

IAS response to the Draft Public Health (Minimum Price for Alcohol) Bill Consultation, December 2015

(Deadline 11 December)

About the Institute of Alcohol Studies (IAS)

The core aim of the IAS is to serve the public interest on public policy issues linked to alcohol, by advocating for the use of scientific evidence in policy-making to reduce alcohol-related harm. The IAS is a company limited by guarantee, No 05661538 and registered charity, No 1112671. For more information visit www.ias.org.uk.

Introduction

IAS welcomes the opportunity to take part in this consultation. This response draws on the submissions from the Alcohol Health Alliance and Scottish Health Action on Alcohol Problems, two organisations we work closely with to promote effective alcohol policy. Consequently, there is likely to be significant overlap in our responses.

Question 1

What do you think of the proposal to introduce legislation that would introduce a minimum unit price for alcohol in Wales?

YES

- i) *Do you think this proposed legislation will help to strengthen the existing actions being undertaken by the Welsh Government to reduce alcohol consumption and alcohol related harm?*

The Institute of Alcohol Studies strongly supports the introduction of a minimum unit price in Wales as part of the Welsh's Government's proactive strategy to address alcohol misuse. We note that the Welsh government has demonstrated impressive commitment to effective and evidence-based alcohol policy, in expressing support for a fifth licensing objective around public health and reducing the drink drive limit. However, within the constraints of currently devolved powers, we believe that a minimum unit price for alcohol is the strongest potential tool at the Government's disposal to reduce alcohol-related harm.

As we will explain further below, pricing mechanisms are one of the top three 'WHO best buys' in the prevention and reduction of alcohol harm¹. Therefore, we believe that a minimum unit price for alcohol in Wales would make a

¹ WHO (2011), Prevention and Control of NCDs: Priorities for Investment.
URL:<http://www.who.int/nmh/publications/who_bestbuys_to_prevent_ncds.pdf>

substantial contribution to reducing levels of alcohol consumption and its associated harms.

There is a large and significant body of international evidence which demonstrates that the price and affordability of alcohol is a key factor in driving consumption. In its 2009 Global Strategy, the World Health Organisation recommends introducing pricing policies to reduce alcohol-related harm and recognises the option to “establish minimum prices for alcohol where applicable” as an appropriate action.

We believe the Welsh Government can learn lessons from the experience of Scotland, which maintains that MUP is a central and necessary plank of its alcohol strategy. The Scottish Government passed The Alcohol (Minimum Pricing) (Scotland) Act in 2012, which set out plans for the introduction of a 50p minimum price per unit, though it has not yet been introduced due to a legal challenge fronted by the Scotch Whisky Association. Other policy measures such as restrictions on selling time of alcohol in off-licence premises, restrictions on display and multi-buy discounts have also been introduced. However, without minimum unit pricing the impact of these regulations is limited. Alcohol continues to be readily available at very cheap prices. It is possible in Scotland for a man to exceed the recommended safe drinking guidelines of 21 units a week for just £5². Put simply, as alcohol becomes more affordable, consumption levels increase and as consumption increases, harm does too.

On the basis of the arguments presented above, we support the Welsh Government’s commitment to introduce minimum unit pricing as an effective measure to reduce alcohol consumption and alcohol-related harm.

Question 2

What is your view on the evidence presented with the Explanatory Memorandum? For example,

- a) That the affordability of alcohol is a key driver in relation to the amount of alcohol consumed and the effects on alcohol-related harms*
- b) That MUP is primarily aimed at harmful and hazardous drinkers and would only have a small impact on ‘moderate drinkers’?*
- c) That MUP would help save lives, reduce costs to our NHS and other public services and over time, make a significant contribution to the overall wellbeing and economy of Wales?*
- d) That MUP would not increase the price of every drink, only those that were being sold at a rate below the set minimum unit price for alcohol (for example 50p)?*

In relation to all of the points above, we support the evidence outlined in the Explanatory Memorandum.

