



CODE OF PRACTICE ON RESPONSIBLE ALCOHOL RETAILING

- The Home Office has published a consultation paper outlining plans and details of a proposed new code of practice for the retail of alcohol. A four tier approach is outlined with a small number of national mandatory licensing conditions; a requirement under the Food Safety Act to display unit content and health related information; a pool of discretionary local conditions; and, statutory guidance on good practice.
- The proposed conditions on which the Government is consulting are considerably watered down from those discussed in pre-consultation scrutiny the trade and other stakeholders. However, other controversial elements have not been abandoned and are included as areas for future action or issues which respondents may wish to recommend for inclusion. It would be premature, therefore, to claim success but our detailed evidence on costs has clearly had an impact. We are starting to win the battle.
- The other major change from the pre-consultation draft is the inclusion of more draconian conditions and sanctions against the off-trade. The text makes specific reference to the impact of pre-loading and deep discounting, and for the first time makes recommendations for legislation to tackle them. The door is ajar.

National Mandatory Conditions

- The Policing and Crime Bill gives the Secretary of State the power to impose up to 9 mandatory conditions on all licensed premises. The Home Office is now considering whether this power should be amended to allow these conditions to be imposed on certain types of premises rather than all outlets holding a premises licence. This is one of the key areas of attack for the industry as conditions which apply to all outlets would have to be weak to avoid imposing undue burdens on theatres, village halls etc
- The Government is initially consulting on 6 national mandatory conditions – of these 5 would apply only to the on trade and 1 only to the off trade. The conditions would ban irresponsible promotions – to be defined in legislation – require all outlets to offer the minimum legal measure for each type of drink, provide free tap water and display point of sale information about unit content. Details of these conditions are set out in the attached table. Once approved they would be automatically added to every licence.
- **Future areas for action:** although the national code will allow the continued use of the 25ml and 35ml spirits measure, the Home Office is minded to move to a standard measure of a single shot of spirits. This would remove the ability of pubs to choose a 25ml or 35ml and undoubtedly impose operational costs - legislative creep.
- The consultation document also floats the idea of a future condition banning below cost selling ie sales price must be at least duty + VAT. The Government rules out the introduction of a standard minimum price per unit, but considers that this may be a more workable alternative. This is key *ALMR* campaign and we should press for its immediate inclusion in the national mandatory code.

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Discretionary local conditions

- The purpose of this pool of conditions is to give local authorities the power to deal with problems occurring in public places which are linked to several premises. Before they can be applied the local authority must have evidence of nuisance or disorder on or near two or more premises which can be directly linked to consumption on the premises or alcohol supplied by it which is likely to be repeated and which could be prevented by the imposition of these conditions. A four stage test.
- There are 16 proposed local conditions – half of these would apply to the on-trade, 1 applies to just the on trade and the remainder to all types of premises. The local authority would be able to choose from the range of conditions to apply and would not need to apply all of them in all cases. However, they would not be able to vary the conditions – the detail will be set by national legislation, there is no local discretion.
- The proposed local conditions include a ban on time based promotions, pub crawl promotions, a requirement to carry out regular risk assessments, a ban on glass and a requirement to collect glass at specified intervals, toilet checks at specified intervals, doorstaff checks, CCTV, information provided on public transport links, Challenge 21 and a ban on bulk discount promotions in the off trade. Details of these are set out in the attached table. These conditions could be applied only at certain trading times.
- The consultation also canvasses views on whether the pool of local conditions should be extended to include training – although it notes this may be better included in statutory guidance – minimum seating requirements, door staffing ratios and control of background music. These were the most controversial and costly elements of the original proposal and the Home Office appears to be seeking support for their inclusion.
- Whilst at first glance, the national conditions may not appear too onerous, they are not future proof. Changes to other regulatory regimes eg price marking, NWML regulations on measures may yet impose further burdens. This is the start, not the end of the list.

Procedure

- The power to impose these conditions is included within the Policing and Crime Bill which is due to be debated by MPs on Tuesday 19th May. The detailed contents of the code and conditions will then be published in secondary legislation and separate Statutory Guidance will be adopted setting out best practice. The Secretary of State has undertaken to assess the economic situation and market conditions in deciding when to implement the new Code. A final implementation date looks unlikely before the end of 2010 and the General Election may impact on this.
- Once the legislation is finally adopted, the national conditions would take immediate effect. In respect of local conditions, the council would be able to initiate action against problem premises if they had evidence of nuisance or disorder. Businesses will be able to offer voluntary action to prevent conditions being imposed and will also have a right of appeal to the magistrates.



Mandatory Conditions Applied to all premises	Detail of how it would be applied
Irresponsible promotions	the DPS responsible for preventing following promotions – beat the clock drinking games, free or discounted alcohol for certain customers, all you can drink offers, promotions based on unpredictable events eg goals or which glamourise drunkenness
Direct dispensing of alcohol	Staff must not dispense alcohol directly into customers’ mouth. Devices for this must not be provided or permitted to be used
Measures	Alcohol available in minimum legal measures eg beer, lager or cider ½ pint, a single shot of spirits (25ml or 35ml), wine sold by glass 125ml. This would not prevent other larger measures being offered. There is no requirement to provide the minimum size of glass provided an approved measure or optic is used.
Tap Water	Free tap water to be available on request where reasonable
Point of Sale	Alcohol unit content to be displayed “visibly and legibly” in sight of every point of sale. Certain small businesses to be exempt or only a selection of items required to display units eg provide once for all types of vodka or similar strength beer.
Discretionary Conditions Problem Premises only	Can be applied at one of the following trading times: 5pm to closing time Fri-Sun; 5pm to closing time every night; 5pm Fri to 6am Mon; or 5pm to closing time week nights and all weekend.
Promotions	Ban on time-based promotions which last for less than 72 hours eg happy hours or pub crawl promotions
Risk Review	To be carried out every 3, 6 or 12 months and cover no of incidents and no of emergency services call outs in past 6 months. Agree management plan with the licensing authority.
Glassware	Glass and bottle collection every 30, 45 or 60 mins. Ban on glassware at certain trading times.
Toilet checks	Checked every 30, 45 or 60 mins for glasses, incidents of violence or criminal activities. Record of checks to be avail for inspection
Door staff	All customers checked for drugs or weapons on admission
Incident log	DPS to maintain up to date incident record for all crime, violence and disorder on premises or areas under premises control and to be available for inspection on request.
Dispersal Policy	to include wind down plan, no open bottles or glasses to be taken off the premises, CCTV, public transport info, direct tel line to taxi firm, DPS and any door staff to have live police page or radio link
Challenge 21	Staff must not sell to someone who could reasonably be suspected to be under the age of 21 unless proof of age provided or known to be over 18. Written notice on under age or proxy purchases.
Off trade promotions	ban bulk purchase discounts eg more than one 24 pack of lager or 4x3 litre bottles; one case of 12 bottles of wine; 2 litres of spirits. Could be imposed either at certain trading times or at any times.