certificate</p> | <p>It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises involving the production of ‘proof of age’ before such sales are made. Many premises have adopted the ‘Challenge 21’ or other similar initiatives. Under the ‘Challenge 21’ initiative, premises selling or supplying alcohol require sight of proof of age for anyone who appears to be under the age of 21 and is attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even those who look older – would need to produce appropriate proof of age before making a purchase. This would serve to reduce the number of underage alcohol sales and help to prevent nuisance and disorder.</p> |

| Condition | Applies to | Why Do It? |
|---|------------------|---|
| <p>16 Where the sale of alcohol is a sale by retail, the responsible person(s) (as defined in section 153(4) of the Licensing Act 2003) shall ensure that alcohol must not be sold on the basis of any volume-based promotions which require the purchase of more than a specified volume of alcohol in order to take advantage of a reduced price. This would prohibit discounts on volumes greater than:</p> <ul style="list-style-type: none"> ● 12 litres of beer, lager and cider (equivalent to approximately 27 x 440ml cans, 24 x 500ml cans, or 4 x 3 litre bottles); ● 9 litres of wine (equivalent to a case of 12 x 750ml bottles); and ● 2 litres of spirits (equivalent to two large bottles). <p>This applies during one of the following periods:</p> <p>(i) Weekend evenings – from 5pm to closing time on Friday, Saturday and Sunday;</p> <p>(ii) Evenings – from 5pm to closing time every day;</p> <p>(iii) Weekends – from 5pm on Friday to 6am on the following Monday;</p> <p>Evenings – from 5pm to closing time – and weekends – from 5pm on Friday to 6am on the following Monday; or</p> <p>(iv) At any time.</p> | <p>Off-trade</p> | <p>There has been considerable public and media interest in the way that, in particular, supermarkets promote large quantities of alcohol. The concern is that this type of promotion encourages ‘pre-loading’ whereby people enter the night-time economy already drunk and go on to cause crime and disorder.</p> <p>A licensing authority applying this condition would mean that, in the case of beer, supermarkets could sell any single can; four-pack; eight-pack; 12-pack or 24-pack for any price. However, if it wishes to sell two 24 packs, it must do so at a cost equivalent to two times the usual cost of a 24 pack.</p> <p>For this reason, we consider that it is fair to responsible drinkers as it prevents them having to buy large quantities of alcohol to take advantage of a discount. This condition still allows consumers to take advantage of any promotions up to these limits.</p> <p>The challenge for government in taking action against these types of promotions is that we do not wish to penalise the majority of people who take advantage of these offers and drink responsibly. We are therefore very keen to hear views on whether the proposed limits have been set appropriately.</p> |

AREAS FOR FURTHER LOCAL DISCRETIONARY CONDITIONS THAT WE WISH TO CONSULT ON

4.13 In addition to the conditions listed in the tables, there are a range of other areas that the Government has been considering including in this discretionary local licensing conditions list. A number of issues were identified during the pre-consultation discussions with stakeholders and these are outlined below, with specific consultation questions for each point.

TRAINING

4.14 It is widely recognised that trained staff are likely to be more effective at refusing underage sales, proxy sales and sales to drunks, and dealing with drunk and rowdy customers etc. than those who are untrained.

4.15 While this is not so much an issue in some businesses where extensive training is given, it can be more of an issue for other businesses where there is a high turnover rate of staff. It is possible that staff will not have received substantial training, even though they may work in a premises where the likelihood of violence or disorder occurring are quite high.

4.16 If training were to be made a licensing condition, then we consider that it should cover a number of issues, such as:

- (i) spotting and refusing underage sales, sales to drunks and proxy sales;
- (ii) the law relating to underage sales, proxy sales and sales to drunks;
- (iii) the dispersal of customers;
- (iv) ensuring that licensed premises operate a safe environment; and
- (v) dealing with, or managing, violent incidents and difficult situations.

4.17 Difficulties may arise because there is no agreed standard or quality of training and many premises will operate their own training schemes. For these reasons, it may be best to set out in guidance what is considered to be best practice for training staff

which licensing authorities can take into account when reviewing a premises. The costs involved could also be significant and applying the condition to multiple premises may not be proportionate or appropriate – some will argue that a training condition should be individually tailored to a particular premises to tackle a particular problem.

4.18 The Government is considering making training a ‘locally applied’ condition, we are eager to hear your views on how this could work as a condition applied to multiple premises or as guidance within the framework of the code.

SEATING

4.19 Premises described as ‘high volume vertical drinking establishments’ are premises which have exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and often little or no seating for customers.

4.20 These types of premises are strongly associated with a greater risk of crime and disorder. This is because if people do not have a place to set their drink, they are likely to drink it more quickly. This can lead to people drinking greater amounts more quickly, which in turn can lead to a higher risk of crime and disorder occurring. It therefore seems sensible to have a condition that licensing authorities can apply to two or more such premises in an area (e.g. a high street where there may be several such premises).

4.21 However, the evidence of how much seating will reduce the ‘problem’ is poor. It is also difficult to apply to multiple premises as the layout of each premises will be different. This means that it is difficult to stipulate a condition that is appropriate for all the premises being targeted. It is also potentially difficult to calculate, comply with and enforce, and may also be difficult due to fire and planning regulations. This type of action can already be, and sometimes is, imposed on an individual premises following licence review.

4.22 The Government welcomes views on this matter.

DOOR STAFF

4.23 Effective door staff can help to prevent crime and disorder by managing admissions and helping people to leave the premises safely, especially if in operation during peak times of crime and disorder, such as evenings and weekends. However, this is difficult to apply to multiple premises as the layout of each premises is different, so stipulating the same requirements for multiple premises could be difficult. As the Licensing Act 2003 requires that all door staff must be Security Industry Authority licensed, this would be a costly condition unless used in a targeted way to deliver disorder and nuisance reduction benefits. We welcome your views on whether you think that there should be a locally applied condition to require groups of premises to have door staff during times associated with nuisance and disorder.

BACKGROUND MUSIC

4.24 Noise emanating from licensed premises can cause public nuisance, and this is already dealt with by environmental health legislation and, in terms of individual premises, under the 'public nuisance' licensing objective.

4.25 There is a suggestion that high levels of background music in pubs and bars can lead to customers drinking faster, which in turn could lead to a greater risk of nuisance and disorder. Anecdotally, loud background music can make it difficult for people to have a conversation and create an atmosphere which could encourage people to drink more, or more quickly.

4.26 The available evidence on this issue is inconclusive. We therefore welcome your views on whether background music can lead to faster or increased drinking and contribute to instances of nuisance and disorder.

CONSIDERATION FOR FUTURE ACTION: PUBLIC SAFETY

The Government is concerned about people, in particular women, being intimidated, assaulted or sexually harassed in or around the night-time economy. In addition to the measures set out in conditions 10-14, which will help achieve the aim set out in the recent consultation on ending violence against women,²⁵ enabling them to feel safer when out at night. The Government welcomes views on what more can be done to protect both men and women in licensed premises.

²⁵ HM Government (2009) *Together we can end violence against women and girls*.

CONSULTATION QUESTIONS ON THE DISCRETIONARY LOCAL CONDITIONS

For the public:

- Are the reasons for the proposed local conditions clear to you?
- Are the issues set out in the locally applied conditions a problem in your area?
- If any of the local conditions were applied to licenced premises where you live, would they affect you?
- Do you think that any of the proposed local conditions should not be available to licensing authorities to apply to groups of two or more premises?
- In order to prevent crime and disorder, should there be a limit on the volume of alcohol that you need to buy before you can get a discount in shops and supermarkets? If so, what do you think the limit should be.

For licensing authorities, enforcement agencies and health bodies:

- Do you have any suggestions that will improve the impact of the proposed conditions in reducing nuisance and disorder in your area?
- Is the drafting of these proposed local conditions explicit enough to achieve the intended impact? If not, can you provide alternative wording?

For those who sell or supply alcohol:

- What do you think the impact of these conditions will be (if they are applied by the local licensing authority) on your business?

For licensing authorities, enforcement agencies, health bodies and those who sell or supply alcohol:

- Are there any of the proposed conditions that seem disproportionate or that you do not think licensing authorities should be able to use with groups of two or more premises?
- If limits are to be placed on supermarkets, convenience stores, etc. for discounting large volumes of alcohol, what levels do you consider should be set? Should it differ for different types of drinks (beers, wines, spirits, etc.)?
- *Training*
How might a training requirement applied by licensing authorities to two or more premises work in practice? In particular: what should it contain; how should it be enforced; and should different schemes be available to the on-trade, off-trade and clubs?
- *Seating*
What are the appropriate levels of seating that should be imposed on 'high volume vertical drinking establishments' in order to reduce the risk of nuisance and disorder?
- *Background music*
Would a restriction on the level of background music contribute to a decrease in nuisance and disorder? If so, how might it be enforced?
- *Harassment/intimidation in premises*
What more can be done to protect people from harassment and intimidation in and around licensed premises?
- *Door Staff*
Do you think that there should be a discretionary local condition to require groups of premises to have door staff in operation during times associated with nuisance and disorder?

Chapter 5: Making the mandatory and locally applied conditions work

INTRODUCTION

5.1 The purpose of the mandatory and locally applied licensing conditions as set out in Chapters 3 and 4 are, respectively:

- to make clear that certain activities must take place and others must not occur in any of the licensing authority areas in England and Wales; and
- to give licensing authorities the power to take action with a number of premises that are contributing to alcohol-related nuisance and disorder.

5.2 If the conditions are to be effective then they must be applied and enforced in a robust, proportionate and consistent way.

