

<b>Title:</b> <b>Impact Assessment for the Alcohol Measures in the Consultation</b> <b>Lead department or agency:</b> Home Office <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> HO0013
	<b>Date:</b> 01/01/2010
	<b>Stage:</b> Consultation
	<b>Source intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
<b>Contact for enquiries:</b> Jonathan Allinson 0207 035 3127	

## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

Since the introduction of the Licensing Act there has been growing concern that the original vision of a vibrant "café culture" has failed to materialise, with alcohol related crime estimated to cost between £8-13bn a year.

The Government intends to introduce more flexibility into the current licensing regime to allow local authorities and the police to clamp down on alcohol-related crime and disorder hot spots within local night-time economies, to protect children from the harm of alcohol, prevent the below cost sale of alcohol, amend the licence fee system so that it covers licensing authorities cost, and consider repealing the Mandatory Code.

### What are the policy objectives and the intended effects?

The policy objectives of the alcohol measures in the coalition agreement are:

- i. Overhaul the licensing act
- ii. Deal with the problems of Late Night Drinking
- iii. Protect children from the harm of alcohol
- iv. Ban the below cost sale of alcohol
- v. Ammend the licence fee system
- vi. Consider repealing older legislation

### What policy options have been considered? Please justify preferred option (further details in Evidence Base)

Option 1 – Do nothing

**Option 2 – Introduce the measures laid out in the coalition document and subsequent consultation (please see Annex 3 for a full list of the policies contained being consulted on for Option 2)**

<b>When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?</b>	It will be reviewed
<b>Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?</b>	Yes

**SELECT SIGNATORY Sign-off** For consultation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*



Signed by the responsible Minister:

Date: 28 July 2010

# Summary: Analysis and Evidence

# Policy Option 1

## Description:

Price Base Year 2011	PV Base Year	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £337.1m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	NA	£6.5m	£55.07m

### Description and scale of key monetised costs by 'main affected groups'

An estimated average annual cost of £6.5m over 10 years to be paid for by On-Licence and Off-Licence premises in increased Licence Fees. This is only an indicative cost, using the fee-rise recommended in the Elton review of Licence Fees (2006).

### Other key non-monetised costs by 'main affected groups'

There may be a small transitional cost to local authorities of enforcing the proposals but this will be outweighed by savings in the cost of dealing with alcohol-related problems in the future.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	NA	£45.6m	£392.2m

### Description and scale of key monetised benefits by 'main affected groups'

An estimated average annual benefit of £45.6m over 10 years to be raised for (a) business by repealing the Mandatory Code for Alcohol Retailers and (b) for licensing authorities through increased licence fees. This is only an indicative benefit, using the fee-rise recommended in the Elton review of licence fees (2006).

### Other key non-monetised benefits by 'main affected groups'

N/A

### Key assumptions/sensitivities/risks

Discount rate (%)

Assumptions - that a similar upgrade in licence fees to that recommended in the Elton Review (2006) would be applied if Licence Fees were to be upgraded in order to cover local authority costs associated with licensing.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB: NA	AB savings: NA	Net: NA	Policy cost savings: NA	Yes/No

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England and Wales				
From what date will the policy be implemented?	01/01/2010				
Which organisation(s) will enforce the policy?	Licensing authorities and police				
What is the annual change in enforcement cost (£m)?	N/A				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/A		<b>Non-traded:</b> N/A		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	<b>Costs:</b> N/A		<b>Benefits:</b> N/A		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	<b>Micro</b>	<b>&lt; 20</b>	<b>Small</b>	<b>Medium</b>	<b>Large</b>
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>1</sup> <a href="#">Statutory Equality Duties Impact Test guidance</a>	Yes/No	
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	Yes/No	
Small firms <a href="#">Small Firms Impact Test guidance</a>	Yes	
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	Yes/No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	Yes/No	
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	Yes/No	
Human rights <a href="#">Human Rights Impact Test guidance</a>	Yes/No	
Justice <a href="#">Justice Impact Test guidance</a>	Yes/No	
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	Yes/No	
<b>Sustainability</b> <a href="#">Sustainable Development Impact Test guidance</a>	Yes/No	

<sup>1</sup> Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Implementation).

