

London Borough of Hammersmith and Fulham Response to the Home Office “Consultation on Delivering the Government’s Policies on to Cut Alcohol Fuelled Crime and Anti-Social Behaviour.” November 2012.

Introduction

The London Borough of Hammersmith and Fulham has considered the proposed changes and would like to state the following:

1. Do you agree that this MUP level would achieve these aims?

Whilst welcoming a Minimum Unit Price (MUP) for alcohol we feel that the proposed 45p per unit will not deter most drinkers from significantly reducing their weekly alcohol intake, whether they are harmful, regular or occasional drinkers. We propose a similar MUP to that of Scotland, i.e. 50p per unit of alcohol, although it would appear sensible to wait for the outcome of the European Court’s ruling on the industry challenge to this legislation. We feel that the most effective way of reducing harmful drinking is to impose a meaningful MUP to influence the cost of high strength cheap alcohol, i.e. strong cider and beer. We also feel that a MUP of 50p per unit of alcohol would reduce the amount of ‘pre-loading’ that is common amongst young people prior to a night out. This would make pre-loading less cost effective for the ‘binge drinker’, thereby reducing harmful drinking and increasing the numbers of drinkers in the comparatively safer environment of a pub or bar.

A MUP of 50p would have the dual effect of reducing harmful drinking while not significantly adversely affecting the sensible drinker, albeit that prices will rise. Unfortunately, a MUP of 45p per unit of alcohol would not, in our view, be sufficient to deter problem drinkers and reduce their levels of harmful drinking.

A matter that should be considered regarding this proposal is the cost of regulating it should it become law, who should be the regulator, and the limited resources that Local Authorities have to carry out additional work without an income source.

2. Should other factors or evidence be considered when setting a minimum unit price for alcohol?

Dependent on the level of a MUP there will be some affect on the ability for harmful drinkers to continue to satisfy their need for alcohol. One of the risks of setting a 45p or 50p minimum unit price is that some harmful drinkers may turn to alternatives such as glue, methylated spirits and other extremely harmful substitutes. Consideration must be given to ensuring that sufficient assistance, and alternatives, are available to meet the needs of harmful drinkers who will need attention should cheap, strong alcohol no longer be available to them.

A MUP may also affect the level of footfall in existing licensed premises. The on-trade has been going through a very difficult time with many public houses closing down every week throughout the country. Raising the price of alcohol sold in supermarkets and off-licences may have the knock on effect of helping the on-trade industry.

3. How do you think the level of minimum unit price set by the Government should be adjusted over time?

A MUP may affect sensible and occasional drinkers as well as prices will rise, but the affect of the price rise will be minimal if the MUP is directed towards cheap, strong, lager, beer and cider. This may be viewed as an acceptable outcome in view of the potential good it will do in relation to harmful and hazardous drinkers. In order for a MUP to have a positive effect on the population generally social attitudes towards alcohol consumption must also change.

4. The aim of minimum unit pricing is to reduce the consumption of harmful and hazardous drinkers, while minimising the impact on responsible drinkers. Do you think that there are any other people, organisations or groups that could be particularly affected by a minimum unit price for alcohol?

As stated in Question 2, a minimum unit price is likely to affect harmful drinkers more than the other groups.

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

A complete ban on all multi pack offers would not necessarily target harmful or hazardous drinkers, or those drinkers who cause crime, disorder and anti social behaviour. A ban of this kind would affect sensible drinkers and penalise a significant part of the population of England and Wales. Additionally, it would affect the spirit of the competitive market amongst businesses involved in off sales of alcohol, and probably lead to an increase in discounted alcohol generally. If the aim of this consultation is to reduce harm and improve health then a meaningful Minimum Unit Price on its own should be an effective tool and would ensure that a minimum pricing level for multi buy promotions, whilst banning them would be both unpopular and unlikely to affect harmful and hazardous drinking. A matter that should be considered regarding this proposal is the cost of regulating it should it become law, who should be the regulator, and the scarce resources Local Authorities have to carry out additional work without an income source.