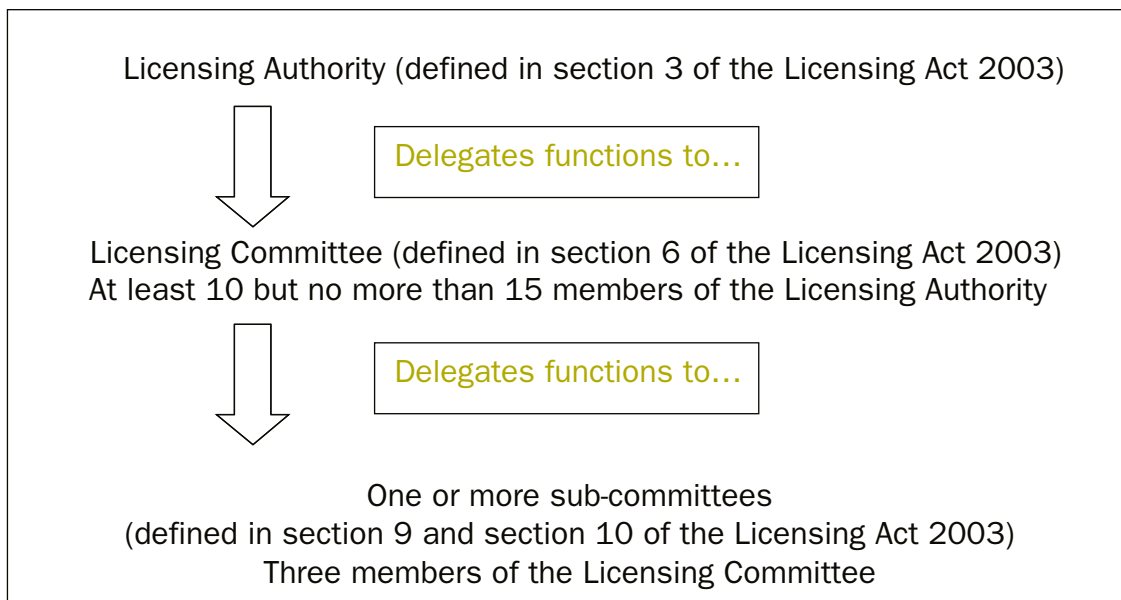
5.3 Before we consider what the processes might be for ensuring that the mandatory and discretionary local conditions are effective in reducing alcohol-related crime and disorder, it is useful to set out how the current system operates.

HOW LICENSING CONDITIONS CURRENTLY WORK UNDER THE LICENSING ACT 2003

5.4 The licensing authority, which in practice is normally the Local Authority, is responsible for the administration of the provisions of the Licensing Act at local level.

5.5 Under the Licensing Act, each licensing authority must appoint a licensing committee consisting of 10 – 15 members of the authority. A licensing committee may then establish one or more sub-committees consisting of 3 members of the committee. This is set out in figure 2 below:

Figure 2



5.6 A *responsible authority* such as the police, trading standards etc. or *interested party* such as local businesses or residents²⁶ may request a review of a premises licence at any time when there is *evidence* that one or more of the four licensing objectives are being breached or undermined. There is then a

28 day period when other responsible authorities or interested parties can make representations. During this period, there should also be a negotiation process with the premises in question. If no agreement is reached in this period, then the review is heard by the licensing authority.

²⁶ Defined in section 8.5 – 8.17 of Section 182 Guidance (DCMS) Licensing Act 2003

5.7 During the hearing, the responsible authority or interested party sets out why action should be taken against the premises and the premises is given an opportunity to respond to any accusations against it. Following this, the licensing authority may make one of the following decisions:

- modify the conditions of the licence;
- exclude a licensable activity;
- remove the designated premises supervisor;
- suspend the licence for up to three months at Review (or pending Review for when there has been serious crime and disorder²⁷); or
- revoke the licence.

5.8 Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which, on conviction, would be punishable by a fine of up to £20,000, or up to six months imprisonment, or both.

5.9 There is no mandatory requirement for a criminal prosecution to commence a review. It can often prove to be a quicker and more cost effective solution than prosecution and is solely concerned with the promotion of the licensing objectives. It provides a straightforward and effective means of addressing identified problems before they have time to escalate.

5.10 Appeals against decisions made by a licensing authority are to the magistrates' court. The person or business appealing has 21 days in which to lodge an appeal, beginning on the day of notification by the licensing authority of the decision to be appealed against. On an appeal against a decision of a licensing authority, a magistrates' court may:

- a) dismiss the appeal;
- b) substitute for the decision appealed against any other decision which could have been made by the licensing authority; or

c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court; or

d) make such order as to costs as it thinks fit.

HOW THE NEW MANDATORY LICENSING CONDITIONS WILL WORK

5.11 As the aim of the mandatory conditions is to set out clearly what activities must, or must not, take place in licensed premises, it will not be necessary for there to be any hearing or review before the conditions are placed upon all relevant licensed premises.

5.12 Following Royal Assent of the Policing and Crime Bill, the Home Secretary will, at an appropriate time following this consultation and having regard to the responses (including discussions with businesses), legislate to set out what the mandatory conditions will be, to whom they will apply, and the date that they are to come into effect.

5.13 The Home Office will ensure that licence holders are made aware of the new mandatory licensing conditions through a variety of communication channels, including licensed trade special interest publications, trade associations, communications issued through the Government Office Network and the local police.

5.14 Licensed premises will not be able to appeal against the imposition of any of the mandatory conditions. Any breach of the mandatory conditions will be dealt with in the same way that breach of any of the current licensing conditions is treated and we would expect licensing authorities to pursue prosecution or other enforcement against these premises where necessary and proportionate. We would expect that licensing authorities consider using the 'Yellow Card/Red Card' approach when considering a breach (see page 49).

²⁷ These circumstances are set out under section 53A of the Licensing Act 2003, and are set out under section 21 of the Violent Crime Reduction Act 2006.

HOW THE NEW DISCRETIONARY LOCAL LICENSING CONDITIONS COULD WORK

5.15 Whilst the mandatory conditions will be brought into effect at a national level, the locally applied conditions will, by their very nature, only be brought into effect when an individual licensing authority considers it necessary and proportionate to do so.

5.16 Unlike the existing system, where an interested party or responsible authority must make a representation to the licensing authority before any new conditions can be applied, the new system will allow licensing authorities *to initiate action themselves* on whether or not to apply conditions to groups of two or more premises²⁸.

5.17 The Government recognises that for some types of conditions, they do not easily lend themselves to being applied to larger groups of premises. That is why we are consulting on what is an appropriate list for licensing authorities to use to tackle groups of premises. The Home Secretary will, at an appropriate time following Royal Assent of the Policing and Crime Bill, the conclusion of this consultation and, having regard to the responses (including discussions with businesses), legislate to set out the final list of conditions that can be applied at a local level.

5.18 A licensing authority may only place discretionary local licensing conditions on two or more premises following a four point test to ensure that conditions are both necessary and proportionate. The licensing authority must consider the following tests:

FOUR-POINT TEST:

- there has been nuisance to members of the public, or a section of the public, or disorder, on or near the premises;
- the nuisance or disorder is associated with the consumption of alcohol on the premises or supplied by the premises;
- there is likely to be a repetition of nuisance or disorder that is so associated; and
- it is appropriate to impose the conditions for the purposes of mitigating or preventing the nuisance or disorder concerned²⁹.

5.19 As such, there are three distinct differences between the current system (in respect of dealing with individual premises) and the new approach currently being legislated for in the Policing in Crime Bill:

- it is the licensing authority that can decide *itself* whether or not to initiate action rather than only doing so following representation from a responsible authority or interested party;
- the conditions can only be applied to *two or more* premises rather than just to individual premises; and
- the conditions can *only* be applied if the four-point test (above) is met.

5.20 For these reasons, it is not possible to simply replicate the existing system for these new powers. However, as the current system is well established, we consider that there is merit in having a system that, as closely as possible, resembles it. This would give greater certainty to licensing authorities, enforcement agencies and the licensed trade about implementation and should minimise the costs of setting up new systems.

²⁸ The licensing authority must, however, consult the relevant responsible authorities and premises holders before the conditions are imposed.

²⁹ HM Government (2008) *Policing and Crime Bill*.

5.21 If any of the licensed premises object to any conditions applied by licensing authorities, then appeals would be made to the magistrates' court in the first instance. Appeal beyond magistrates' court would follow the standard judicial process. Licensing authorities can reduce the likelihood of appeals by using robust processes to make sure that conditions applied are both necessary and proportionate to the problem that they are trying to resolve.