No.	Legislation or publication
1	The Coalition: Our Plan for Government, HMG (2010), p13-14. ( <a href="http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf">http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf</a> )

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	0	0	0	0	0	0	0	0	0	0
<b>Annual recurring cost</b>	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m
<b>Total annual costs</b>	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m	£6.5m
<b>Transition benefits</b>	0	0	0	0	0	0	0	0	0	0
<b>Annual recurring benefits</b>	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m
<b>Total annual benefits</b>	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m	£45.6m

\* For non-monetised benefits please see summary pages and main evidence base section

# Evidence Base (for summary sheets)

## A. Strategic Overview

### A.1 Background

1. This Impact Assessment forms part of the public consultation on the alcohol measures within the Coalition Agreement. It has not been possible to quantify all of the expected costs and benefits of the proposals at this stage and we urge respondents to the consultation to supply any additional evidence they may have.
2. Where costs have been estimated these estimates should be viewed as indicative estimates only. All cost estimates are economic costs and not financial costs.
3. We will continue to assess the costs and benefits of these proposals and will publish a final Impact Assessment once the consultation responses have been analysed and the final legislative programme has been developed.

### A.2 Groups Affected

4. The groups affected by the policy will include the following:

#### **Enforcement agencies**

- Licensing authorities
- Police forces
- Magistrates Courts

#### **The Alcohol Trade**

- On and Off Licensed Premises
- Alcohol manufacturers

#### **Government and Third Sector**

- Local health bodies
- Alcohol charities

## B. Rationale

5. Alcohol plays an important part in the cultural life of this country, employing large numbers in production, retail and the hospitality industry. The industry as a whole contributes around £8.5bn to the Exchequer through excise duty alone, and over 200,000 premises have a licence to sell alcohol. Central to this is a system of alcohol licensing that is effective in regulating sales and reflective of local demands.
6. Since the introduction of the Licensing Act there has been growing concern that the original vision of a vibrant “café culture” has failed to materialise. The Government intends to introduce more flexibility into the current licensing regime to allow local authorities and the police to clamp down on alcohol-related crime and disorder hot spots within local night-time economies. The measures outlined in this document are being proposed to rebalance the licensing system by overhauling the current licensing regime and giving more power to local authorities and the police to respond to local concerns about their night-time economy, as well as protecting children from the harm of alcohol, preventing the below cost sale of alcohol and amending the licence fee system so that it covers licensing authorities’ costs.

Alcohol-related crime

7. According to the 2008/09 British Crime Survey, victims believed the offender(s) to be under the influence of alcohol in 47 per cent of all violent incidents, equivalent to 973,000 violent offences. Whilst the number of violent offences has fallen by over a fifth since the early-2000s (see figure 1), the proportion of violent offences that are alcohol-related has remained stable (see figure 2).

Figure 1: Violent incidents and alcohol-related violence, 2001/02 to 2008/09<sup>2</sup>

