

SAFE. SENSIBLE. SOCIAL.
SELLING ALCOHOL
RESPONSIBLY:
GOVERNMENT RESPONSE
TO THE CONSULTATION ON
THE CODE OF PRACTICE FOR
ALCOHOL RETAILERS

England and Wales



Home Office

JANUARY 2010

CONTENTS

Ministerial foreword

1. Executive summary

2. Conducting the consultation

3. Summary of key findings and Government response

MINISTERIAL FOREWORD



Going out for a drink is a normal and enjoyable part of life for many people. On the whole, the way in which alcohol is sold and consumed is done responsibly and socially. Yet there are a significant minority of people whose drinking behaviour threatens the enjoyment of the responsible majority. This is reflected in the fact that nearly a fifth of all violent crime takes place in or around pubs and clubs, with nearly half of this occurring between Friday evening and Monday morning.

For this reason, it is important that those who sell alcohol are active in working to tackle alcohol-related crime and disorder in the night time economy. Most businesses take this role seriously and we have seen excellent examples of their good practice, such as Challenge 21, Challenge 25, Best Bar None, Pubwatch, Community Alcohol Partnerships and some well regarded staff training programmes.

However a small number of alcohol retailers continue to run the types of promotions and practices that can clearly contribute to crime and disorder. This must stop.

To address this, last year we conducted a large-scale public consultation on the detail of a mandatory code for those who sell alcohol. This consultation received over 7,000 responses on a number of proposed changes to how alcohol should be sold. The consultation found strong support for a number of measures, which we have considered and will now be taking forward to ban the most irresponsible promotions and practices

and to ensure greater consumer choice and protection of young people.

In taking forward this mandatory code, I am mindful of the impact that this may have on businesses. I believe we have struck the right balance between taking forward measures that will have a real impact on violence and anti-social behaviour and not imposing unnecessary burdens on businesses.

The mandatory code is just one part of our National Strategy. As well as tackling irresponsible premises, we have also created new powers to deal with underage drinking in public, and have recently introduced Drinking Banning Orders to deal with those individuals that continually cause trouble. My Department is also running a series of training workshops to ensure that existing laws are robustly enforced and has put in place a programme of support to help local enforcement agencies develop sustainable initiatives to tackle alcohol-related crime and disorder.

Everyone has the right to go out and have a good time. But it is not right that those who enjoy themselves responsibly should have their night out ruined because some retailers are not taking their responsibilities seriously. Our new mandatory code will make sure licensed premises trade responsibly and make our night time economy one that all can enjoy in safety.

A handwritten signature in black ink that reads "Alan Johnson".

Alan Johnson
Home Secretary

1. EXECUTIVE SUMMARY

1.1 Between the 13th May and 20th August 2009, Government consulted on a new code of practice for those who sold or supplied alcohol. The consultation contained the following proposals:

- 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.

1.2 These proposals were 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. We asked respondents to tell us their views on these proposals, and to provide further evidence wherever possible.

RESPONSES TO THE CONSULTATION

1.3 More than 7,000 responses to the consultation were received from a broad range of people, including members of the public, licensing authorities, police, the alcohol industry and health organisations.

1.4 The vast majority agreed with the intention of the code to reduce alcohol-related crime. There was also clear support for the proposed mandatory

licensing conditions among licensing authorities, enforcement agencies and health bodies, who generally viewed the conditions as an improvement to the current licensing regime. Importantly, alcohol retailers supported a ban on clearly irresponsible promotions and practices. However, they urged Government to safeguard against introducing any unnecessary costs to businesses through this policy.

1.5 In addition to the support for the mandatory licensing conditions there was an overwhelming call from the public, and those involved in licensing, enforcement and health, to tackle underage sales by making sure that alcohol retailers check the ID of people they suspect of being under 18.

1.6 A range of concerns were raised regarding the proposed local discretionary conditions. To address these concerns, the Home Secretary tabled a number of amendments to the Policing and Crime Bill to remove the power for licensing authorities to impose local conditions with groups of premises, instead, giving members of licensing authorities the power to act as 'interested parties' under the Licensing Act, as suggested by a number of key stakeholders. This action not only responded to the concerns that arose during the consultation, but also removed the more controversial and potentially burdensome elements of the code. This change has been well received by stakeholders.