HOW DISCRETIONARY LOCAL CONDITIONS MIGHT BE IMPOSED

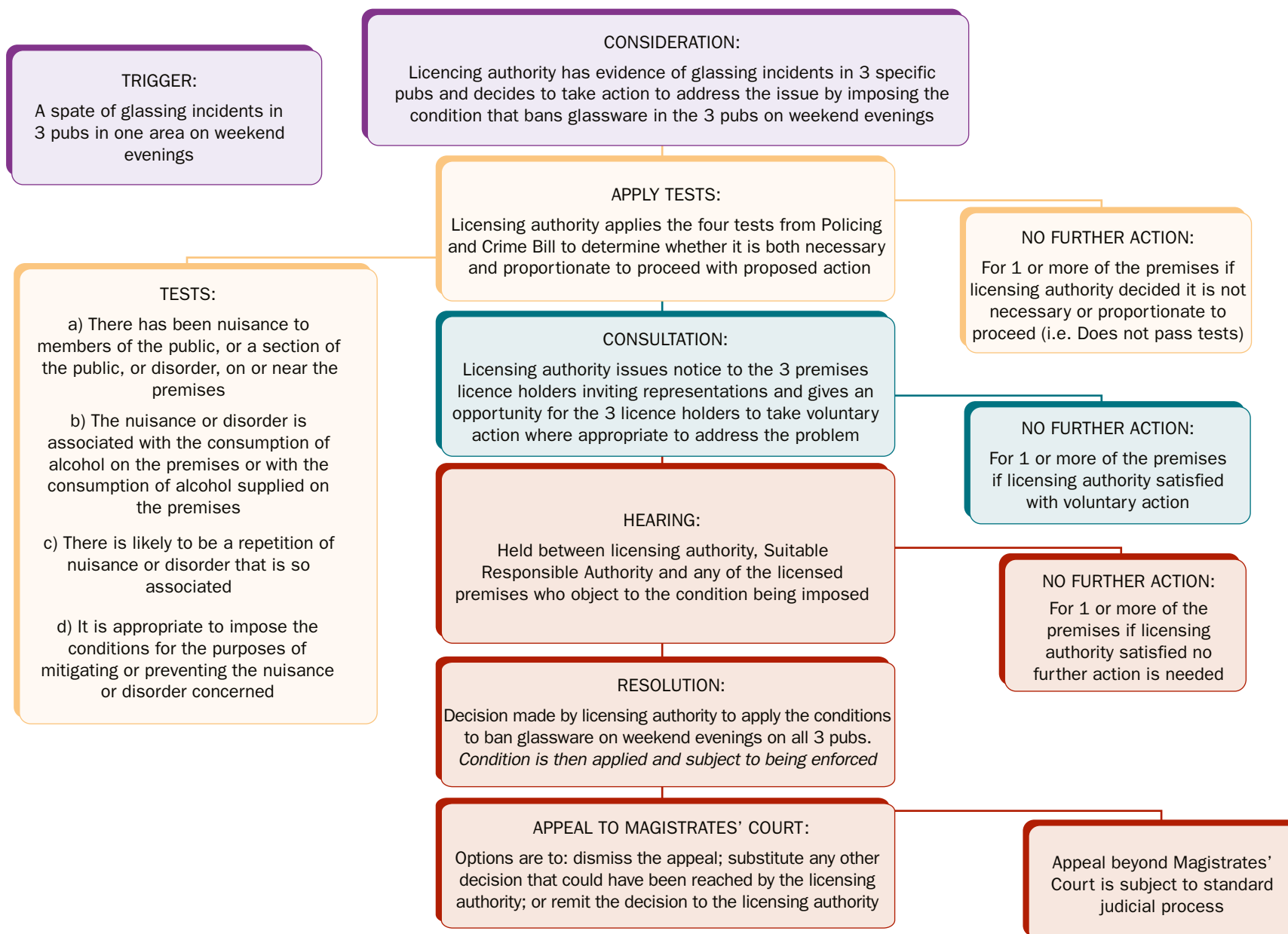
5.22 The proposed process for all the conditions that can be applied by local licensing authorities is that there is an initial consultation in which the licensing authority raises their concerns with the premises who are contributing to the problem.

If, after this consultation process, the problem has not been resolved on a voluntary basis, the licensing authority can then move to apply one or more of the discretionary local licensing conditions on those premises. This proposed process allows the licensing authorities to evidence that they have sought to deal with the problem on a voluntary basis before taking tougher action.

5.23 The following diagram sets out how the system for applying local discretionary conditions could operate through a worked example. *Figure 3* provides a worked example of a local licensing authority responding to a series of glass related injuries in and around three licensed premises by imposing a condition to ban glassware at specific times associated with the problem they are trying to tackle.



Figure 3: A worked example of how the local conditions might work



APPEALS PROCESS

5.24 As in the Licensing Act 2003, a premises may appeal against any decision to modify the conditions of their licence to a magistrates' court (schedule 5:4 of the Licensing Act 2003). This must be commenced by notice of appeal given to the designated officer within 21 days of being notified of the decision they are appealing about.

5.25 The options that may be applied by the court are to:

- dismiss the appeal;
- substitute any other decision that could have been reached by the licensing authority; or
- remit the decision to the licensing authority to dispose of in accordance with the direction of the court and award costs.

5.26 Appeal beyond the magistrates' court is subject to the standard judicial process

THE YELLOW CARD/RED CARD APPROACH

5.27 This approach requires licensing authorities to use local intelligence and knowledge to identify problem premises and to seek licence reviews with the intention of applying tough conditions as a 'yellow card' with the threat of revocation at a further review (a 'red card') should they fail to improve.

5.28 It aims to ensure a firm response to problem premises, while giving them an opportunity to reform. It should be highly visible and send a clear message to alcohol retailers, and the public, that action will be taken against those who act contrary to the licensing objectives and the law.

HOW IT WORKS:

- responsible authorities call for a review of a problem premises (i.e. following a breach of an existing or newly imposed licensing condition). They are encouraged to propose a package of tough new conditions, to be added to the



existing conditions, which are designed to combat the identified problem;

- the licensing authority holds a hearing and, if appropriate, it should consider the package of conditions to challenge problem premises more aggressively. As with all conditions following the review of a licence, they must be necessary and proportionate. The aim is to put the premises on ‘probation’. Effectively they are given a ‘yellow card’; and
- in the absence of improvement, or on committing another offence or breach of conditions, enforcement agencies should seek another review and the licensing authority must hold another hearing. If satisfied that there has been a lack of improvement, the licensing authority should look to revoke the licence (effectively a ‘red card’).

5.29 Where breaches of licensing conditions are more serious, we expect that licensing authorities would pursue a prosecution against these premises.

MAKING THE FOOD SAFETY ACT REQUIREMENTS WORK

5.30 Following consideration of responses to this consultation, the Secretary of State for Health will lay regulations under powers in the Food Safety Act 1990, to set out requirements for information to be displayed at the point-of-sale of alcohol products, or points where alcohol products are on display in the off-trade. This would bring the requirements within the existing systems and framework for the enforcement of other food safety and food hygiene regulations.

5.31 Under the Act, ‘food authorities’ are responsible for monitoring and enforcing compliance with food safety legislation in their local authority area. The Food Standards Agency (an independent UK-wide Government Agency set up by the Food Standards Act to protect the public’s health and consumer interests in relation to food and drink) works closely with local authority enforcement officers to make sure that the law is applied

comprehensively and consistently. It issues advice on a range of enforcement issues, setting out the rights and responsibilities of enforcement authorities and businesses, and helps ensure that food and drink safety and legal requirements are maintained and monitored.

CONSULTATION QUESTIONS ON MAKING IT WORK

For the public:

- If you were concerned about problems relating to groups of licensed premises in your area, and how they sell alcohol, what would you do about it?

For licensing authorities, enforcement agencies, health bodies and those who sell or supply alcohol:

- Do you think that the enforcement process that we have suggested is appropriate? Can you suggest an alternative?
- Do you think that the appeals process we have suggested is appropriate? Can you suggest an alternative?

For licensing authorities, enforcement agencies and health bodies:

- How widely do you think these powers will be used and why?

Chapter 6: Guidance

INTRODUCTION

6.1 To underpin the code of practice, the Government will issue a comprehensive suite of guidance, which will be made up of three elements:

- revised sections of the statutory guidance to licensing authorities, under section 182 of the Licensing Act 2003, to licensing authorities, which they must have regard to when discharging their functions under that Act;
- new statutory guidance under section 40 of the Food Safety Act 1990, to food authorities, which they must have regard to when discharging their duties under that Act; and
- non-statutory guidance containing examples of good practice that will be of benefit to licensing authorities, enforcement agencies, food authorities and the licensed trade in implementing, and complying with, the code of practice.

The suite of guidance will include:

- how the conditions should be used, explaining any regulations and processes;
- dealing with breaches of the conditions;
- the process for appeals against the locally applied conditions;
- how the point-of-sale requirements apply in the on- and off-trade;
- dealing with non-compliance with the requirements; and
- good practice on managing and running premises so that licensing authorities can take into account whether a premises is acting in accordance with good practice when dealing with breaches of licensing conditions.

6.2 The guidance will help to make it clear to all parties what they can expect from the code and what is expected of them. The overall purpose of the suite of guidance will be:

Revised Guidance under Section 182 of the Licensing Act 2003:

- to secure the effective implementation of the conditions in the code across all licensing authorities, while allowing an appropriate level of local discretion on the specific application of the specified local conditions; and
- to explain the processes, procedures and responsibilities of different authorities in relation to mandatory and locally applied conditions including the appeals process.

New Guidance under Section 40 of the Food Safety Act 1990:

- to ensure that local agencies and licensed premises are aware of the issues and responsibilities with regards to public health, e.g. the requirement for point-of-sale information, Accident and Emergency data sharing etc.

New Good Practice Guidance:

- set out accepted standards of practice for the sale and supply of alcohol; and
- provide additional supporting guidance on a wider range of relevant issues such as irresponsible promotions, to help licensed premises comply with conditions, ensure that the night-time economy is managed safely and sensibly, and that partnership activity is encouraged at all times;

6.3 By its nature, the good practice guidance can be more loosely defined than the conditions and requirements in the code and can therefore be better related to the principles of what premises should be doing to prevent and tackle alcohol-related crime and disorder. The purpose of including good practice within the suite of guidance is to help licensing authorities reach decisions about imposing the locally applied licensing conditions. Licensing authorities could

consider the extent to which licensed premises are able to demonstrate compliance with good practice standards and take this into account when the licences of problem premises are brought to review.

- 6.4 It is not appropriate to expect premises to demonstrate the good practice at the initial application stage as, by definition, they will not yet have been trading and to adopt measures which may not be necessary in relation to individual circumstances would present a costly barrier to new businesses entering the market. However, enforcement authorities will be able to keep the good practice in mind when inspecting premises and will be able to use adherence to those principles as one element of assessing which premises are likely to pose the greatest risk to the licensing objectives.

PREPARING THE SUITE OF GUIDANCE

- 6.5 The Policing and Crime Bill includes proposals to use the existing power under section 182 of the Licensing Act to issue guidance which licensing authorities must have regard to in carrying out their functions under the Act.
- 6.6 There is an equivalent power to issue statutory guidance under section 40 of the Food Safety Act 1990, which food authorities must have regard to when discharging their duties. It sets out the way local authorities should apply the law and how they should work with businesses. This is complemented by the Food Law Practice Guidance which is issued as a further help to enforcement officers. It is intended to use the power under section 40 to incorporate appropriate good practice guidance to support the national requirements to be imposed on licensed premises under the Food Safety Act.
- 6.7 The Government will work with key stakeholders in order to produce the finalised suite of guidance.

EXAMPLES OF GOOD PRACTICE IN ALCOHOL RETAIL

Alcohol, Social Responsibility and You

A booklet developed by the Wine and Spirit Trade Association for companies in the wine and spirit industry to use in the induction and training of new staff. It sets out the basics of social responsibility, why it is important and how it affects both the company and the individual.