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

This type of ban would undoubtedly affect the large percentage of our population who are sensible drinkers and buy in bulk in order to stretch limited finances. Additionally, should such a ban be put in place, retailers could simply reduce prices of individual products in order to gain a market lead. The most effective method of reducing harmful drinking would be by way of a meaningful minimum unit price rather than a ban on multi packs.

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

Please see answer for Question 6

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

Please see answer for Question 6

9. Do you think each of the mandatory licensing conditions is effective in promoting the licensing objectives (crime prevention / public safety / public nuisance / prevention of harm to children)?

	Prevention of crime and disorder	Public safety	Prevention of public nuisance	Protection of harm from children
A. Irresponsible promotions (see condition i above)	Limited	Limited	No	No
B. Dispensing alcohol directly into the mouth (see condition ii above)	Yes	Yes	Don't know	No
C. Mandatory provision of free tap water (see condition iii above)	Yes	Yes	No	No
D. Age verification policy (see condition iv above)	Limited	Limited	No	Yes
E. Mandatory provision of small measures (see condition v above)	No	No	No	No

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

The words “in a manner which carries a significant risk of leading or contributing to...” requires that, prior to an event taking place, clear evidence of the ‘significant risk’ is available. Little, or no, prosecutions have taken place because of the difficulty in having clear evidence before the event. In order to make the condition effective these words need to be removed. Also, in paragraph (e) “, or in the vicinity of,” in relation to promotional posters needs to be deleted. These posters are often sited miles from the venue and so, in order to be effective, the wording needs to be replaced with “or in any other place”. Having health, as a licensing objective may make it easier for officers to take action and engage more with health professionals.

11. Are there other issues related to the licensing objectives (prevention of crime and disorder / public safety / prevention of public nuisance / protection of children from harm) which could be tackled through a mandatory licensing condition?

We feel that it would be inappropriate to generalise issues relating to the licensing so that all premises licences display additional mandatory conditions. The purpose of the licensing regime is to assess each application on its merits and attach conditions which are appropriate to that premises. Therefore, any issues relating to the licensing objectives should continue to be addressed by conditions relating to the operating schedule or by conditions attached at a hearing.

12. Do you think the current approach, with five mandatory licensing conditions applying to the on-trade and only one of those to the off-trade, is appropriate?

Yes

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

The most relevant source of evidence of alcohol related health harm would be data linked to licensed premises in the proposed area from A&E Departments and the Public Observatories’, local Public Health Profile for the borough. A second source would be data collected by ambulance crews relating to alcohol related ‘pick ups’ of injuries/illnesses within the proposed CIP area. Additionally, GPs, Public Health and Substance Misuse Teams and the Joint Strategic Needs Assessment (JSNA) will have relevant data and would be a source of evidence. General health data from specific streets may not be as useful as it would relate to individuals living in an area, not necessarily drinking in that area. It is surprising that, if the Government is considering including health as a relevant issue in relation to alcohol licensing, it is only being considered in relation to CIPs and not as an additional, general licensing objective.

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

This authority believes that the process of implementing a CIP is now embedded within relevant Local Authorities. Additionally, where it is available, A&E and Ambulance data is used in support of the CIP. There is no legal ability within the Licensing Act 2003 to impose a CIP and any further changes in licensing legislation may afford the opportunity for Government to add a clause to include CIPs within the legislation.

15. What impact do you think allowing consideration of data on alcohol-related health harms when introducing a cumulative impact policy would have if it were used in your local area? Please provide evidence to support your response.

Formal recognition of the value of alcohol related harms as supporting evidence for a CIP would be useful. However, it is still often difficult to convince local A&E Departments to collect relevant data and then share it with the appropriate agencies. Until such time as this is general practice in A&E Departments nationally the value of including health matters in this process is debateable.

16. Should special provision to reduce the burdens on ancillary sellers be limited to specific types of business, and/or be available to all types of business providing they meet key criteria for limited or incidental sales?