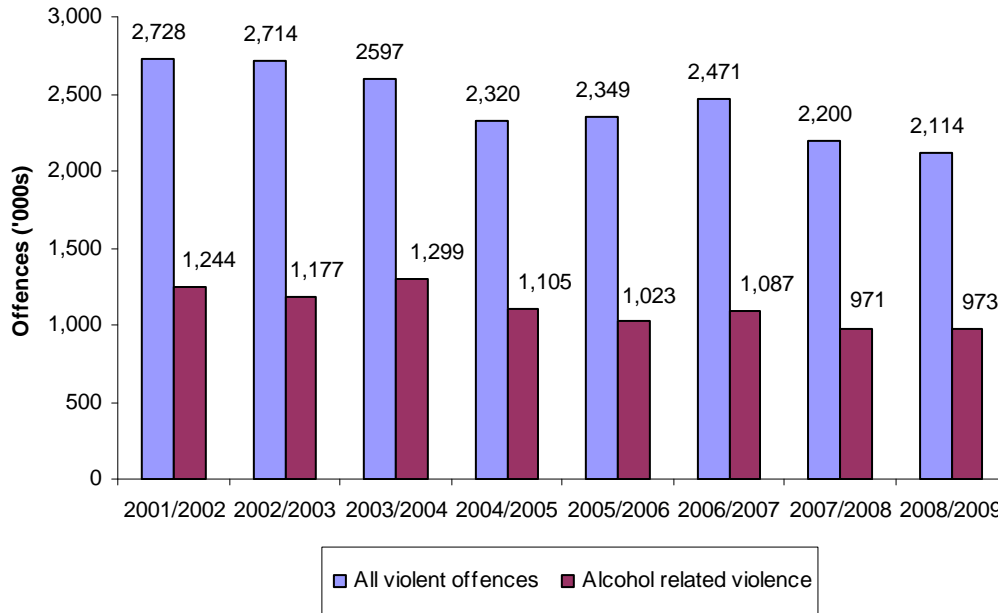
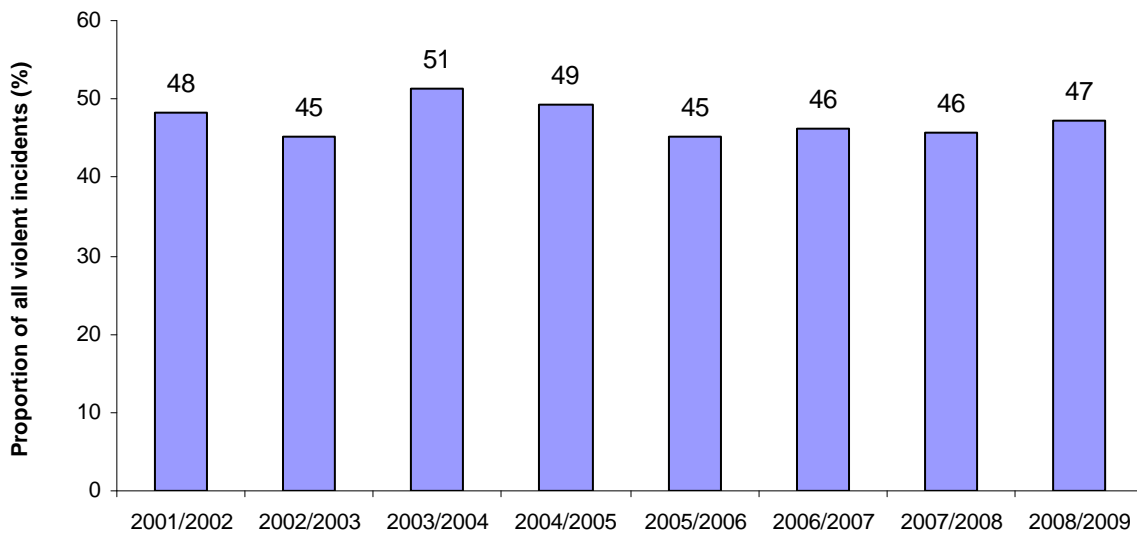


Figure 2: Violent incidents where the victim believed the offender(s) to be under the influence of alcohol, 2001/02 to 2008/09<sup>3</sup>



8. More than half of people surveyed (53%) also thought that alcohol was one of the major causes of crime in 2008/09, an increase from 52% in the previous year. However, a much smaller proportion (8%) thought it was the main cause of crime in Britain today. Results from the 2008/09 survey<sup>4</sup> also

<sup>2</sup> Crime in England and Wales 2008/09, Home Office Statistical Bulletin 08/09

<sup>3</sup> Crime in England and Wales 2008/09, Home Office Statistical Bulletin 08/09. N.B. These percentages cannot be derived from the figures presented in Figure 1 due to the weightings used in the British Crime Survey.

<sup>4</sup> Crime in England and Wales 2008/09: Supplementary Tables: Nature of burglary, vehicle-related theft, personal and other household theft, vandalism, and violent crime

show that 21% of all violence occurred in or around a pub or club and 48% of all violent offences occurred between Friday evening and Monday morning.