Best Bar None

Best Bar None is an award scheme for licensed premises, currently running in over 80 locations across the UK. It was developed by the Greater Manchester City Centre Safe project to address alcohol-related crime and improve the night-time environment. It was felt that in order for progress to be made in delivering a safer night-time economy, a new partnership approach was needed alongside more traditional law enforcement. Best Bar None schemes provide an incentive for the operations of licensed premises to improve their standards of operation to the level of a commonly agreed national benchmark.

Business Improvement Districts (BIDs)

The development of Business Improvement Districts (BIDs) has made a tangible difference to local areas. Over 90 BIDs are now in existence across the UK. The Nottingham BID was established in October 2007 and is the first specific licensed retail BID in the UK.

Community Alcohol Partnership

The Retail of Alcohol Standards Group (RASG), supported by the Wine and Spirit Trade Association, is making a significant and positive contribution to tackling alcohol-related harms, through the rolling out of their award winning Community Alcohol Partnership (CAP) scheme. As part of the scheme, RASG companies are now regularly training previously problematic independent stores and their staff are providing information to police at an early stage in a bid jointly to tackle proxy purchase and wider problems associated with public underage drinking. The scheme's success in

Cambridgeshire has led to a rapid rolling out to a number of different areas. More information can be found at www.communityalcoholpartnerships.co.uk.

Community Engagement Good Practice Guide

NOCTIS (in conjunction with Diageo) have produced 'Community Engagement in the Night-time Economy: A Shine Good Practice Guide' – a short guide to producing the best partnerships at local level the night-time economy.

The key principles behind the guide are to:

- create shared principles;
- develop and maintain channels of regular communication;
- create opportunities for diversity and inclusiveness;
- foster a positive outlook which views the night-time economy as an asset; and
- ensure that enforcement on irresponsible premises is supported by the wider community.

Challenge 21

A nationally recognised format which highlights the need to ask for, or the likelihood of being asked, for proof of age if the customer appears to be under 21 years old. This widely publicized scheme encourages anyone who is over 18 but looks under 21 to carry acceptable identification (e.g. a card bearing the PASS hologram, a photographic driving licence or a passport) if they wish to buy alcohol.

Challenge 25

RASG has also stepped up measures to combat attempted purchase of alcohol by and for under 18's with the launch of **Challenge 25**, which ensures that all those who are over 18 but under 25 possess and show photo identification (such as the Home Office supported PASS hologrammed card) if they wish to purchase alcohol. The new threshold is also designed to assist efforts to combat proxy purchases – where adults purchase alcohol

on behalf of underage young people. New signage, which makes it clear that under 25s must now expect to be challenged to prove their age and which spells out the heavy fines which could follow for those caught breaking the law, is being rolled out now to many stores and is also freely available for download from www.wsta.co.uk. These signs are already being used by police and trading standards in CAP areas and elsewhere to get independent retailers using the process.

Drinkaware Trust

Drinkaware provides consumers with information to make informed decisions about the effects of alcohol on their lives and lifestyles. Their public education programmes, grants, expert information and resources help create awareness and affect positive change. An independent charity established in 2007, Drinkaware works alongside the medical profession, the alcohol industry and government to achieve its goals.

Drinkaware resources are disseminated to individuals, health-care and education providers, as well as armed forces, youth and community groups. Over 3 million resources are distributed annually. Their £1m annual grant programme supports community groups to deliver tailored alcohol education in local settings enabling us to evaluate emerging practice alongside the evidence that underpins all our work. Drinkaware is uniquely placed to deliver independent, evidence-based and authoritative information in ways that engage and equip consumers of all ages to make positive choices about drinking and their lives.

Managing Safety In Bars, Clubs and Pubs

This BBPA document provides guidance to assess the risk of violence in individual licensed premises, based on existing good practice.

National Pubwatch

National Pubwatch is a voluntary organisation set up to support existing Pubwatches and encourage the creation of new Pubwatch schemes. Local Pubwatches are run by licensees and provide a forum in which they can

exchange information. The BBPA funds National Pubwatch and remains committed to raising the profile of National Pubwatch and awareness of its work.

Proof of Age Standards Scheme (PASS)

The Proof of Age Standards Scheme is an accreditation scheme for proof of age cards that was launched following discussions between Government and the industry. PASS accredited ID carries a hologram to help retailers identify it as reliable

The Portman Group Code of Practice

Established in 1996, the Portman Group's code of practice on the Naming, Packaging and Promoting of Alcoholic Drinks.

Safer Nightlife

Produced by the alcohol industry, London Drug Policy Forum and the Home Office, Safer Nightlife promotes best practice for all those working in the night-time economy.

In particular it is aimed at:

- licensing authorities
- police and fire officers
- venue managers/promoters and
- health promotion workers

The purpose of Safer Nightlife is to help ensure the health and safety of everyone involved in, and going out to, events in pubs and clubs with particular emphasis on those who also take drugs. The document provides dedicated advice on a range of key issues including creating a safe physical environment, tackling drug dealing, reducing harm from drug use, promoting sexual health and developing a drug policy.

CALL FOR EVIDENCE

In preparing the guidance, the Government would welcome the submission, by those responding, of examples of:

- good practice that all licensing authorities should be aware of when building up an evidence base before imposing conditions; and
- new and existing codes of practice used by the alcohol industry to demonstrate what makes a ‘well-run’ premises.

The impact assessment also asks:

- what should the processes around imposing local discretionary conditions be in order to minimise the costs to local authorities?
- will any of the proposed conditions have an adverse impact on competition which outweighs the potential benefits? If so, how can that condition be modified to minimise that adverse impact while still achieving the same outcome?
- would the costs of the proposed mandatory and local licensing conditions be significantly different for small businesses? If so, how can the proposed conditions be modified to achieve the same objectives without imposing this additional cost on small businesses?
- are there any of the proposals that are likely to lead to a significant differential impact against any of the seven key diversity strands, namely: race, disability, gender, gender identity, religion and belief, sexual orientation, and age?

Please respond to this call for evidence:

- either by emailing your response to alcohol.consultation@homeoffice.gsi.gov.uk;
- or by writing to Alcohol Strategy Unit, 4th Floor Peel Building, Home Office, 2 Marsham Street, London SW1P 4DF.



© Mitchells & Butler (Crown & Sceptre, Foley St, London W1)

Chapter 7:

Responding to the Consultation

HOW TO RESPOND

There are 4 ways to respond to the consultation:

1. **Online** – go to <http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/> and following the link to the questionnaire;
2. **By Email** – Download the questionnaire from <http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/>, complete it off-line, save it and email it to alcohol.consultation@homeoffice.gsi.gov.uk;
3. **Download and Print** – the questionnaire <http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/> complete it off-line and mail it back to us at Alcohol Strategy Unit, 4th Floor Peel Building, Home Office, 2 Marsham Street, London SW1P 4DF; or
4. **By Post:** Request a paper response form either by telephoning 0207 035 1759 or writing to Senyo Agbohlah, 4th Floor Peel Building, Home Office, 2 Marsham Street, London SW1P 4DF and post the completed form back to us at:

Alcohol Strategy Unit, 4th Floor Peel Building, Home Office, 2 Marsham Street, London SW1P 4DF.

The final date for responses to reach Government is 5th August 2009.

WHAT THE CODE MIGHT MEAN FOR ME MEMBERS OF THE PUBLIC

- 7.1 The Government will introduce the new code of practice for alcohol retailers which aims to ensure that alcohol is sold in a responsible manner and that practices contributing to alcohol-fuelled crime and disorder do not continue to impact on city centres and communities. The code will not, on its own, eradicate alcohol-related crime and disorder – this needs the involvement of individuals who choose to drink, those who retail alcohol and those

who enforce the Licensing Act. It will, however, give the police and local authorities more options to tackle the minority of premises that continue to run irresponsible promotions and practices. It will enable them to tackle multiple premises at the same time, something that the current legislation does not allow for. It also aims to give consumers more choice such as through stopping the practice of only offering larger measures and providing consumers with more information. It may also mean that some alcohol promotions currently available will be stopped, although the code is only designed to stop the worst practices and promotions. Everyone has a role to play in ensuring that all sections of our communities (including the night-time economy) are safe and accessible for responsible adults to enjoy. The code of practice will be a powerful tool that will contribute to the continued decrease in alcohol-related crime and disorder.

LICENCE HOLDERS OR MEMBERS OF STAFF WORKING IN LICENSED PREMISES

- 7.2 The Government hopes that the alcohol industry will welcome the consistency of approach to responsible and irresponsible retailing that the code will bring. The code will clearly outline the types of behaviours that the Government expects from licensed premises and what must be stopped.
- 7.3 Alcohol retailers may face some additional costs in complying with the code. However, in developing these conditions, the Government is committed to ensuring that they are proportionate and targeted at the minority of businesses who are selling alcohol irresponsibly and contributing to problems. The majority of responsible businesses that do not contribute to alcohol-related crime and disorder will not be affected. We are inviting views on how you think these proposals may effect those that sell or supply alcohol.

CUSTOMERS OF ON-TRADE OR OFF-TRADE PREMISES

7.4 It is not the Government's intention to punish the vast majority of adult drinkers who take advantage of price promotions and responsibly enjoy alcohol. Whereas the code may mean that certain promotions that are deemed to contribute to alcohol-related crime and disorder will be restricted, we believe that the majority of responsible drinkers will still be able to purchase and enjoy competitively-priced alcohol. The aim of the code is to target the most excessive practices that encourage drinkers to over-indulge, leading to incidences of crime and disorder. We are also aiming to increase consumer choice and provide more information to consumers about the alcohol unit content of drinks and the health effects of alcohol.

ANNEX A: PRINTOUT CONSULTATION RESPONSE FORMS

1. RESPONSE FORM FOR MEMBERS OF THE PUBLIC

Many adults enjoy drinking alcohol and it is up to individuals to choose whether, or how much, they drink.

However alcohol is a key contributor to crime and disorder, which costs the country between £8 billion to £13 billion in a year. The Government's role is to get the balance right and make sure:

- those who sell alcohol do so responsibly; and
- everyone can make informed choices about the amount they drink.