² Scottish Government (2014), Scottish Government’s position on Minimum Unit Pricing of alcohol

a) As mentioned above, there is a significant and well-evidenced relationship between the price of alcohol, levels of consumption and levels of harm. A 2009 meta-analysis of 112 studies by Wagenaar et al found that increases in the affordability of alcohol are associated with more alcohol-related deaths and illnesses, road traffic fatalities, violence, crime, drug use and risky sexual behaviour.³ Specifically looking at Wales, in 2011 researchers at Bangor and Wrexham Universities concluded: “Within the international literature on reducing alcohol consumption and the harm related to alcohol, the finding with the strongest evidence base is that consumption of alcohol is highly sensitive to changes in price (or, to be more accurate, affordability). When the price of alcohol drops, more is consumed; when alcohol becomes more expensive, less is consumed.”⁴

b) MUP is particularly effective in targeting the cheap, strong alcohol sold in supermarkets and off-licences that is favoured by heavy drinkers who suffer the most harm⁵. Survey evidence from Scotland shows that 30% of the population drink over 80% of the alcohol⁶ and it is this group which is affected by minimum unit pricing.

By contrast, moderate drinkers will feel little effect. Modelling by the University of Sheffield suggests that moderate drinkers across all income groups would forgo the equivalent of one pint of beer a year and spend just 78p more on alcoholic drinks per year.⁷

c) MUP is anticipated to bring clear benefits to Wales in terms of improving health outcomes and reducing the strain on public services. Evidence from British Columbia in Canada shows that a 10% increase in the average minimum price of all alcohol products was associated with an estimated 32% fall in deaths wholly attributable to alcohol and a 9% drop in acute alcohol-related hospital admissions. This price increase is also as also linked to a more than 8% reduction in consumption⁸. Minimum unit pricing could contribute to significant cost savings over the next decade in Wales, as well as reducing alcohol-related mortality.

d) MUP sets a ‘floor price’ below which alcohol cannot be sold, based on the amount of alcohol contained in the product⁹. Therefore alcohol which is already sold above this floor price will not be affected. The on-trade is unlikely to be affected as the majority of alcohol sold in this sector already well exceeds the proposed minimum unit price. Instead, the policy will target cheap, strong alcohol sold in supermarkets and off-licences. Drinks like

³ Wagenaar, A.C., Salois, M.J. & Komro, K.A. (2009), Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies. *Addiction* 104:2, pp179-90.

⁴ Bailey, J., Poole, R., Zinovieff, F. et al (2011), Achieving Positive Change in the Drinking Culture of Wales. URL: <http://www.alcoholconcern.org.uk/wp-content/uploads/woocommerce_uploads/2015/03/Achieving-positive-change-final-version.pdf>

⁵ SHAAP Press Release 3rd September 2015 Scottish Medical Profession welcome the European Advocate General's opinion in favour of Scotland's alcohol minimum unit pricing policy. URL: <<http://www.shaap.org.uk/minimum-pricing-for-alcohol.html>>

⁶ Scottish Government (2014) Scottish Government's position on Minimum Unit Pricing of alcohol

⁷ Holmes, J. et al (2014), Effects of minimum unit pricing for alcohol on different income and socioeconomic groups: a modelling study, *The Lancet*.

⁸ Scottish Government (2014) Scottish Government's position on Minimum Unit Pricing of alcohol

⁹ SHAAP (2014), Alcohol Minimum Unit Pricing Briefing by SHAAP (Scottish Health Action on Alcohol Problems). URL: <http://www.shaap.org.uk/images/shaap_mup_briefing_proof4.pdf>.

supermarket own brand vodka or gin, strong white cider and super strength lager will be affected. These types of drink are associated with higher levels of alcohol-related harms and are disproportionately drunk in greater quantities by harmful and hazardous drinkers. Such drinkers are the most sensitive to price and so will benefit more from minimum unit pricing in terms of reductions in alcohol-related (health) harms.

Even in the off-trade, not all drinks will be affected; rather, it is strong, alcoholic beverages at the very cheapest end of the market that will be impacted. Many well-known beers and wines, for example, are not cheap enough to require any price increases. Similarly, 'ready to drink' products (such as pre-mixed cocktails) would be unaffected, as they are typically low in alcohol content at just over one unit per bottle.

