

## **RESPONSE FORM FOR LICENSING AUTHORITIES, ENFORCEMENT AGENCIES & HEALTH BODIES**

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/documents/cons-2009-alcohol/>

**Please download this document and save it to your computer, fill in your responses in the tick boxes and text boxes provided and then e-mail it back to us at:**

**[alcohol.consultation@homeoffice.gsi.gov.uk](mailto:alcohol.consultation@homeoffice.gsi.gov.uk)**

**Identifiers:**

**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

Scotland<sup>1</sup>

Responding on behalf of a national organisation with offices in London and the East of England.

**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.*

Institute of Alcohol Studies

Consultation has involved senior staff and Trustees

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<sup>1</sup> 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.

## 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?

The code is relatively limited in scope and places most emphasis on the on-trade. In the light of the growing body of evidence on the problems associated with 'pre-drinking' and drinking in the home, (e.g. Hughes et al, 2008; Wells et al, 2008; Holloway et al, 2008), it is essential that the off-trade is included in restrictions on irresponsible promotions.

We feel that garages licensed to sell alcohol are a particular concern. Introducing alcohol into an environment that is focused on driving is inappropriate in itself. However, if this is to be permitted, special consideration must be paid to promotional activity in these premises. As a minimum, we suggest that the message 'Don't drink and drive' is displayed prominently in all such premises.

In a few places, we feel the code should be strengthened:

Condition 1, discounts to groups. The suggestion to exempt 'any promotion or discount that is made with a table meal' from the list of banned promotions should be removed. Promotions such as 'free drinks for women' encourage irresponsible drinking whether or not the women are also eating a meal at the time. Making this exemption leaves a loophole that will inevitably be exploited.

Discretionary condition 16 should be made mandatory and strengthened (see later comments).

#### References

Holloway, SL, Jayne, M & Valentine, G (2008) "Sainsbury's is my local': English alcohol policy, domestic drinking practices and the meaning of home." Transactions of the Institute of British Geographers 33(4) 532-547.

Hughes, K, Anderson, Z, Morleo M & Bellis, MA (1008) "Alcohol, nightlife and violence: the relative contributions of drinking before and during nights out to negative health and criminal justice outcomes." Addiction 103(1): 60-65.

Wells, S., K. Graham and J. Purcell (2008). "Policy implications of the widespread practice of 'pre-drinking' or 'pre-gaming' before going to public drinking establishments - are current prevention strategies backfiring?" Addiction 104: 4-9.

**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?

Condition 1, “activities that require or encourage... individuals to drink a quantity of alcohol against a time limit.” It is unclear why it is thought that this condition would not prevent ‘happy hours’, since happy hours are clearly activities that encourage individuals to drink (or at least purchase) alcohol against a time limit. The purpose of happy hours is to encourage drinkers to start drinking earlier in the evening and so consume more alcohol over the course of the evening. This is precisely the type of high-volume ‘binge drinking’ that is likely to lead to crime and disorder. Therefore, we recommend that happy hours be covered by this condition.

However, if the government decides that there is some good reason to exempt happy hours, it should be clear that this is an exemption (not merely ‘this condition would not prevent’) and the precise conditions under which a promotion may be classified as a happy hour should be made explicit.

Condition 4, provision of tap water. ‘Where it is reasonably available’ is not sufficiently explicit. We suggest that the alternative wording ‘where premises have a mains water supply’ would adequately define circumstances under which tap water is reasonably available. This would exempt premises such as trains and boats and some locations hosting temporary events.

Condition 5, age verification. Whilst we appreciate that responsible companies already have a range of measures in place, we consider that ‘robust process’ is not sufficiently explicit. As a first step, it is necessary to define who is the customer, i.e. the person who placed the order or the person who received the delivery? We recommend that it should be the latter, and that customers should be required to show ID to verify that they are over 18 before they can receive a delivery including alcohol.

**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?

Health information should be available wherever alcohol is sold. No licensed premises should be exempt from either providing basic health information or providing reference to other sources of information.

We would strongly urge the Government to ensure that health information is written and designed by the Department of Health independently of commercial stakeholders and issued in a standardised format with a requirement that it be used consistently in all situations.

In designing the health message, reference to ‘daily’ amounts or limits should be avoided because it implies a frequency of drinking that may not be

conducive to longer term health. A better phrase would be 'a day' or 'per drinking day' to avoid promoting messages that condone habitual drinking that could lead to harm and dependence.

If signposting messages direct people to the Drinkaware website, then the Government should ensure that this website carries easily accessible and upfront information regarding the addictive and depressive properties of alcohol itself and the risks involved, even at low consumption rates.

**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?

The mandatory conditions should be applied consistently across the board to prevent potential avoidance and confusion.

### **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.

25 ml should be universally adopted as a standard single measure of spirits because this contains one UK unit of alcohol. This makes it easier for drinkers to keep track of the quantity of alcohol they are consuming, especially when buying multiple measures. Having different measures in different premises inevitably leads to confusion and undermines the government's efforts to educate drinkers about the number of units in each drink.

**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?

This proposal might go some way towards reducing consumption by creating a nominal 'floor' to price. However, this floor would be too low to have a significant effect in reducing problematic drinking. For example, for beer at 5% abv, this would produce a minimum price of 18.9p per unit of alcohol. For cider of the same strength, the minimum price would be 7.3p per unit.