We want to hear your views on a new code of practice to help us get the balance right between making sure that alcohol is sold responsibly while at the same time not negatively affecting the majority who do drink responsibly. The code covers three sections,

- 1. mandatory licensing conditions and Food Safety Act requirements**
– conditions that would apply to all premises selling or supplying alcohol across England and Wales;
- 2. discretionary local licensing conditions**
– allowing local licensing authorities to apply chosen conditions to two or more licensed premises when there is evidence of a link to alcohol-related disorder; and
- 3. guidance**
– to make sure that the code of practice is implemented and enforced.

You will be asked to comment on the three sections covered by the code of practice. If your answers do not fit in the spaces provided, please continue on a separate sheet.

Read the full consultation document for more information at:

<http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/>

IDENTIFIERS:

What's your gender? *(please tick one)*

Male

Female

How old are you? *(please tick one)*

Under 18

18 – 24

25 – 34

35 – 54

Over 55

Where do you live? *(please tick one)*

North East

North West

South East

Yorkshire and the Humber

West Midlands

East Midlands

East of England

South West

London

Wales

Scotland³⁰

³⁰ If you live in Scotland, please only answer question 8, as this is the only question which also applies to Scotland. The remainder of the questions are in relation to legislation which applies to England and Wales.

Tell us your occupation or which organisation you represent:

SECTION ONE, QUESTIONS 1 – 7

The mandatory licensing conditions and Food Safety Act requirements

The mandatory licensing conditions proposed include:

- a ban on:
 - irresponsible promotions such as ‘all you can drink for £10’
 - activities that encourage excessive drinking such as dispensing alcohol directly into customers’ mouths
- making sure customers are given the choice to buy the smallest measure available (e.g. a 125ml glass of wine), and offered free tap water; and
- making it more difficult for under 18s to buy alcohol online

1. Do the proposed mandatory licence conditions and the reasons for having them make sense to you?

Yes

No

Please give details

2. Can you see the benefits of restricting certain promotions in pubs, bars and clubs to reduce levels of crime and disorder?

Yes

No

Please give details

3. Will these mandatory licensing conditions affect you? If so, how? (for example, tell us whether you think they would affect how you consume alcohol or have an impact on alcohol-related crime in your area)

4. Do you think any of the proposed mandatory conditions should **not** be mandatory for licensed premises? *If so, why?*

Yes

No

The proposed Food Safety Act requirements include:

- making sure that customers are given information about the alcohol unit content of drinks as they buy them; and
- that customers are also given information about the effect alcohol has on their health.

5. Do you think licensed premises should be required to display alcohol unit and health information for customers?

Yes

No

Please give your reasons

If so, what do you think would be the best way of doing this?

6. Are there any types of premises that you feel should be made exempt from this requirement? If so, which types and why?

7. Are there any types of licensed premises that you think should be made exempt from one or more of the mandatory conditions? If so, which types and why?

Please give details and explain your answer

CONSIDERATIONS FOR FUTURE ACTION, QUESTIONS 8 – 9

8. Do you think that Weights and Measures legislation should continue to allow licence-holders to choose whether to offer either 25 ml or 35 ml single measures of certain spirits (i.e. gin, rum, vodka and whisky) or do you think that all on-trade premises should be required to offer only single spirit measures of 25 ml? Or do you think that all on-trade premises should be required to offer only single spirit measures of 35 ml? Please explain your choice.

9. Do you think that banning sales below the price level of excise duty plus VAT would be effective and proportionate in reducing irresponsible, harmful and/or binge drinking? Do you have evidence to support your view? What would be the potential costs and benefits of the impact on health, public safety, consumers, business and competition of introducing such a policy?

SECTION TWO, QUESTIONS 10 – 13

The discretionary local conditions:

These are a range of conditions that can be applied to two or more premises when there is evidence of alcohol-related nuisance – allowing local licensing authorities to tackle alcohol-related problems that stem from groups of licensed premises.

The proposed conditions include:

- a ban on certain promotions taking place during times associated with alcohol-related nuisance, such as ‘happy hours’ and ‘pub crawls’;
- making sure that licensed premises are managed effectively to reduce the risk of nuisance and disorder, such as using door staff, not serving drinks in glass containers and conducting risk reviews;
- making sure that people leaving licensed premises get home in a safe manner, such as implementing a dispersal policy, providing information on transport links and having CCTV; and
- preventing young people from being able to buy alcohol by making sure that licensed premises ask for proof of age from anyone who looks under 21.

10. Are the reasons for the proposed local conditions clear to you? *(please tick one)*

Yes

No

If so, are these types of problems and promotions a concern where you live?

11. If any of the local conditions were applied to licensed premises where you live, would they affect you? If so, how? *(please tick one)*

Yes

No

Please explain

12. Do you think that any of the proposed local conditions should **not** be available to licensing authorities to apply to groups of two or more premises?

Yes

No

Please explain

13. In order to prevent crime and disorder, should there be a limit on the volume of alcohol that you need to buy before you can get a discount in shops and supermarkets? If so, what do you think the limit should be?

The proposed condition would ban discounts ONLY being available on volumes greater than:

- 12 litres of beer, lager and cider (equivalent to approximately 27 x 440ml cans, 24 x 500ml cans, or 6 x 2 litre bottles);
- 9 litres of wine (equivalent to a case of 12 x normal sized bottles); or
- 2 litres of spirits (equivalent to two large bottles).

Do you think the limit should be *(please tick one:)*

Below the levels in the proposed condition

The same as the levels in the proposed conditions

Higher than the levels in the proposed condition

Please give your reasons

SECTION THREE, QUESTION 14

Guidance:

14. If you were concerned about problems relating to groups of licensed premises in your area and how they sell alcohol, what would you do about it? *(please tick one)*

Complain to someone? (if so, to whom?)

Something else? (if so, what?)

Nothing? (if so, why not?)

Please give details

Is there anything else you would like to tell us, including responses to the call for evidence on page 55, or any questions you would like to ask?

Thank you for your time

2. RESPONSE FORM FOR LICENSING AUTHORITIES, ENFORCEMENT AGENCIES & HEALTH BODIES

Note: If your answers do not fit in the spaces provided, please continue on a separate sheet.

IDENTIFIERS:

Where do you live? *(please tick one)*

North East

North West

South East

South West

West Midlands

East Midlands

East of England

Yorkshire and the Humber

London

Wales

Scotland³¹

Tell us your occupation or which organisation you represent:

If you are replying on behalf of an organisation or association, please can you detail how you have consulted your colleagues or members in preparing this response.

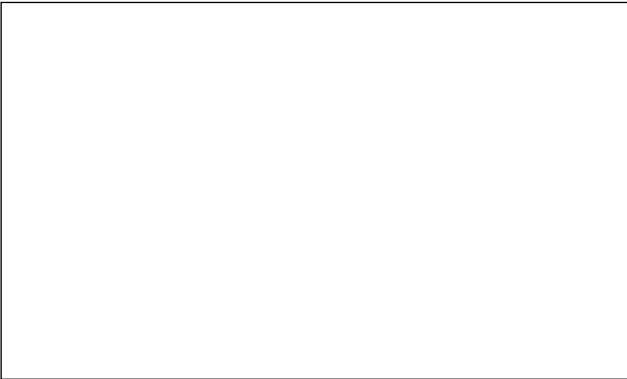
SECTION ONE, QUESTIONS 1 – 5

The proposed mandatory licensing conditions and Food Safety Act requirements

1. Do you have any suggestions that will improve the proposed mandatory licensing conditions and requirements to reduce crime and disorder?

³¹ If you live in Scotland, please only answer question 6, as this is the only question which also applies to Scotland. The remainder of the questions are in relation to legislation which applies to England and Wales.

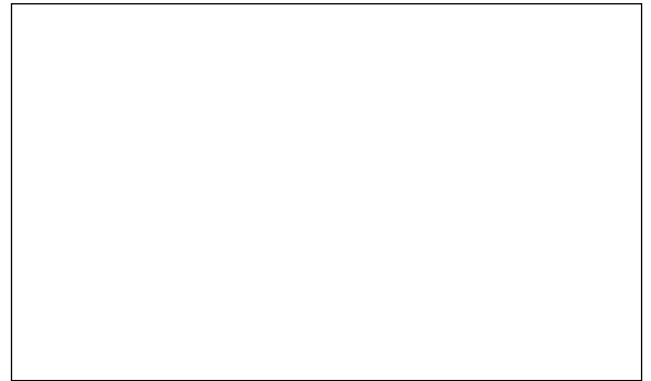
2. Is the drafting of these mandatory licensing conditions explicit enough to capture the intended activities? If not, can you provide alternative wording that may be more effective?



3. Are there any of the mandatory licensing conditions that you would not wish to be made mandatory for licensed premises? If so, why?



4. Would you support the requirement for licensed premises to have to display unit and health information? Are there types of licensed premises that you feel should be exempt from these requirements? If so, which types and why?



5. Are there any types of licensed premises that you feel should be exempted from one or more of the mandatory conditions? If so, which types and why?



**CONSIDERATIONS FOR FUTURE ACTION,
QUESTIONS 6 – 7**

6. Do you think that Weights and Measures legislation should continue to allow licence-holders to choose whether to offer either 25 ml or 35 ml single measures of certain spirits (i.e. gin, rum, vodka and whisky) or do you think that all on-trade premises should be required to offer only single spirit measures of 25 ml? Or do you think that all on-trade premises should be required to offer only single spirit measures of 35 ml? Please explain your choice.

7. Do you think that banning sales below the price level of excise duty plus VAT would be effective and proportionate in reducing irresponsible, harmful and/or binge drinking? Do you have evidence to support your view? What would be the potential costs and benefits of the impact on health, public safety, consumers, business and competition of introducing such a policy?

SECTION TWO, QUESTIONS 8 – 16

The proposed discretionary local conditions:

8. Do you have any suggestions that will improve the impact of the proposed conditions in reducing nuisance and disorder in your area?

9. Is the drafting of these proposed local conditions explicit enough to achieve the intended impact? If not, can you provide alternative wording?

10. Are there any of the proposed conditions that seem disproportionate or that you do not think licensing authorities should be able to use with groups of two or more premises?