Question 3

Considering the evidence in the Explanatory Memorandum, what are your views on the likely impacts including the costs and benefits that introducing a MUP might have on:

- a) Consumers
- b) Retailers
- c) Drinks manufacturers
- d) Those who buy and sell using online or telephone delivery services
- e) Local authorities
- f) The health service in Wales
- g) Other groups, including other public services in Wales?

a) As described above, the greatest impact of the policy will be felt by harmful and hazardous drinkers, while moderate drinkers will be little affected. For those drinking within recommended guidelines, MUP will have little impact financially and moderate drinkers across all income groups would spend just 78p more on alcoholic drinks per year.¹⁰

Furthermore, as lower income households disproportionately suffer the harms of alcohol, they would see the greatest health benefits. University of Sheffield data suggests that routine and manual worker households would account for over 80% of the reduction in deaths and hospital admissions brought about by a minimum unit price and yet the consumption of moderate drinkers in low income groups would only drop by the equivalent of 2 pints of beer a year.¹¹

b) & c) Retailers and global drinks manufacturers are among the biggest opponents of MUP. They argue that such a policy distorts the market and impacts upon profits. This argument is unfounded as minimum unit pricing will only affect a small proportion of products. Any reductions in sales will at least partly be compensated by higher prices, and may in fact result in an overall increase in revenue. A further benefit may be that MUP may incentivise the

¹⁰ Holmes, J. et al (2014), Effects of minimum unit pricing for alcohol on different income and socioeconomic groups: a modelling study, *The Lancet*.

¹¹ Yang, M., Brennan, A., Holmes, J. et al (2013) Modelled income group-specific impacts of alcohol minimum unit pricing in England 2014/15: Policy appraisals using new developments to the Sheffield Alcohol Policy Model (v.2.5). Sheffield: School of Health and Related Research, University of Sheffield.

market (i.e. manufacturers) to produce lower strength alcohol products. These products could be sold at a relatively lower price because they contain less alcohol.¹² This could also have the positive impact of encouraging behaviour change towards lower strength products and thus help to reduce alcohol-related harms, and overall levels of consumption.

It is noteworthy that some retailers and producers favour MUP. The National Federation of Retail Newsagents has publicly stated that MUP in Wales “would be a step in the right direction” for alcohol policy. C & C, producers of Tennent’s lager, the market leader in the Scottish beer market, strongly support the policy.

d) For online retailers or telephone delivery services whose main business relies on the sale of cheap, strong alcohol, MUP may have an adverse impact. MUP will not prevent such retailers from introducing or selling higher strength products, but it will ensure that they are not be able to sell them below a certain price.

e) Local authorities will be affected by an obligation to monitor compliance under the new legislation and to take action on businesses which fail to comply. Local authority budgets are coming under increasing pressure from budget cuts, and the effectiveness of legislation could be undermined by an authority’s ability to devote sufficient resources to monitoring and enforcing the legislation. However, we believe it is difficult to measure or quantify the exact cost of this to local authorities and the extent to which non-compliance will be an issue can be questioned. There is also the potential for longer term savings for local authorities from the introduction of minimum unit pricing in terms of services which respond to alcohol misuse such as street cleaning services and anti-social behaviour.

f) Every single hour a person in the UK dies from alcohol¹³; alcohol places an enormous strain on our health service. A steady increase in alcohol-related hospital admissions in Wales over the last 10 years has put frontline health workers in particular under increasing pressure. The introduction of MUP in Wales will facilitate changes to harmful drinking behaviours, meaning fewer individuals will require hospital treatment as a consequence of their drinking. As outlined in the Explanatory Memorandum, a minimum unit price of 50p will provide savings to the NHS of £130 million over the 20 years.

g) Alcohol does not just impact on health service provision. It also has a significant impact on a range of other public services, including the emergency services. A recent survey of emergency service personnel in England found that, for the majority of respondents, alcohol takes up as much as half of their time preventing them from deploying their services in other areas of often significant need, and incurs significant costs. In addition, staff reported feeling threatened and unsafe when dealing with alcohol-related

¹² Scottish Government (2014) Scottish Government’s position on Minimum Unit Pricing of alcohol

¹³ ONS (2014), Alcohol-related deaths in the United Kingdom, registered in 2012 - ONS. URL:

<<http://www.ons.gov.uk/ons/rel/subnational-health4/alcohol-related-deaths-in-the-united-kingdom/2012/stb---alcohol-related-deaths-in-the-united-kingdom--registered-in-2012.html>>

incidents, with a knock-on effect in terms of staff morale and prolonged absenteeism, stress and anxiety¹⁴. Minimum unit pricing would have clear benefits to the emergency services by reducing the overall cost burden on these services and ensuring staff feel safer when carrying out their duties.