### Perceptions of drunk or rowdy behaviour

9. Perceptions of crime are an important factor in social welfare as it is often perceptions, rather than reality, that determine how much individuals are willing to spend in anticipation of crime in order to reduce either the likelihood or impact of an incident.
10. According to the British Crime Survey, the percentage of people who think drunk and rowdy behaviour is a fairly or very big problem in their area has risen, from 19% in 2003/4 to 24.8% in 2008/09. Perceptions of this problem are likely to be heavily influenced by binge-drinking and by young people drinking alcohol in public.

### Underage sales

11. Although it is illegal for a person under 18 to buy, or attempt to buy, alcohol, and it is illegal for alcohol to be sold or supplied to a person under 18<sup>5</sup>, there is good evidence that underage sales are still occurring. The Tackling Underage Sales of Alcohol Campaign in summer 2007 showed an overall test purchase failure rate of 14.7%. Around 40% of premises tested sold to children on at least one occasion. Although these premises were targeted on the basis of local intelligence, this figure is still unacceptably high.
12. A survey of 11-15 year olds in 2008<sup>6</sup> found that where the young person had attempted to buy alcohol from a shop in the last month, 73% had been successful. Where the young person had attempted to buy alcohol from a pub or club in the last month, 82% had been successful.

### The Licensing Act 2003

13. The Licensing Act 2003 allows licensing authorities to impose conditions on a licence in order to support the four licensing objectives on a case-by-case basis. The four licensing objectives are:
  - prevention of crime and disorder;
  - public safety;
  - prevention of public nuisance; and
  - protection of children from harm
14. Since the introduction of the Licensing Act there has been growing concern that the original vision of a vibrant “café culture” has failed to materialise. The Government intends to address many of the problems in the act through the measures outlined in the paper.

### Pre-consultation meetings regarding the proposals contained in the coalition agreement

15. Ahead of this consultation Government officials held a number of discussions with key stakeholders representing the alcohol industry, police and local enforcement agencies, health and third sector organisations to discuss what impact the proposals in the coalition agreement will have on their sectors. The proposals that are being consulted on were informed by these views.

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<sup>5</sup> Although a 16 or 17 year old may consume alcohol with a table meal.

<sup>6</sup> *Smoking, drinking and drug use among young people in England in 2008*, NHS Information Centre

## C. Objectives

16. The government is committed to reducing the impact of alcohol-related crime and anti-social behaviour on our communities. Therefore, the objective of introducing these policy proposals is to:
- give licensing authorities and other local stakeholders greater power to tackle problem premises in their area
  - toughen the consequences for those premises which sell alcohol to children
  - tackle the problems associated with late night drinking
  - amend licence fees so that they cover costs
  - consider repealing older legislation

## D. Options

Option 1 is to make no changes (do nothing).

Option 2 (preferred option): Introduce the following policy proposals to deliver the coalition agreement

### **NB – Please see Annex 3 for full list of policies being consulted on**

#### Overhaul the licensing act

##### *Policies a-h - Increase local powers to refuse and revoke licences*

17. Under the provisions in the 2003 Licensing Act there is a fundamental presumption in favour of granting a licence application to sell alcohol, which makes it difficult for local authorities to turn down applications. We are consulting on overhauling the licensing system to empower local councils and the police to clamp down on binge drinking hotspots and irresponsible retailers. In the consultation this proposal is broken down into policies (a-h) as listed in annex 3, the detail of which are outlined below:

- The Government proposes to change the balance of the Licensing Act to make licensing authorities more pro-active and empowered to take decisions. Currently under the Licensing Act a licensing authority can only refuse or remove a licence, or impose conditions on the licence upon review, if it can be proved that this 'is necessary' for the promotion of the licensing objectives and if a relevant representation has been made by a Responsible Authority. Refusals on this basis are rare because the Licensing Authority is not a responsible authority under the Act. To make existing powers stronger and more responsive to local needs the consultation proposes that relevant licensing authorities should be made responsible authorities under the Licensing Act (or given equivalent powers). This would empower them to refuse, remove or review licences themselves without first having had to have received a representation from other responsible authorities. This would be a transfer of an existing power to local authorities.
- In addition it is proposed that the Act is amended to enable licensing authorities to refuse and remove licences if it was considered 'beneficial' for the promotion of the licensing objectives in their local area. This will reduce the burden of proof required to refuse or remove a licence. Currently such a representation must be shown to be 'necessary' for the promotion of the licensing objectives and cannot be made, for example, because local residents decide they do not want yet more licensed premises opening in a particular area.
- Reviews of a premises licence can be applied for by either responsible authorities or interested parties under the Licensing Act. Following the hearing, the licensing authority can take a number of actions including modifying the licence conditions, removing the Designated Premises Supervisor and suspending the licence for a period of up to 3 months. However the decisions