11. If limits are to be placed on supermarkets, convenience stores, etc. for discounting large volumes of alcohol, what levels do you consider should be set? Should it differ for different types of drinks (beer, wine, spirits etc)?



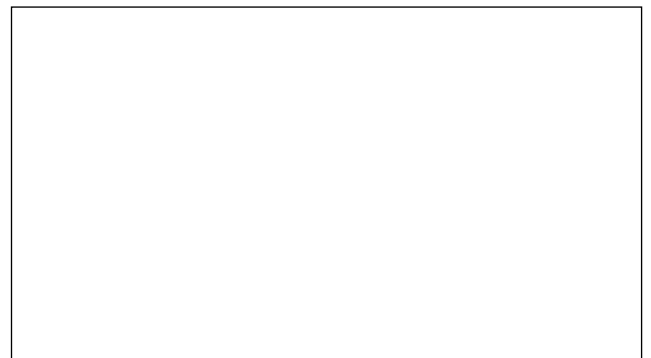
12. *Training*
How might a training requirement applied by licensing authorities to two or more premises work in practice? In particular: what should it contain; how should it be enforced; and should different schemes be available to the on-trade, off-trade and clubs?



13. *Seating*
What are the appropriate levels of seating that should be imposed on 'high volume vertical drinking establishments' in order to reduce the risk of nuisance and disorder?



14. *Background music*
Would a restriction on the level of background music contribute to a decrease in nuisance and disorder? If so, how might it be enforced?

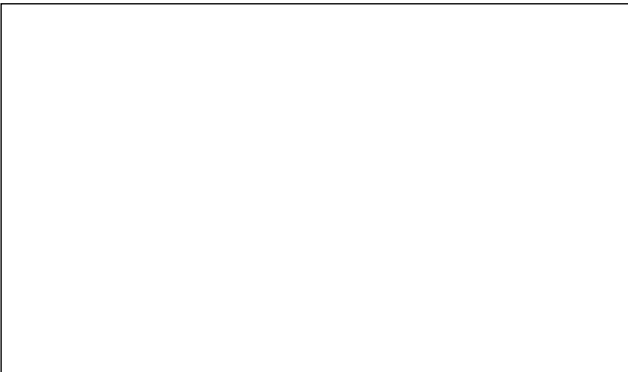


15. *Harassment/intimidation in premises*
What more can be done to protect people from harassment and intimidation in and around licensed premises?

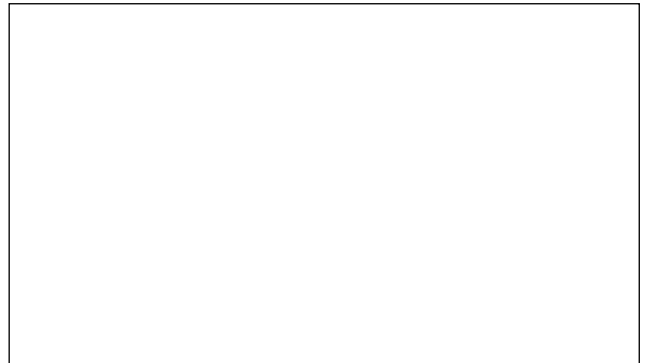


16. Door Staff

Do you think that there should be a discretionary local condition to require groups of premises to have door staff in operation during times associated with nuisance and disorder?



19. How widely do you think these powers will be used and why?

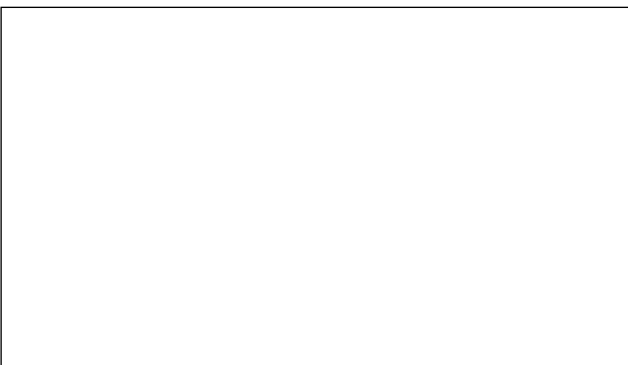


If there is anything else you would like to tell us, including responses to the call for evidence on page 55, or any questions you would like to ask, please include on a separate sheet.

SECTION THREE, QUESTIONS 17 – 19

Guidance:

17. Do you think that the enforcement process that we have suggested is appropriate? Can you suggest an alternative?



18. Do you think that the appeals process we have suggested is appropriate? Can you suggest an alternative?



Thank you for your time

3. RESPONSE FORM FOR THOSE WHO SELL OR SUPPLY ALCOHOL & TRADE ASSOCIATIONS

Note: If your answers do not fit in the spaces provided, please continue on a separate sheet.

IDENTIFIERS:

Where do you live? (please tick one)

North East

North West

South East

South West

West Midlands

East Midlands

East of England

Yorkshire and the Humber

London

Wales

Scotland³²

Tell us your occupation or which organisation you represent:

If you are replying on behalf of an organisation or association, please can you detail how you have consulted your colleagues or members in preparing this response.

SECTION ONE, QUESTIONS 1 – 4

The proposed mandatory licensing conditions and Food Safety Act requirements

1. What do you think the impact (in terms of costs and benefits) of these mandatory licensing conditions will be on your business?

³² If you live in Scotland, please only answer question 5, as this is the only question which also applies to Scotland. The remainder of the questions are in relation to legislation which applies to England and Wales.

2. Are there any of the mandatory licensing conditions that you would not wish to be made mandatory for licensed premises? If so, why?

3. Would you support the requirements for licensed premises to have to display unit and health information? Are there any types of premises that you feel should be made exempt from these requirements? If so, which types and why?

4. Are there any types of licensed premises that you feel should be exempted from one or more of the mandatory conditions? If so, which types and why?

CONSIDERATIONS FOR FUTURE ACTION, QUESTIONS 5 – 6

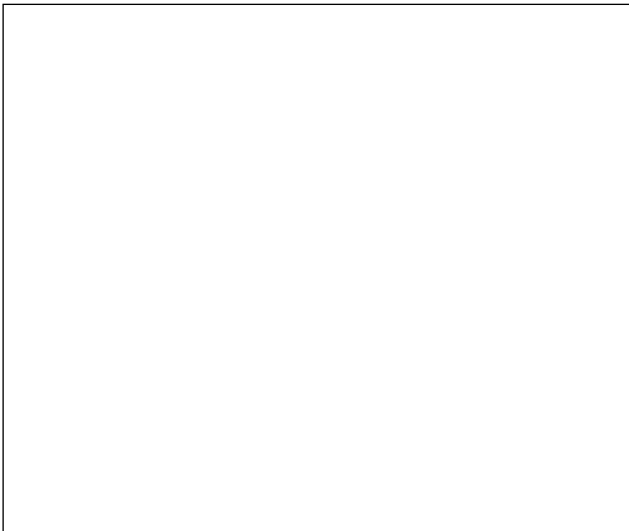
5. Do you think that Weights and Measures legislation should continue to allow individual licence-holders to choose whether to offer either 25 ml or 35 ml single measures of certain spirits (i.e. gin, rum, vodka and whisky) or do you think that all on-trade premises should be required to offer only single spirit measures of 25 ml? Or do you think that all on-trade premises should be required to offer only single spirit measures of 35 ml? Please explain your choice.

6. Do you think that banning sales below the price level of excise duty plus VAT would be effective and proportionate in reducing irresponsible, harmful and/or binge drinking? Do you have evidence to support your view? What would be the potential costs and benefits of the impact on health, public safety, consumers, business and competition of introducing such a policy?

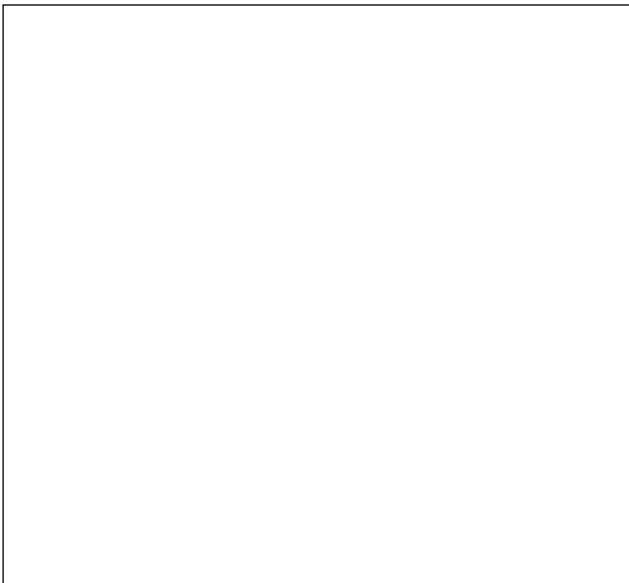
SECTION TWO, QUESTIONS 7 – 14

The proposed discretionary local conditions:

7. What do you think the impact of these conditions will be (if they are applied by the local licensing authority) on your business?



8. Are there any of the proposed conditions that seem disproportionate or that you do not think licensing authorities should be able to use with groups of two or more premises?

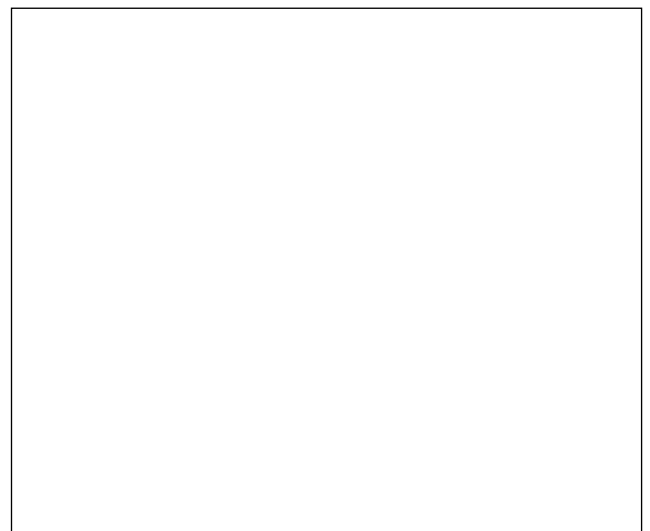


9. If limits are to be placed on supermarkets, convenience stores, etc. for discounting large volumes of alcohol, what levels do you consider should be set? Should it differ for different types of drinks (beer, wine, spirits etc)?