These examples also highlight the inconsistencies in levels of duty applied to different drinks. We would like to see the tax structure rationalised to charge the same duty on a unit of alcohol regardless of the type of beverage. However, whilst this is not the case, the level of tax is unsuitable as a basis for determining a minimum price.

The Sheffield study of pricing and promotion gives estimates of the effects of different minimum prices on health, crime and workplace outcomes. The lowest figure they consider is 15p per unit, and at this level there is minimal benefit and even some increase in harm. From these figures, a minimum price of at least 40p has been recommended.

We welcome the Government's intention to look more closely into the issue of minimum pricing. Whilst we would not object to the proposal here to ban sales below the price level of excise duty plus VAT, we consider that the effective minimum price introduced by this measure would be too low to have any noticeable impact.

Reference:

Meier, P. et al. (2008) "Independent review of the effects of alcohol pricing and promotion." ScHARR/Department of Health

## **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?

We welcome the emphasis in the proposals on collective responsibility and collective, partnership action. We would like to highlight the importance of communicating the purpose behind the introduction of these codes and their objectives across the board within Local Authorities and local partnerships to improve the overall safety of town/city centre environments by design, in respect of such issues as crowd dispersal policies and public transport initiatives.

Condition 1 should be mandatory; see comments on mandatory condition 1.

**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?

Actions against two or more premises will be difficult to justify without sound evidence. Shared information systems between partner agencies will need to be robust and Local Authorities may need to include information regarding the contribution (or otherwise) of non-licensed premises (e.g. takeaway food outlets) to nuisance and disorder.

**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)?

This condition should be mandatory and applied at all times. Furthermore, there should be no 'large volume' limit. Any promotion that requires customers to buy more than a single item to obtain a discount puts pressure on them to buy more than they would have done had the promotion not been in place. For example, wine priced at one bottle for £5.50 or two for £10 requires two bottles to be purchased to obtain the discount, whereas a 10% discount on all bottles is available to customers who wishes to buy just one bottle, without requiring them to buy more than they originally intended to.

A ban on bulk discounts would be complementary to a minimum price, as it applies at all points on the price scale. In 'Safe. Sensible. Social.' the government targeted three groups of drinkers, one of which is 'harmful drinkers, many of whom don't realise that their drinking patterns damage their... health.' This includes the middle-class wine drinkers who habitually drink every evening. This group does not buy the cheapest alcohol, but is nonetheless sensitive to price promotions and vulnerable to the temptation to drink ever increasing quantities, without noticing the gradual shift in quantity consumed.

Although some argue that customers buying off-trade alcohol in bulk do not drink any more quickly than those buying one item at a time, it is well known that availability is a key determinant of consumption, and alcohol doesn't get much more available than when it's in the kitchen cupboard. Restricting price promotions to those that can be applied to single items (i.e. one bottle, can, etc) makes these promotions available to moderate drinkers, who would not be able to take advantage of discounts requiring the purchase of larger volumes.

## **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?

The training requirements applied by licensing authorities can be 'locally applied' but should be subject to nationally approved 'curriculum' that should also include aspects relating to the health and social consequences of alcohol consumption. Training courses should conform to the Drug and Alcohol National Occupational Standards requirements.

**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?

It is understood that an important reason that customers in 'vertical drinking establishments' drink more than they would otherwise is that they are forced to keep their drinks in their hands at all times due to lack of tables for putting drinks down. We therefore recommend that any requirements on provision of seating should be accompanied by requirements on provision of tables.

**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?

Loud music inhibits conversation and so encourages faster drinking, as the alternative available activity. We suggest imposing a decibel limit, as applied by environmental health agencies.

**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?

Yes. In addition, it might be useful to encourage communication between door staff working in nearby premises, similar to security procedures operating across retail stores. This may have the beneficial effect of preventing the escalation of disorder by providing a collective 'early warning' system.

**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?

There is a need to clarify the role of the Responsible Authority and to tackle the issue of 'presumed guilt' as mentioned above. Guidance should clarify the lead monitoring and enforcement responsibility between the environmental health department for compliance to the Food Safety Act and to the licensing authority for other aspects of the Code.

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

**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.*

***Thank you for your time***

## Other Comments

We understand that the government is supportive of the new alcohol industry initiative, “Campaign for Smarter Drinking” and has given some indication that the introduction of mandatory messaging requirements may be delayed until the campaign has had a chance to prove its effectiveness. Concern has been expressed that two sets of messages may confuse consumers.

The industry campaign includes such messages as advice to eat before going out drinking, and to alternate alcoholic drinks with soft drinks or water. The messaging requirements included in the mandatory code (mandatory condition 6) relate to unit content and health risks. We see no potential for confusion between these two types of information (unless the industry messages are seen as encouraging consumption, in which case they are pure advertising and hence irrelevant) and therefore no reason to delay the introduction of the mandatory requirement to display information.

We feel strongly that campaigning by the alcohol industry should not be allowed to derail the proper introduction of this code.

As a final point, we note that the consultation document starts with the statement that most adults enjoy drinking alcohol. The message is the first sentence of the ministerial foreword, of the executive summary and of the response form, and is in the first paragraph of the introduction. This is routine for government documents, but undermines the government’s commitment, set out in Safe. Sensible. Social, to “create a culture where it is socially acceptable for young people to choose not to drink.” Constantly repeating the message that most adults drink reinforces a culture in which drinking is the norm and non-drinkers, whether adults or young people, are seen as aberrant.