Question 4

Considering the evidence in the Explanatory Memorandum, Equalities Impact Assessment and the Welsh Language impact assessment, what are your views on the likely impact including the costs and benefits of introducing MUP in Wales on people on low incomes?

It is the heavier drinkers in society that favour the cheapest alcohol in the market, typically found in the off-trade, which is targeted by MUP. This is the case irrespective of income. Conversely, at all income levels, the spending of those drinking within recommended guidelines will be minimal, as described above.

Due to existing health inequalities the cruellest effects of alcohol are felt most by those who can least afford it. Even though as a group they don't consume as much alcohol as more affluent groups, people in the most deprived areas of the country are disproportionately more likely to experience the impacts of alcohol-related crime, are more likely to suffer the impacts of alcohol-related health conditions and are more likely to die from an alcohol-caused condition¹⁵. Thus, Heavy consumers from low income groups stand to gain the most from MUP. People from such backgrounds also have fewer resources to protect themselves from the adverse effects of excessive consumption.

Question 5

What effects do you think MUP for alcohol would have on children and young people in Wales generally?

- (i) *Would these be positive or negative impacts or both, if so, what are they?*
- (ii) *Is there any additional information on the impacts of introducing MUP for alcohol on children and young people that you would like to tell us about?*

We believe that introducing a MUP for alcohol would have a positive impact on children and young people, even though they are not the specific targets of the policy.

Evidence shows the earlier a young person begins to drink, the greater the volume and frequency of alcohol they consume, and the greater the associated health harms they experience. Alcohol has a significant impact on the development of the adolescent brain, which research by Scottish Health Action on Alcohol Problems (SHAAP) has shown continues to develop up until

¹⁴ Institute of Alcohol Studies (2015) Alcohol's Impact on Emergency Services .

¹⁵ North West Public Health Observatory, Centre for Public Health, Liverpool John Moores University (2012), New Local Alcohol Profiles for England reveal the poorest suffer the greatest health harms from booze culture.

the age of 25.¹⁶ Consuming alcohol from a young age also increases the risk of longer-term health problems and mortality, and increases the likelihood of serious injury.

Young people are known to be sensitive to price with cheaper alcohol attractive to young people. By raising the price of cheap, high-strength alcohol, MUP will be particularly effective at preventing/limiting pre-loading by young people. This is the practice of consuming large quantities of cheap alcohol from off-licence premises before going on a night out in an on-licence setting, where the alcohol will be more expensive (and not affected by MUP, as already sold above this level).

Question 6

Do you agree the Welsh Government should review the initial level of minimum unit price (i.e. 50p) to maintain its effectiveness? If so, how frequently?

Yes, we agree that the level of MUP should be reviewed on a regular basis.

To be an effective policy, the minimum unit price set must reflect the current conditions of the alcohol market. If the price is too low, it will not achieve the desired health outcomes, as individuals will still have access to cheap alcohol and will continue to drink at harmful or hazardous levels.

Any review undertaken should take into account factors such as inflation, economic conditions e.g. recession, changing alcohol prices, changes in consumption patterns and impacts of new or changes to existing legislation. Modelling taking into account such factors, like that carried out/developed by the Sheffield Alcohol Research Group, should be undertaken at various pricing levels to identify the optimum level for a minimum price.

Reviewing the pricing level is important to ensure the minimum price set reflects market conditions and will contribute towards achieving desired health outcomes. However, if done too frequently, it could lead to uncertainty and undermine the overall effectiveness of the policy. There would also be a cost involved if prices continually changed. We therefore recommend that a price review takes place every 3 to 5 years.

