

## HOME OFFICE ALCOHOL STRATEGY

<b>Committee</b>	Licensing Committee
<b>Officer Contact</b>	Charlene Ellis, Residents Services
<b>Papers with report</b>	<b>Appendix 1:</b> Home Office Guidance on banning the sale of alcohol below the cost of duty plus VAT <b>Appendix 2:</b> (Draft) Statutory Instrument The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014
<b>Ward(s) affected</b>	All

### SUMMARY

To inform the Committee of forthcoming statutory changes, in relation to the Home Office Alcohol Strategy and in respect of modifications to the mandatory code of practice and subsequent licence conditions applicable to all alcohol licensed premises.

### RECOMMENDATION

**That the Licensing Committee note the information.**

### INFORMATION

Following discussions at the Licensing Committee meeting held on 15<sup>th</sup> January 2013 and subsequent response to the Home Office Alcohol Strategy consultation by the Licensing Authority, a statutory instrument has been drafted setting out control measures and revised mandatory conditions for all alcohol licensed premises.

To recap, on 23 March 2012 the Government launched its Alcohol Strategy with the intention to ban 'below cost' selling of alcohol by setting a minimum unit price. It targeted primarily, harmful and hazardous consumers who tend to show a preference for the cheapest alcohol products, whilst at the same time not disproportionately affecting responsible drinkers or particular social groups.

The objective was and is to radically reshape the approach to alcohol and decrease the number of people drinking to excess, by cracking down on an evolving 'binge drinking' culture, reducing alcohol fuelled violence and disorder and slashing the number of people drinking to damaging levels; which ultimately impacts on the number of hospital admissions and subsequent alcohol related deaths.

The Government has established 'cost' as the amount of 'duty plus VAT', defined as the level of alcohol duty for a product plus value added tax payable on the duty element of the product price. Guidance produced by the Home Office, attached as Appendix 1, provides comprehensive information relating to the implementation of these changes and methods of calculating the amount of duty plus VAT (referred to in legislation as "the permitted price").

The guidance content, subject to parliamentary approval, is due to come into force around mid May.

Upon commencement, the ban and subsequent licence conditions will prevent businesses from selling alcohol at heavily discounted prices and will see additional mandatory conditions added to every on and off licensed premise. The new mandatory conditions are set out in the draft statutory instrument listed as Appendix 2.

## **IMPLEMENTATION**

Implementation of the ban and ensuring responsibility for compliance of the mandatory conditions, setting out the permitted price at each premises will be conducted by the named 'relevant person', defined as the premises licence holder, designated premises supervisor or personal licence holder. In relation to club premises certificates, a member or officer of a club who is present and able to prevent a supply of alcohol can be seen as the relevant responsible person(s). It will be the licence holders' responsibility for ensuring that all relevant persons responsible for amending prices on the premises are made aware of the legal requirement to sell alcohol at, or above the cost of duty plus VAT on that premises.

In circumstances where local store managers are not responsible for amending the prices in-store, responsibility is applicable to the company headquarters and the person, or persons, who are a "relevant person" under the mandatory condition.

## **ENFORCEMENT**

Responsibility for enforcement will be led by local authorities including Licensing Authorities, Trading Standards and the Police. Recommendations put forward, suggest that enforcement officers only check the prices of heavily discounted alcohol products, as these products are most likely to pose a risk of breaching the new mandatory conditions. Expectations are not that enforcement officers should check the price of all alcohol products on a premise, unless they feel it is appropriate to do so.

Where it is felt necessary, enforcing officers can request a copy of the premises pricing lists for analysis to compare against the duty plus VAT permitted prices, as listed within Appendix 1 Annex C.

## **FINANCIAL IMPLICATIONS**

None.

## **LEGAL IMPLICATIONS**

The new mandatory conditions have been inserted into the Licensing Act 2003 ("the Act") and interpretation and enforcement of the provision must be consistent with the Council's responsibilities under the Act. In implementation of the new mandatory conditions, the Council must ensure that it has procedures for enforcement and monitoring that comply with the legislation and specific guidance issued. This must also comply with the Council's existing Statement of Licensing Policy and be consistent with the Secretary of State's Guidance under section 182 of the Act.

As with other breaches of licence conditions, where premises are found to be selling alcohol for less than the 'permitted price', the relevant person will commit an offence under section 136 of the Act. It is a defence if the person's act was due to a mistake, or to reliance on information given to him, or to an act or omission by another person, or to some other cause beyond his control, and he took all reasonable precautions and exercised all due diligence to avoid committing the offence. A breach of this mandatory condition may also result in a review of the premises licence.

## **BACKGROUND DOCUMENTS**

Home Office Alcohol Strategy