The provision should be available to both a specific list of premises and more widely to organisations meeting the prescribed definition of an ancillary seller. The example given by the Home Office is that of a bed and breakfast wishing to give guests a glass of wine as a “welcome drink”. We would agree that this would meet the definition of an ancillary sale. We also agree that if the business was supplying an unlimited amount through a bar, minibar or room service, it could not fit the definition of an “ancillary sale”.

The Home Office has stated that a technical consultation will take place to establish what the limits to this provision will be. We would prefer that the provisions are more restrictive to businesses which do not fall within the "specific list", however we would not wish to exclude them. Until the Home Office are able to provide details of the proposed volumes of alcohol permitted, any restrictions and frequency of "ancillary sales" permitted, it is difficult to give an opinion. However, in principal we would not object to any reduction in the burden for businesses providing the licensing objectives are not compromised.

17. If special provision to reduce licensing burdens on ancillary sellers were to include a list of certain types of premises, do you think it should apply to the following?

	Yes	No	Don't know
A Accommodation providers, providing alcohol alongside accommodation as part of the contract.			√
B Hair and beauty salons, providing alcohol alongside a hair or beauty treatment.	√		
C Florists, providing alcohol alongside the purchase of flowers.	√		
Cultural organisations, such as theatres, cinemas and museums, providing alcohol alongside cultural events as part of the entry ticket.		√	
D Regular charitable events, providing alcohol as part of the wider occasion.			√

18. Do you have any suggestions for other types of businesses to which such special provision could apply without impacting adversely on one or more of the licensing objectives?

In 'E' above mention is made of 'Regular charitable events'. This description is too wide to gain support from this authority. Could a community hall make every event held there to some extent be classed as a 'charitable event'? Having such a loose description could lead to anti-social behaviour, crime and nuisance, with no remedy to be found within licensing legislation. However, some charitable events, such as many events held in church halls, would benefit. Many of these event organisers would like to include a glass of wine within the cost of a ticket but, unless they have permission to sell alcohol, they are prevented from doing so. To exclude these types of charitable events from the normal licensing process would be extremely beneficial, but they would have to be described in legislation extremely carefully, perhaps giving Licensing Authorities the final decision on whether a particular premises would qualify as an 'ancillary seller', without compromising existing regulatory controls available through the TEN regime.

19. The aim of a new 'ancillary seller' status is to reduce burdens on businesses where the sale of alcohol is only a small part of their business and occurs alongside the provision of a wider product or service, while minimising loopholes for irresponsible businesses and maintaining the effectiveness of enforcement (see paragraphs 9.2 and 9.3). Do you think that the qualification criteria proposed in paragraph 9.6 meet this aim?

We feel that for this proposal to work effectively in practice the 'ancillary seller' would have to declare what type of, and how much, alcohol is being provided, i.e. a 70 cl bottle of wine as a welcome gift at a holiday home or a 70cl bottle of champagne with a bunch of flowers from a flower shop. The proposal that it be a 'small part or proportion of a sale or contract' would be very difficult for an 'ancillary seller' to keep within and would also be very difficult to regulate.

20. Do you think that these proposals would significantly reduce the burdens on ancillary sellers?

		Yes	No	Don't know
A	Allow premises making ancillary sales to request in their premises licence application that the requirement for a personal licence holder be removed.			√
B	Introduce a new, light-touch form of authorisation for premises making ancillary sales - an 'ASN' but retain the need for a personal licence holder.	√		
C	Introduce a new, light touch form of authorisation for premises making ancillary sales – an ASN - with no requirement for a personal licence holder.	√		

21. Do you think that the following proposals would impact adversely on one or more of the licensing objectives?

		Yes	No	Don't know
A	Allow premises making ancillary sales to request in their premises licence application that the requirement for a personal licence holder be removed.			√
B	Introduce a new, light-touch form of authorisation for premises making ancillary sales an – 'ASN' but retain the need for a personal licence holder.		√	
C	Introduce a new, light touch form of authorisation for premises making ancillary sales – an ASN – with no requirement for a personal licence holder.	√		

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

We consider that if Government approves the Ancillary Sales Notice (ASN) proposal there may be no need for a personal licence holder authorising sales of alcohol in compliance with the ASN. However, we also consider that there should be a clearly identified person, or persons, who would be responsible for the conduct of the provision of alcohol within the business. In reality this would probably be the owner/manager of the relevant business. This would enable regulatory authorities to identify individuals who have declared responsibility and against whom legal action could be taken should a breach of the ASN have taken place.