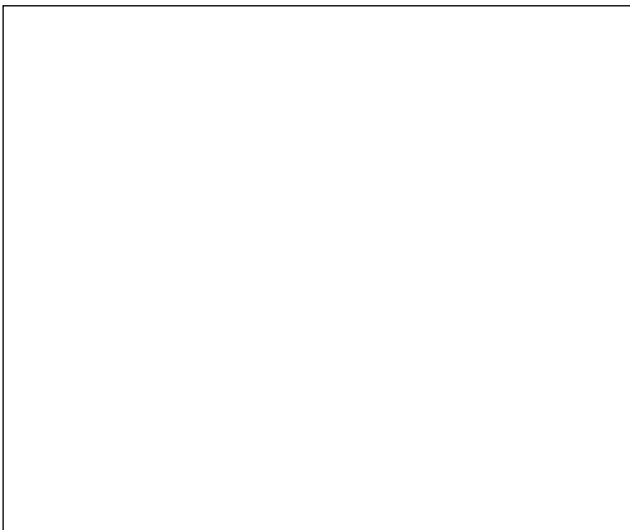
10. *Training*

How might a training requirement applied by licensing authorities to two or more premises work in practice? In particular: what should it contain; how should it be enforced; and should different schemes be available to the on-trade, off-trade and clubs?



11. *Seating*

What are the appropriate levels of seating that should be imposed on 'high volume vertical drinking establishments' in order to reduce the risk of nuisance and disorder?



12. *Background music*

Would a restriction on the level of background music contribute to a decrease in nuisance and disorder? If so, how might it be enforced?



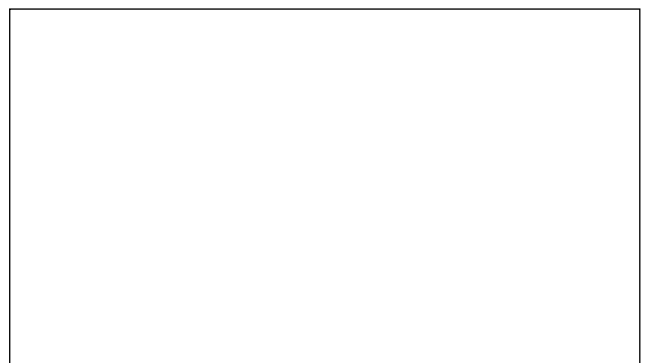
13. *Harassment/intimidation in premises*

What more can be done to protect people from harassment and intimidation in and around licensed premises?



14. *Door Staff*


Do you think that there should be a discretionary local condition to require groups of premises to have door staff in operation during times associated with nuisance and disorder?



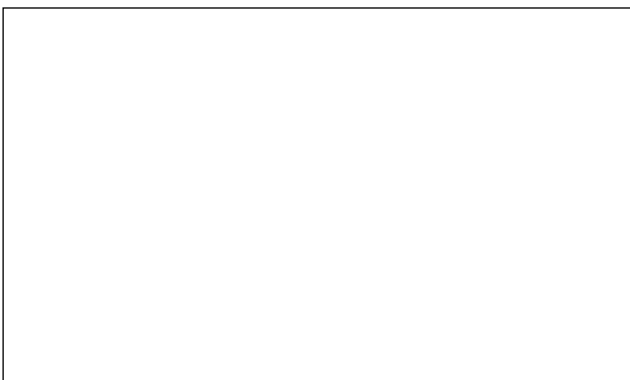
SECTION THREE, QUESTIONS 15 – 16

Guidance:

15. Do you think that the enforcement process that we have suggested is appropriate? Can you suggest an alternative?



16. Do you think that the appeals process we have suggested is appropriate? Can you suggest an alternative?



If there is anything else you would like to tell us, including to the call for evidence on page 55, or any questions you would like to ask, please include on a separate sheet.

Thank you for your time

ANNEX B: LIST OF ORGANISATIONS THAT GOVERNMENT WOULD LIKE TO HEAR FROM

For the purposes of this consultation, the Government would particularly like to hear from the organisations listed below. This is not by any means a definitive list of those who Government wishes to hear from. The consultation is not limited to these groups and we welcome all responses.

- The general public
- Licence holders
- Designated Premises Supervisors
- Police
- Licensing authorities
- Other Responsible Authorities
- Relevant Trade Associations
- Trading Standards
- Those working in the alcohol retail industry
- Crime and Disorder Reduction Partnerships
- Drug and Alcohol Action Teams
- Those representing the travel and tourism industry
- Third Sector organisations
- Health Bodies

ANNEX C: INFORMATION SUMMARY

SCOPE OF THE CONSULTATION

| | |
|------------------------------------|--|
| Topic of this consultation: | The Policing and Crime Bill proposes amendments to the Licensing Act 2003 to enable the introduction of a set of mandatory conditions that will apply to all new and existing premises that are licensed to supply or sell alcohol and a series of discretionary local conditions that could be applied by local licensing authorities to groups of two or more premises. It is also proposed to use existing regulation-making powers in the Food Safety Act 1990 to make further complementary requirements relating to the sale of alcohol. The Executive Summary sets the key points out in more detail. |
| Scope of this consultation: | This consultation sets out a series of possible mandatory conditions and requirements to be introduced for new and existing alcohol licences, a number of discretionary local conditions that could be applied to groups of two or more licensed premises by local licensing authorities, and a number of other issues relating to the sale of alcohol. The consultation seeks to understand whether these are the best measures to achieve the objectives of reducing alcohol-related crime and disorder, what the practical issues are in their deployment, together with likely costs and benefits and, most importantly, whether the public feels that these are the measures that will help to address its widespread concern at the level of alcohol-related crime and disorder. It also seeks to understand if any types of premises should be exempted from the mandatory conditions and/or the national requirements. This evidence will be used to inform and develop the final set of conditions. Alcohol industry stakeholders are also invited to submit good practice guidance for consideration of inclusion in good practice guidance. |
| Geographical scope: | The conditions in the code of practice will cover England and Wales. There is also a question relating to spirit measures that would also apply in Scotland. |
| Impact assessment (IA): | The impact assessment for this consultation provides further detail on the estimated costs and benefits of the code and is available to be downloaded at http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/ |

BASIC INFORMATION

| | |
|--|--|
| To: | We welcome responses from all who have an interest in the subject, but we particularly value responses from members of the general public from their many perspectives (e.g. as consumers of alcohol, or as those who are affected by alcohol-related crime and disorder etc.), and from those who would be immediately affected by the code: those who are involved in the sale of alcohol, licence holders, licensing authorities, enforcement agencies, any other interested groups and members of communities. |
| Dates/Duration: | This consultation starts on 13th May 2009 and runs until the 5th August 2009. |
| Enquiries: | All enquiries relating to this consultation should be addressed to: Senyo Agbohlah. Tel: 020 7035 1759. Email: senyo.agbohlah@homeoffice.gsi.gov.uk |
| How to respond: | <p>There are 4 ways to respond to the consultation:</p> <ol style="list-style-type: none"> 1. Online – go to http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/ and following the link to the questionnaire; 2. By Email – Download the questionnaire from http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/, complete it off-line, save it and email it back at alcohol.consultation@homeoffice.gsi.gov.uk; 3. Download and Print – the questionnaire http://www.homeoffice.gov.uk/about-us/haveyoursay/current-consultations/ complete it off-line and mail it back to us at Alcohol Strategy Unit, 4th Floor Peel Building, Home Office, 2 Marsham Street, London SW1P 4DF; or 4. By Post: Request a paper response form either by telephoning 0207 035 1759 or writing to Senyo Agbohlah, 4th Floor Peel Building, Home Office, 2 Marsham Street, London SW1P 4DF and post the completed form back to us at: Alcohol Strategy Unit, 4th Floor Peel Building, Home Office, 2 Marsham Street, London SW1P 4DF. |
| Additional ways to become involved: | The Home Office will be arranging a number of consultation events during the course of the consultation that will be held at selected locations throughout the country. These consultation events will provide opportunities for detailed discussion of the issues involved in applying the conditions and their probable impact. Consultation events will involve representative groups of the general public, licence holders, consumers, licensing authorities, enforcement agencies, any other interested groups and members of communities. |
| After the consultation: | The Home Office intends to publish a report summarising the evidence and opinions gathered through this consultation within 3 months of the closing date of the consultation. |

BACKGROUND

| | |
|-------------------------------|--|
| Getting to this stage: | In 2005 the alcohol industry developed its own set of voluntary social responsibility standards. An independent review of these standards, on behalf of Government, concluded that they were not well enough known or adhered to by those selling alcohol. The review also showed that they had not resulted in a reduction in alcohol-related crime and disorder. In the Youth Alcohol Action Plan, launched in July 2008, Government announced an intention to make the standards mandatory if required. The Policing and Crime Bill, currently before Parliament, creates a new power to enable the introduction of a set of mandatory conditions and local discretionary conditions for alcohol licences in England and Wales. |
| Previous engagement: | Ahead of this public consultation, Government officials held several discussions with more than 50 key stakeholders representing the alcohol industry, police and local enforcement agencies, health and third sector organisations and the tourism sector to discuss what conditions might be included in the new mandatory code of practice. The proposals being consulted on, set out below, have been informed by these views. |

Please contact the Alcohol Strategy Unit if you would like a copy of this consultation paper in any other format, e.g. Braille, Welsh, Large Font, or Audio.

ANNEX D: GLOSSARY

Binge Drinking

Binge drinking is essentially drinking too much alcohol over a short period of time, e.g. over the course of an evening, and it is typically drinking that leads to drunkenness. It has immediate and short-term risks to the drinker and those around them.