NEW MANDATORY LICENSING CONDITIONS

1.7 Having fully and carefully considered the responses, Government is now seeking to put the consultation findings into action by introducing new mandatory licensing conditions to tackle irresponsible promotions and practices among alcohol retailers. These conditions will:

- Ban irresponsible promotions, such as drinking games, speed drinking, women drink for free, all you can drink for £10;
- Ban the dispensing of alcohol directly into the mouth;
- Ensure the provision of free tap water for customers;
- Ensure that an age verification policy is in operation, which includes checking the ID of anyone who appears to be under 18 attempting to buy alcohol; and
- Ensure that small measures of beers, spirits and wines are made available to customers.

1.8 We will now lay the necessary regulations before Parliament with the intention of bringing these conditions into force from April 2010, subject to the Parliamentary timetable. In order to minimise the burden to businesses, the conditions for age verification and small measures will not be commenced until October 2010 to give ample time to prepare.

1.9 To support the introduction of these new conditions, we are revising the statutory guidance for licensing authorities issued under section 182 of the Licensing Act 2003. We are also producing good practice guidance to explain the conditions to those who sell or supply alcohol and to promote

the voluntary good practice that many of these businesses have developed.

1.10 The proposed requirements to display UK alcohol unit and health information at the point of sale are complex. The Government is carefully considering the responses. We need to strike a balance between the needs of customers and businesses and also to ensure that any resulting proposals are both practicable and enforceable.

1.11 We also consulted on the size of single standard spirit measures. The Ipsos MORI public survey and public focus groups showed that a majority of the public do not understand the current system which allows licensees to choose whether to serve either 25ml or 35ml single spirit measures. While the majority of trade responses favoured the status quo, there was strong public support for a move to use only the 25ml measure. The Government is currently carefully considering the timetable for implementing a change to the relevant Weights and Measures legislation, taking full account of the potential impact on business.

1.12 As Weights and Measures legislation applies in Scotland in addition to England and Wales, the consultation actively invited responses from Scotland on this issue.

1.13 The consultation also invited comment and evidence exploring 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. As confirmed in the consultation document, while recognising the public concern about the links between very low-priced alcohol and health harms and crime, before making any final decision, further research is needed to

understand the potential impacts of different options.

1.14 We are publishing the independent analysis of the consultation responses conducted on our behalf by Dialogue by Design, and the findings from the large-scale survey, commissioned by the Home Office and run by Ipsos MORI. These reports can be viewed online at: <http://www.homeoffice.gov.uk/crime-victims/reducing-crime/alcohol-related-crime/index.html>.

1.15 We will publish an updated Impact Assessment shortly, when we lay the regulations. This has been revised in light of evidence supplied during the consultation and changes made to the proposed policy.

2. CONDUCTING THE CONSULTATION

2.1 The Home Office ran an extensive consultation for over 13 weeks from May to August 2009, aiming to reach out and engage as many members of the general public as possible, as well as targeting those involved in licensing, enforcement, retail and health. In total, over 7,000 responses were received.

2.2 We used a number of approaches to obtain the involvement and views of all interested individuals, groups or organisations, using the following five main strands:

- The official formal consultation;
- A survey among a representative sample of the general public;
- Focus groups with members of the public;
- A leaflet questionnaire for members of the general public; and
- A series of stakeholder consultation events.

2.3 The formal consultation was open to anyone to respond to and included three sets of questions, targeting different specific audiences. One set of questions was for members of the public; another was for those who sell or supply alcohol and relevant trade associations; and the third was for licensing authorities, enforcement agencies and health bodies. This generated 2,373 responses from across the groups, with the majority (1,907) responding to the questions for the general public.

2.4 Ipsos MORI conducted the survey on behalf of the Home Office, interviewing a representative sample of 1,710 adults aged 18 and over in

England and Wales. The survey was carried out as part of a weekly face-to-face in-home omnibus survey.

2.5 Twenty focus group discussions were held across England and Wales; two groups at each of ten locations. Each focus group was made up of eight to ten specially recruited members of the public, making the total number of participants 188. These groups were conducted, and the findings analysed, by Ontrac360.

2.6 Stakeholder consultation events were held in ten locations across England and Wales. Seven hundred and twenty two representatives attended from licensing authorities and enforcement agencies as well as representatives from the alcohol industry (although there is some double counting as a few attendees went to more than one event). Questions were addressed during group sessions with responses captured on laptops at each table and displayed for other participants to view. This process produced approximately 3,000 responses.