The Scottish MUP legislation contains a so-called 'sunset' clause where the legislation will be reviewed five years after its implementation¹⁷. We believe that the MUP legislation in Wales should contain a similar clause to that found in Scotland. The clause would act as an effective mechanism for assessing/reassessing the optimal/initial MUP level and would facilitate an evaluation of the outcome/impact of the policy in terms of reductions in levels of alcohol-related harms. It would also afford the opportunity to address any unintended consequences of the policy.

¹⁶ SHAAP (2014) Alcohol and the Developing Adolescent Brain: Evidence Review. URL: http://www.shaap.org.uk/images/shaap_developing_adolescents_brain_press.pdf

¹⁷ Fitzgerald, N & Angus, C. (2015) Four Nations: How evidence-based are alcohol policies and programmes across the UK, Alliance for Useful Evidence, November 2015

Question 7

Is the formula and the example for calculating the MUP for alcohol set out in section 1 of the draft Bill clear and easy to understand?

The MxSxV formula outlined in the Draft Bill is clear and easy to understand. Each element is defined and its purpose to the calculation outlined. Moreover, this is the formula proposed under the Alcohol (Minimum Pricing) Act 2012 in Scotland, and it would make good sense to adopt the same formula in Wales.

We note that in section 1 of the Bill where the formula is outlined, no reference is made what a unit is and how it should be calculated. A clear and concise definition of what constitutes a unit would be helpful.

Question 8

What are your views on the proposed offences that apply to alcohol retailers who supply or authorise the supply of alcohol at a price below MUP?

- (i) *Do you agree that retailers selling from a shop in Wales at a price below the MUP should be guilty of committing an offence?*
- (ii) *What are your views on subsections (3) and (4) which provide for a person charged with an offence to demonstrate a defence by showing that they have taken reasonable steps to avoid committing an offence?*
- (i) If a retailer sells or supplies alcohol or a product containing alcohol at less than the minimum price outlined in law, they are committing an offence under the terms of that Act.
- (ii) No comment.

Question 9

What is your view on sections 3 and 4 – are there any other premises for which alcohol is sold that would not be covered by sections 3 and 4?

Online sales – although coming from retailers, there is no specific reference made to the procedure/rules governing online sale of alcohol both from within and outside Wales.

Question 10

Do you believe this section covers such transactions sufficiently to ensure that alcohol is not supplied at a price below the MUP?

- (a) *If not, what other examples or situations should be covered?*

We believe this section of the Act does not sufficiently ensure that alcohol will not be supplied under the agreed MUP.

Under the current terms of the bill, if alcohol is purchased as part of a meal or alongside another product, it is taken that the total cost of the transaction is

the selling price of the alcohol. This is incorrect and is likely to lead an over-inflated estimate of the selling price of the alcohol. A product may therefore appear to having a selling price above the required MUP when it is in fact significantly below the prescribed MUP.

We are concerned that the current conditions of the Act enable retailers to use alcohol as a loss leader or incentive to attract customers to their products. To overcome this, we recommend clear identification of the price of the alcohol sold within any transaction. For example, when a three course meal is sold with a bottle of wine for £10, the price of each of the individual components of the transaction should be identified to facilitate clear and accurate measurement of the cost of the alcohol to ensure that all alcohol is sold for at least the MUP.

Question 11

What are your views on the penalties and fixed penalty notices provided for within sections 6 & 7 of and the Schedule to the Bill?

For example (a) the level 3 penalties and (b) the fixed penalty of £200 and the discounted amount of £150 if paid within 15 days as well as the payment periods?

No comment.

Question 12

Do you think that the enforcement provisions in section 8 would ensure that the MUP for alcohol is effectively enforced in Wales?

