

ALMR MATTERS

- **Serving Drunks – the new threat:** as we reported last month, Ministers are now turning their attention to the next major issue for the trade to tackle. Having focused on under age sales for the past 2 years, the focus this year will be public drunkenness. Make sure you are not caught out and read this guide to the latest Responsible Alcohol Sales Campaign.

In the run up to Christmas, most police forces will be stepping up their enforcement activity to reduce alcohol related disorder over the busy festive trading period. However, this year it will be given a sharper focus thanks to central direction and funding to increase enforcement of the Licensing Act in respect of allowing disorderly conduct on a licensed premises or knowingly selling alcohol to drunks.

The campaign will see **undercover police officers visiting pubs from 30 November to 23 December** to monitor and observe behaviour. Unlike previous national campaigns, there will be no actual test purchasing, but police officers will watch to see if 'irresponsible' sales are made. Offences in this area are far more subjective and less clear cut to prove than under age sales, so the focus is on observation and evidence gathering in the first instance. More targeted enforcement activity will be centred on known problem premises.

In order to prove an offence has been committed, the police must demonstrate that the person serving the alcohol knew that the customer was drunk. In the absence of an acknowledgement of this from the bar staff, they will need to prove that the customer was unequivocally drunk. The courts tend to interpret this as meaning they had "lost control of their normal physical and mental functions" and the police interpretation is "eyes glazed, speech slurred, unsteady, breath smells of alcohol". CCTV footage and till receipts may also be used retrospectively to prove an offence.

The police have rejected calls from BEDA and the BII for a more precise definition of drunkenness. We resisted such a move on the grounds that drunkenness is not a clear cut issue, and that some greyness can be beneficial to allow staff to exercise their judgement.

The publicly stated aims of the campaign are to ensure compliance with the Licensing Act 2003 and to increase the likelihood of prosecuted for these offences. There is clearly top down pressure for real results and prosecutions to come out of this campaign. Much lower priority is given to the aim of reducing public drunkenness and raising awareness.

The police have also drawn attention to their desire to promote effective 'server training'. Some Councils are looking to make training for all bar staff a condition of the licence – as it will be in Scotland – following reviews. Westminster City Council is currently piloting a scheme and the Chief Inspector heading up the new Responsible Alcohol Campaign is formerly the licensing inspector for the Borough.

Retailer Action: There is nothing new to the offence of serving drunks or allowing disorderly conduct on the premises, and this should already form part of staff training. The Home Office, police and trade have produced a poster which can be displayed in staff areas to remind them to be alert to signs of danger, which you can download from our website.

You should refresh and revisit staff training ahead of the start of the new campaign. Focus on reminding them of what the law says and on the need to form an initial impression of a customer. Staff should be trained on to identify customers who may be drunk – the key warning signs are nuisance, aggression, violent behaviour, staggering, dozing – are they regulars, how long have they been in the premises and how much do you think they have been served.

For those with doorstaff, this should be your first line of defence. The police have explicitly stated that they will definitely investigate premises who allow people who appear to be drunk already to enter the premises. In addition, the doorstaff need to be on guard for undercover police officers entering the premises and should warn staff if they suspect a covert visit is under way.

If staff are challenged about a sale to someone who appeared to be drunk, and a genuine mistake has been made, they need to avoid giving an indication that they were aware that the customer was drunk. Unless they have knowingly sold alcohol to such a person, the police will need to demonstrate that the customer was unequivocally drunk – a much higher test than a subjective assessment that their breath smelt of alcohol and they were unsteady on their feet.

For news and information on these and other issues – together with details of forthcoming events – visit our website www.almr.org.uk

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