2.7 Summary reports for all consultation strands were made available to Dialogue by Design to complete the overall analysis. The objective for this analysis was to identify the main issues emerging through the various consultation strands. The overall report showed similarities and differences between responses from various groups of respondents and compared people's comments with findings from the representative survey.

2.8 The overall analysis was qualitative, focussing on the values and interests of responses. The relevance of these proposals to the alcohol industry and the general public prompted a wide range of stakeholders taking part in the consultation. As such, priority was given to reflecting the variety of opinions and attitudes that the consultation strands had generated. All views were given full consideration during the development of the code.

3. SUMMARY OF KEY FINDINGS AND GOVERNMENT RESPONSE

KEY THEMES

RESPONSIBLE MAJORITY

3.1 Members of the public, although supportive of most proposals, had some concerns that certain conditions could unfairly impact on the responsible majority, namely those who consume alcohol in moderation and therefore do not contribute to any alcohol-fuelled disorder. On the other hand, members of the public would welcome conditions that extend their choice, such as smaller measures, or the guarantee of free tap water.

3.2 Many respondents told us that the majority of licensed premises do act responsibly, a position we strongly agree with. However we were also given numerous examples of promotions and practices that respondents considered to be irresponsible and should be banned through the code of practice.

3.3 We are committed to only targeting the irresponsible minority of premises whose promotions and practices in the retailing of alcohol may contribute to public nuisance, crime and disorder, or risk the safety of children or the general public. These mandatory conditions will not affect the majority of responsible licensed premises or the majority of responsible drinkers.

MANDATORY CONDITIONS

3.4 There was unequivocal support for the aim to target alcohol-related crime and disorder. Alcohol retailers, licensing officers and the public all agreed that these problems are serious and need addressing.

3.5 On the whole the specific mandatory licensing conditions received support. There were some objections from alcohol retailers in particular about the conditions for smaller measures and free tap water, which were made largely on the basis of the potential cost to businesses. Responses also highlighted the need to draft regulations for mandatory licensing conditions in such a way as to minimise unintended consequences. A number of respondents pointed out technical difficulties in taking forward a mandatory condition requiring age verification policies for online sales.

3.6 We have fully taken on board these concerns and specific points made during our drafting of the regulations, and we will continue to refer to responses when writing the section 182 guidance and good practice guidance documents that form part of the code.

3.7 We are concerned not to introduce unnecessary burdens on businesses, particularly during the current economic climate, and we have listened to points raised regarding the potential opportunity costs associated with certain conditions. We will, therefore, introduce the five new mandatory licensing conditions in April 2010, delaying the conditions on small measures and age verification from being enforceable until October 2010 in order to give businesses more time to prepare.

3.8 We have decided not to proceed with the proposed age verification condition for online and mail order alcohol purchases at this stage. Instead we will take forward a more widely applied age verification policy and continue to consider other options put forward by respondents with regards to online and mail order sales.

AGE VERIFICATION

3.9 Underage drinking was the single biggest concern raised by members of the public during the consultation in relation to alcohol-fuelled violence and anti-social behaviour. Licensing authorities and enforcement agencies echoed this view. There was agreement across many of the consultation strands that tackling underage drinking was vital to reducing alcohol-related crime and disorder. Many respondents suggested measures to combat drinking among young people; with popular options being to apply conditions, such as the

Challenge 21 age verification scheme, to all premises at a national level.

3.10 Given this high level of concern, the evidence of effectiveness, and the strong call to make age verification mandatory, we have decided to include a mandatory licensing condition to ensure that all those selling or supplying alcohol have an age verification policy in operation that requires them to check the ID of anyone who appears to be under the age of 18 attempting to buy alcohol. We will delay this condition coming into force until October 2010 to allow businesses time to prepare and we will issue guidance and exemplar policies that will make it simpler for those who currently do not have such a policy in place to comply with this condition. This condition will not prevent any businesses from choosing to operate one of the current good practice schemes such as Challenge 21 or Challenge 25. This will be highlighted in our good practice guidance.

TRAINING

3.11 Licensing authorities, enforcement bodies and the public felt that training for staff was vital to the implementation of the conditions and can have a positive impact on reducing crime and disorder, helping staff to diffuse problems and create a safer environment. There was support for a national training package and an accreditation scheme. Retailers referred to good training programmes already in place and were concerned that a training condition could damage the quality of what is provided already.