- (i) Do you think that MUP should be enforced by local authorities in Wales*
- (ii) What are your views on section 8 (3) (a) and (b) which prescribes that an authorised officer of a local authority must in particular, have regard to two objectives, improving public health and protecting children from harm in the exercise of his/her duties?*
- (iii) What is your view on authorised officers of local authorities having the power to conduct test purchases?*

i) Yes, local authorities are best placed to implement these enforcement provisions in their areas. Essential to this are defined, clear and robust powers of enforcement, which enable responsible authorities to adopt a proactive approach to enforcement. Delays in processing evidence must be minimised to enable enforcement through the issue of Fixed Penalty Notices, or where necessary allow enforcement through both summary conviction through the courts and / or the designated review processes.

ii) We fully support the objectives of improving public health and protecting children from harm as being the two main priorities of the local authority authorised officers. Protecting and improving public health should be one of the primary objectives of an effective alcohol strategy/policy.

The 1995 World Health Organisation (WHO) European Charter on Alcohol states that “all children and adolescents have a right to grow up in an environment protected from the negative consequences of alcohol consumption”.¹⁸ These principles should underpin the work of the authorised officers in Wales.

iii) The policing of underage alcohol sales has improved considerably over the last decade through co-ordinated test purchases exercises undertaken by police and Trading Standards. Research from Serve Legal and Plymouth University suggests that under-age checks now take place three out of every four times a young person attempts to buy alcohol. It is highly likely that similar, co-ordinated test purchases operations to monitor and police the implementation of MUP in Wales will be equally important and effective.

Question 13

What are your views on sections 11 to 13, which provide local authority authorised officers with the powers to enter premises at any reasonable time and where necessary by warrant, for the purposes of enforcing MUP?

No comment.

Question 14

Do you think section 15 provides authorised officers with appropriate powers to enter premises for the purposes of ascertaining whether an offence has taken place?

(a) What are your views on section 16 – which outlines the conditions for an offence of intentionally obstructing an authorised officer in carrying out his/her duties?

No comment.

Question 15

The Schedule of the Bill contains details of the fixed penalties, including the period for payment, the discounted amount as well as trial and withdrawal of notices. What are your views on the contents of the Schedule?

No comment.

Question 16

Any other comments on any aspect of the Draft Bill.

¹⁸ WHO (1995) European Charter on Alcohol URL:
http://www.euro.who.int/_data/assets/pdf_file/0008/79406/EUR_ICP_ALDT_94_03_CN01.pdf

We believe the prevention and reduction of alcohol harm must be approached with several measures. We fully support the proposed MUP plans for Wales as one of the measures needed. The policy acts as a vital foundation to a range of other measures which when taken together will achieve the necessary impact.

IAS would like to recommend that the following policies are all considered as part of Wales' efforts in reducing and prevention alcohol related harm:

1. A minimum price of at least 50p per unit of alcohol should be introduced for all alcohol sales, together with a mechanism to regularly review and revise this price.
2. At least one third of every alcohol product label should be given over to an evidence-based health warning specified by an independent regulatory body.
3. The sale of alcohol in shops should be restricted to specific times of the day and designated areas. No alcohol promotion should occur outside these areas.
4. The tax on every alcohol product should be proportionate to the volume of alcohol it contains. In order to incentivize the development and sales of lower strength products, the rate of taxation should increase with product strength.
5. Licensing legislation should be comprehensively reviewed. Licensing authorities must be empowered to tackle alcohol-related harm by controlling the total availability for alcohol in their jurisdiction.
6. All alcohol advertising and sponsorship should be prohibited. In the short term, alcohol advertising should only be permitted in newspapers and other adult press. Its content should be limited to factual information about brand, provenance and product strength.
7. An independent body should be established to regulate alcohol promotion, including product and packaging design, in the interests of public health and community safety.
8. All health and social care professionals should be trained to routinely provide early identification and brief alcohol advice to their clients.
9. People who need support for alcohol problems should be routinely referred to specialist alcohol services for comprehensive assessment and appropriate treatment.

If the Welsh Government is unable to implement MUP nationally through its devolved powers, it should consider other means by which to tackle the sale of cheap alcohol. One option would be to investigate the possibility of local

authorities in Wales introducing MUP in their areas by way of a by-law. Section 2 of the Local Government Act 2000 gives local authorities the power to do anything which is likely to promote the economic, social or environmental wellbeing of their area, whilst Section 235(1) of the Local Government Act 1972 makes it possible for such a by-law to be made “for the good rule and government of the whole or any part of the district, principal area or borough... and for the prevention and suppression of nuisances therein.”