Crime and Disorder Reduction Partnerships (CDRPs)

Established through section 17 of the Crime and Disorder Act 1998, CDRPs are local area partnerships consisting of the police, local authorities, fire authorities and Primary Care Trusts who work together to reduce crime and disorder in their area.

Food Safety Act 1990

The Act was introduced to regulate the production, processing, storage, distribution or sale of food and is applicable to all food premises.

Food Standards Act 1999

The Act established the Food Standards Agency and set out its main objective of protecting public health in relation to food and enabled the Agency to act in the consumer's interest at any stage in the food production and supply chain.

Glassings

A glassing is a physical attack using a glass or glass bottle as a weapon. Glassing can occur at bars or pubs where alcohol is served, and a drinking glass or bottle is available as a weapon. The most common method of glassing involves the attacker smashing an intact glass in the face of the victim. However the glass may be smashed prior to the attack, and then gripped by the remaining base of the glass or neck of the bottle with the broken shards protruding outwards. Common injuries resulting from glassings are heavy blood loss, permanent scarring, disfigurement and loss of sight through eye injury.

Know Your Limits

Launched in 2006, 'Know your Limits' is a cross-government campaign which focuses on promoting sensible drinking. The campaign has two strands. One targets 18-24 year olds and focuses on binge drinking and its social implications, led by the Home Office. The other aims to promote an understanding amongst 25s and above of the units in different drinks and the resulting health harms, led by the Department of Health.

Licensing Act 2003

The Act established a single integrated scheme for licensing premises which are used for the supply of alcohol, provide regulated entertainment or provide late night refreshment.

Licensing Act 2003 – Section 182 Guidance

The Secretary of State issued Statutory revised Guidance to licensing authorities under section 182 of the Act on 28 June 2007. Each licensing authority must have regard to this Guidance.

Licensing Authority

Licensing authorities can issue premises licences, club premises certificates and temporary event notices in their area, as well as personal licences for residents and renewals of personal licences for those who had previously applied for a personal licence while resident in the licensing authority's area. It is a duty of all licensing authorities to carry out their functions under the Licensing Act 2003 with a view to promoting the four licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

In discharging their functions under the Act, the licensing authority must also have regard to its licensing policy which sets out how it intends to exercise its functions. The licensing policy statement is drafted every three years by each licensing authority following consultation.

PCSOs

Police community support officers (PCSOs) are uniformed staff whose role is to support the work of police officers and work within their local community. They may help with issues such as:

- providing a visible and reassuring presence within communities;
- attending incidents of disorder, nuisance and antisocial behaviour;
- gathering evidence through observation;
- helping with missing persons enquiries; and
- speaking to young people who might be drunk and causing problems, confiscating alcohol and tobacco if necessary.

Penalty Notice for Disorder (PNDs)

PNDs are part of the wider fixed penalty scheme that deals quickly and effectively with antisocial and nuisance behaviour. They can be issued to individuals who partake in alcohol-fuelled crime and disorder and to staff of licensed premises who break the law by selling alcohol to young people and drunks.

Policing and Crime Bill

The Policing and Crime Bill, currently before Parliament, contains a series of measures to reduce the harms associated with alcohol misuse. The Bill will allow for a mandatory set of licensing conditions applicable to the sale of alcohol. These conditions will ban the most irresponsible practices and promotions. To reflect the fact that sometimes it is the collective impact of a number of premises which leads to alcohol-related nuisance or disorder, the new powers will also enable local licensing authorities to attach licensing conditions to groups of premises in an area experiencing alcohol-

related nuisance and disorder. Although the compulsory national conditions will affect all licensed premises, the majority of businesses, small or large, who behave responsibly will not be affected by the code.

The Bill also makes a series of amendments to police powers to allow them to tackle people, particularly the young, who are drinking in public more effectively. The Bill will tighten current conditions for the offence of selling alcohol to persons under the age of 18; increase the maximum fine for drinking in designated public places; and make it an offence for young persons to persistently possess alcohol in public. These actions should prevent underage sales, and reduce the amount of alcohol-related crime, disorder and associated harms.

Public Service Agreement (PSA) 25 – Reducing the harm from Alcohol and Drugs

The PSA intends to produce a long-term and sustainable reduction in the harms associated with alcohol and drugs. The key actions include:

- public health campaigns and education to raise awareness of harms associated with alcohol and drug use;
- a focus on addressing substance misuse amongst young people;
- a new focus on supporting families most at risk, where there are multiple problems, often including parental substance misuse;
- helping people who use illegal drugs or drink harmfully to live healthier lives; and
- tackling crime and the key drivers of offending, reducing crime and disorder related to alcohol and drugs and tackling the supply of drugs and the irresponsible sale or promotion of alcohol.

Responsible Person

Is defined in section 153(4) of the Licensing Act 2003 to include (inter alia) the licence holder, designated premises supervisor and authorised person aged over 18 years.

'Safe. Sensible. Social. The next steps in the Alcohol Strategy'

Published in June 2007, outlining the Government's long term approach to tackling alcohol-related harm with a focus on young people under 18 who drink alcohol, 18-24 year old binge drinkers, and harmful drinkers.

Social Responsibility Standards for the Sale and Production of Alcohol Drinks in the UK

These standards were compiled by sixteen leading trade associations and organisations involved in the production, marketing and retailing of alcohol in partnership with Government and other agencies, drawing together good practice and advice into a cohesive set of standards to promote social responsibility in the production and sale of alcohol.

Units

A UK unit is 10ml or 8 grams of pure alcohol. The number of units in a drink depends on what you are drinking, how strong it is and how much there is. For example, a pint of ordinary strength beer (4%) is 2.3 units, and a medium glass of wine (175ml) at 13% is 2.3 units.

Violent Crime Reduction Act 2006

The Violent Crime Reduction Act 2006 gave police and local authorities additional powers to tackle irresponsible individual licensed premises, to reinforce local alcohol retailers' collective responsibility for alcohol-related crime and disorder and to tackle the behaviour of individuals. Key new powers included:

- Alcohol Disorder Zones;
- Directions to Leave;
- Expedited reviews;
- Enabling police and/or trading standards officers to ban the sale of alcohol for up to 48 hours at premises that are persistently selling alcohol to under-18s; and
- Drink Banning Orders.

ANNEX E: STANDARD STATEMENT OF CONSULTATION CRITERIA

This consultation follows the Government's code of practice on consultation – the criteria for which are set out below:

Criterion 1: When to consult – Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2: Duration of consultation exercises – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3: Clarity of scope and impact – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4: Accessibility of consultation exercises – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5: The burden of consultation – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6: Responsiveness of consultation exercises – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7: Capacity to consult – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The full code of practice on consultation is available at: <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

ANNEX F: STANDARD STATEMENT ON CONSULTATION CO-ORDINATOR

If you have a complaint or comment about the Home Office's approach to consultation, you should contact the Home Office Consultation Co-ordinator, Nigel Lawrence.

Please DO NOT send your response to this consultation to Nigel Lawrence. The Co-ordinator works to promote best practice standards set by the Government's code of practice, advises policy teams on how to conduct consultations and investigates complaints made against the Home Office. He does not process your response to this consultation.

The Co-ordinator can be emailed at: Nigel.Lawrence@homeoffice.gsi.gov.uk or alternatively write to him at:

Nigel Lawrence
Consultation Co-ordinator
Home Office
Performance and Delivery Unit
Better Regulation Team
3rd Floor Seacole
2 Marsham Street
London
SW1P 4DF

ANNEX G: RESPONSES: CONFIDENTIALITY & DISCLAIMER

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

ANNEX H: ESTIMATES OF ALCOHOL-RELATED COSTS ACROSS ENGLAND AND WALES

| Body/organisation | Annual Cost | Explanation of cost |
|--|--|---|
| Alcohol-related crime (including costs to the victims of crime) | £8bn to £13bn | This estimate takes into account the costs in anticipation of crime, the direct physical and emotional costs to victims, the value of lost output, and the costs to the health service and Criminal Justice System. It is estimated on the basis of attributable fractions calculated from the Offending, Crime and Justice Survey. ³³ |
| Licensing authority | £21.6m | This estimate is based on a sample of 48% of licensing authorities in 2007/08 ³⁴ . The costs are net of the value of licensing fees collected as these are transfers |
| Trading standards and Police enforcement costs | Unknown | The costs of enforcement including inspections and reviews of premises licences, test purchases, police prevention of sales of alcohol to underage drinkers and dispersal of drunk and rowdy crowds. It is not possible to extract these costs from other costs associated with upholding the Licensing Act |
| NHS ³⁵ | £2.7bn ³⁶ | Includes hospital inpatient and day visits (both wholly and partially attributable to alcohol), A&E costs, ambulance service costs, GP consultations and specialist treatment |
| Licencee (through compliance with licensing conditions) and Licensing fees | Admin costs of applying for licences: £83.9m Licensing fees: £48.8m | The administrative costs were estimated by DCMS using BERRs standard cost model. Licensing fees are estimated using the same survey of licensing authorities as above. There will also be additional compliance costs but it is not possible to estimate these as they will vary for each premise depending on the particular conditions imposed. |
| Total | £12bn – £18bn | |

³³ See impact assessment for the enabling power for the mandatory code in the Policing and Crime Bill, available at: <http://www.homeoffice.gov.uk/documents/ia-police-crime-bill-08/ia-alcohol-Code-practice?view=Binary>

³⁴ The LGA/LACORS Licensing Fee Survey 2008, the results of which are published in unfinished business: a state-of-play report on alcohol and the licensing act 2003

³⁵ Whilst health is not a licensing objective, the alcohol-related health costs are significant and are therefore still presented. See the impact assessment published alongside Safe, Sensible, Social, – consultation on further action for further details of the calculations.

³⁶ This figure includes all the cost to the NHS of those injuries that arise as a result of crime. There is therefore likely to be some double counting with the costs of crime estimate. Initial estimates suggest that between £600m and £1.5bn of the estimated costs of crime may be to the NHS. However, this is not comparable to the £2.7bn estimate of the total cost of alcohol to the NHS.

© Crown Copyright 2009

Produced by the Home Office. May 2009.
Ref: 294825. ISBN: 978-1-84726-888-4