Some retailers responded that a national standard was needed. Good evidence was provided on the effectiveness of staff training in reducing alcohol-related crime.

3.12 However, due to the relatively high projected costs for a mandatory licensing condition that would require all staff to be trained, we are not intending to introduce such a condition at this stage. We will, however, address the issue in guidance and continue to encourage alcohol retailers to ensure that their staff are properly trained.

EXEMPTIONS

3.13 Across all consultation strands, most respondents emphasised that they would not like to see any type of premises exempted from the mandatory license conditions. There was a desire for a consistent approach with all premises being treated equally. Many pointed to the importance of ensuring that conditions applied to the off-trade as well, in an attempt to reduce the problem of 'pre-loading' on alcohol before going out to on-trade premises to continue drinking.

3.14 We are committed to tackling all irresponsible promotions and practices and will take this feedback on board when drafting regulations and guidance.

LOCAL CONDITIONS

3.15 Some of the proposed discretionary local conditions received strong support from various respondent types, whereas others were treated with scepticism. More generally it was queried whether local conditions would be applied at all, as many respondents expressed a preference for using existing individual licence reviews. The opposition to applying conditions to groups of premises was particularly pronounced among respondents from the alcohol retail trade. Licensing and enforcement officers also identified numerous practical issues that could prevent successful implementation, though this did not necessarily imply that they opposed the conditions per se.

3.16 We have listened to these concerns and, through the passage of the Policing and Crime Bill, have already removed the powers that were intended to give licensing authorities the ability to impose discretionary conditions onto groups of licensed premises in their area in favour of making members of licensing authorities 'interested parties' and therefore being able to bring individual premises to review themselves.

PARTNERSHIP APPROACH

3.17 Many respondents from alcohol retailing and those involved in licensing or enforcement agreed that partnership approaches at local and national level were a positive way to tackle alcohol-related crime.

3.18 We will continue to ensure the emphasis that Government puts on this partnership approach in future work addressing alcohol harms.

GOOD PRACTICE

3.19 Some respondents stressed that most premises are not hubs of crime and disorder. Where problems may arise, many felt that the enforcement of existing legislation, as well as voluntary local partnerships, can go a long way in addressing them.

3.20 The mandatory licensing conditions will encourage the irresponsible minority of alcohol retailers to act responsibly and through guidance we will encourage more retailers to take up voluntary good

practice to further help reduce alcohol-related crime and disorder.

CONCLUSIONS

3.21 Following careful consideration and thorough independent analysis of the consultation responses received, we have decided to introduce five mandatory licensing conditions to tackle irresponsible promotions and practices in the retailing of alcohol that could contribute to crime, disorder and anti-social behaviour, or risk the safety of children. These conditions are set out in Table 1:

Table 1:

Mandatory Licensing Condition	Applies to	Date it will come into force
1. Banning irresponsible promotions; such as drinking games, speed drinking, women drink for free, all you can drink for £10 etc.	On-trade and qualifying club premises certificate	April 2010
2. Banning the dispensing of alcohol directly into the mouth	On-trade and qualifying club premises certificate	April 2010
3. Ensuring the provision of free tap water for customers	On-trade and qualifying club premises certificate	April 2010
4. Ensuring that an age verification policy is in place, which includes checking the ID of anyone who appears to be under 18 who attempts to purchase alcohol	On-trade, off-trade and qualifying club premises certificate	October 2010
5. Ensuring that small measures of beers, spirits and wines are made available to customers	On-trade and qualifying club premises certificate	October 2010

NEXT STEPS

3.22 On 29th January 2010, we will be commencing the alcohol measures in the Policing and Crime Act 2009, including for the mandatory licensing conditions and the new powers for licensing authorities allowing them to initiate reviews against licensed premises in their area.

3.23 Subject to the Parliamentary timetable, the regulations will be laid before Parliament for Affirmative Resolution and come into effect from April 2010. The conditions regarding small measures and age verification will not become enforceable until October 2010 to allow businesses more time to prepare to comply with them.

3.24 We intend to publish the revised section 182 guidance in time for the conditions coming into force and to publish good practice guidance in advance of this.

3.25 The Department of Health is mindful of the need to fully consider impacts of new regulation on businesses. The next steps for the display of UK unit and health information at point of sale, and for small, specified spirit measures are under careful consideration.

© Crown Copyright 2010
Produced by the Home Office. January 2010.
ISBN: 978-1-84987-152-5