23. Do you agree that licensing authorities should have the power to allow organisers of community events involving licensable activities to notify them through a locally determined notification process?

No, this proposal would introduce confusion into what is now regarded as a simple, straightforward process. We can see no good reason to create a division regarding which events or organisations should comply with current legislation and those that the Licensing Authority considers should be outside of the current legislative requirements.

24. What impact do you think a locally determined notification would have on organisers of community events?

	Yes	No	Don't know
A Reduce the burden			√
B Increase the burden			√

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

No, we consider that 12 TENs per year covering up to 21 days is sufficient. The current Government very recently changed the legislation regarding TENs to allow the total number of days to be increased from 15 to 21, and the length of an individual TEN increased from 96 to 168 hours. We do not see an argument to amend the law regarding TENs yet again to increase the number of vents from 12 to 15 or 18. We consider also that those wanting to hold more regular events, should apply for a full premises licence.

26: If yes, please indicate which option you would prefer:

Not applicable, see 25 above.

27. Do you think that licensing authorities should have local discretion around late night refreshment in each of the following ways?

	Yes	No	Don't know
A Determining that premises in certain areas are exempt.		√	
B Determining that certain premises types are exempt in their local area.		√	

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

Yes

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

We feel that the only premises that should benefit from an exemption would be motorway service stations and hospital cafes.

30. Do you agree with each of the following proposals?

		Yes	No	Don't know
A	Remove requirements to advertise licensing applications in local newspapers.		√	
B	Remove the centrally imposed prohibition on the sale of alcohol at MSAs for the on and off-trade.		√	
C	Remove the centrally imposed prohibition on the sale of alcohol at MSAs but only in respect of overnight accommodation – “lodges”.	√		
D	Remove or simplify requirements to renew personal licences under the 2003 Act.		√	

31. Do you think that each of the following would reduce the overall burdens on business?

		Yes	No	Don't know
A	Remove requirements to advertise licensing applications in local newspapers.	√		
B	Remove the centrally imposed prohibition on the sale of alcohol at MSAs for the on and off-trade.	√		
C	Remove the centrally imposed prohibition on the sale of alcohol at MSAs but only in respect of overnight accommodation – “lodges”.	√		
D	Remove or simplify requirements to renew personal licences under the 2003 Act.		√	

32. Do you think that the following measures would impact adversely on one or more of the licensing objectives?

		Yes	No	Don't know
A	Remove requirements to advertise licensing applications in local newspapers.	√		
B	Remove the centrally imposed prohibition on the sale of alcohol at MSAs for the on and off-trade.	√		
C	Remove the centrally imposed prohibition on the sale of alcohol at MSAs but only in respect of overnight accommodation – “lodges”.		√	
D	Remove or simplify requirements to renew personal licences under the 2003 Act.	√		

33. In addition to the suggestions outlined above, what other sections of or processes under the 2003 Act could in your view be removed or simplified in order to impact favourably on businesses without undermining the statutory licensing objectives or significantly increasing burdens on licensing authorities?

No additional comments to make.

34. Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposals?

		Yes	No	Don't know
A	Minimum unit pricing.			√
B	Multi-buy promotions.			√
C D	Health as a licensing objective for cumulative impact. Ancillary sales of alcohol.			√
E	Temporary Event Notices.			√
F	Late night refreshment.			√
G	Removing the duty to advertise licence applications in a local newspaper.			√
H	Sales of alcohol at motorway service stations.			√
I	Personal licences.			√

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

No comment.