

Response to consultation on selling alcohol responsibly

Committee

Licensing Committee

Officer Contact

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Papers with report

None

Ward(s) affected

All

SUMMARY

To inform the Licensing Committee about the response sent from Hillingdon in respect of the consultation document published by the Home Office entitled **Safe. Sensible. Social:-. Selling alcohol responsibly: A Consultation on the new Code of Practice for Alcohol Retailers.**

This response was sent with the consent of the Chairman of this committee and the Cabinet Member for Environment following the discussion at this meeting on 2nd July 2009 and liaison between the Council's Head of Community Safety, Licensing Service Manager and Hillingdon Police's Licensing Officer

RECOMMENDATION

That the Licensing Committee notes the response to the consultation document.

INFORMATION

The Home Office published for consultation a code of practice for licensed retailing, which includes proposed mandatory and discretionary conditions for premises licences intended to reduce the health related harms and crime and disorder resulting from the irresponsible marketing and sale of alcohol.

The Home Office invited responses from licensing authorities (i.e. Local Authorities), public health authorities, the public and the industry itself.

The code of practice includes mandatory and discretionary conditions for premises licences, which are likely to be strongly opposed by the licensed trade.

It is proposed that, if adopted, the conditions which may be applied to premises licences, will be included under the Policing and Crime Bill, which is currently before Parliament.

The package consists of:-

- **Mandatory conditions** that will apply nationally to all new and existing alcohol licences. Breach of conditions will be an offence.
- **A statutory requirement** for alcohol unit content and health information to be provided at point of sale, under the Food Safety Act. Breach of conditions will be an offence.
- **Discretionary local conditions** that can be applied by licensing authorities to groups of two or more licensed premises in their area who are experiencing particular problems. Breach will be an offence.

The Proposed Mandatory Conditions

- (a) A ban on specified irresponsible alcohol promotions such as drinking games, speed drinking and all-inclusive offers.
- (b) A ban on alcohol being dispensed directly in the mouth of customers.
- (c) A requirement that specified minimum measures of alcohol are readily available in licensed premises.
- (d) A requirement that free tap water should be available for customers.
- (e) Online or mail order suppliers of alcohol must have a robust age verification system in place to prevent under age sales.
- (f) A requirement for units of alcohol information to be available at point of sale for a representative sample of drinks and health guidelines to be posted up in off-trade premises.

Proposed Discretionary Local Conditions

- (a) Bans the discounted sale of alcohol where the discount applies at particular times of the day or week (e.g. happy hours) at key times.
- (b) Bars "pub crawl" offers of discounted drinks at key times.
- (c) Requires a risk review to be carried out by the licence holder and a management plan agreed with the licensing authority.
- (d) Requires regular collection of empty or abandoned glasses during key times.
- (e) Bans the serving of alcohol in glass containers at key times.
- (f) Prevents customers leaving licensed premises with unsealed glass containers at key times.
- (g) Requires toilets to be checked regularly during key times.
- (h) Requires Security Industry Authority licensed door staff to be on duty.
- (i) Requirement for an incident record to be maintained.
- (j) Licensee must consult with police and local authority on dispersal policy.
- (k) CCTV must be in operation on the premises.
- (l) Requirement to display information on location of public transport links and phone numbers for local taxis.
- (m) Requirement for a direct telephone line to local licensed taxi companies.
- (n) Live text or radio pager link with police to be in place at premises.
- (o) "Challenge 21" scheme must be in operation.
- (p) Bulk discounts must not be offered during stipulated times.

Hillingdon's response was as follows:

The cost of re-issuing licenses and dealing with appeals

1 Hillingdon is concerned that the proposals add bureaucracy to a system on which the Licensing Act intended to reduce the bureaucratic burden. This will show itself in the cost of re-issuing every licence in the borough with the new conditions, in terms of Licensing Committee time, licensing officer time and production costs of new licences. As we have 900 licensed premises, the cost could run to several thousand pounds.

The possible negative effect on businesses and local economy

2 The majority of licensees are responsible people attempting to run a profitable business. We have no problem with the mandatory conditions as these are all eminently sensible, but we think the discretionary conditions should only be used in hotspot locations where there is a real problem with disorder associated with drinking. There is a danger that Licensing Committees will come under pressure from local

councillors or residents to impose discretionary conditions in relatively low risk areas. We are also concerned that there may be pressure to use discretionary conditions arising from government targets – in other words a presumption that discretionary conditions will be used, and questions asked (or adverse publicity) from the centre if they are not.

The difficulty of imposing discretionary conditions

- 3 Several discretionary conditions are not concise and are difficult to interpret into a licence condition which would stand up to legal scrutiny. For example, how to define “key times”. If discretionary conditions are wanted, we would have to review all the licensed premises in that location, incurring more cost. As premises cannot be exempted, all must comply, and the additional costs to businesses are substantial. We think that food led outlets such as restaurants should be able to be exempted from discretionary conditions imposed in an area – for example the use of plastic glasses or CCTV is not reasonable in a low risk restaurant

Additional discretionary condition

- 4 An additional condition should be added that the personal licence holder must be on the premises between stipulated times when the venue is open.

We think it would be better to use existing licensing legislation and review processes to impose discretionary conditions on individual premises which are causing a problem. This would leave the new power to impose conditions on all establishments in an area to be used only in high risk areas where it is not possible to isolate which premises is the source of the problem.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report as these proposals are currently at the consultation stage.

However the implementation of these proposals could potentially involve the reissue of all existing Premises Licences and Premises Licence Summaries. This would have significant resource implications for the Licensing Service if no additional funding was provided as part of this implementation. This will be highlighted as a potential issue for the Council’s Medium Term Financial Forecast (MTFF).

LEGAL IMPLICATIONS

The consultation complies with well-known principles set out in *R v North and East Devon HA ex parte Coughlan* [2001 QB 213 para. 108] “To be proper, consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for consideration and proposals to allow those consulted to give intelligent consideration and intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken”. Consequently, this consultation can be regarded as a formal process for getting the input of relevant stakeholders on the specified issues.

Councillors should note that a result of this consultation is that the proposals currently before the Licensing Committee may differ from the final proposals eventually tabled to Parliament.

BACKGROUND PAPERS

The Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003

The London Borough of Hillingdon's Statement of Licensing Policy

The Policing and Crime Bill