taken by the licensing authority at the review hearing do not take effect until any appeal is disposed of. There is evidence to suggest that some decisions are appealed against purely to ensure that the premises is able to trade during a profitable period e.g. Christmas, and that the appeal may often be withdrawn once this period had passed. The consultation considers whether the sanctions imposed by a licensing committee should come into force when the holder of the premises licence receives the determination of the decision from the licensing authority, and whether the sanctions should remain unless and until an appeal to the Magistrates' Court is successful.

- When determining an application for a premises licence, an application for a licence review or the granting of a personal licence, the licensing authority must have regard to relevant representations or objection notices (in the case of personal licence applications) from the chief officer of police. The consultation proposes to strengthen the weight that licensing authorities must give to police representations (including those voiced by the police at a hearing) and objection notices by amending the legislation to require licensing authorities to accept all representations and notices and adopt all recommendations from the police, unless there is clear evidence that these are not relevant.
- Licensing authorities currently have to produce and publish a statement of licensing policy for each three year period, which they have to have regard to when making a determination on a licence application. In producing this statement, the Licensing Act states that the authority must consult the chief police officer for the area, the fire authority and such persons as the authority considers representative of holders of premises licences, club premises certificates, personal licences and local residents and businesses. In reality, some licensing authorities do not consult widely and practitioners have stated that as a result, licensing statements can be too narrowly defined and not representative of the views and needs of the local community. To overcome this, we propose to revise the statutory guidance to encourage licensing authorities to consult more widely when determining their licensing policy statement, without prescribing from the Centre the parties they must consult with. To support licensing authorities in doing this, simple templates for self-assessment (e.g. those used successfully for the Purple Flag scheme) should be provided within the guidance.
- Currently, the determination of licensing decisions gives little consideration to the views of local health bodies (Primary Care Trusts or equivalents) as they are not included as responsible authorities within the Licensing Act. This means that they are unable to make representations to the local licensing authorities regarding concerns about the impact of new licensed premises on NHS resources. We are consulting on designating health bodies as a responsible authority under the Act to enable them to make representations about the impact of new or existing licensed premises on the local NHS or more generally the safety of the public within the night-time economy. The expectation is that such representations would be based on analysis of the types of data already used to identify problematic premises and local violence hot-spots (e.g. alcohol related A&E attendances or emergency response statistics), which will reinforce the Coalition Agreement commitment to roll-out A&E data sharing.
- Additionally, preventing harm to the health of the public is not currently a licensing objective. We are also consulting on including health issues as a fifth licensing objective. This might result in, for example, licensing authorities requiring premises to display sensible drinking messages or promote low or non-alcoholic drinks.

### Dealing with problems of Late Night Drinking

*Policy 1 - Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences*

18. The Crime and Security Act 2010 has an uncommenced power to allow licensing authorities to make Early Morning Restriction Orders (EMROs) which restrict the sale of alcohol between 3am and 6am, if it is considered necessary by the licensing authority for the promotion of the licensing objectives. The aim of EMROs is to provide licensing authorities with an additional tool to use to promote the licensing objectives in their local area, by restricting alcohol sales between certain times. The proposal would commence this power with a significant amendment to allow local councils to decide between which hours (e.g. from midnight to 6am) they would like to prevent premises from opening, according to what they believe to be most appropriate for their local area. This differs from the

current situation which limits local councils to issuing the order only between the hours of 3am and 6am. The change would ensure that licensing authorities are given the freedom to respond to the needs of their local community in determining when premises can sell alcohol.

*Policy j – Repeal the unpopular Alcohol Disorder Zone power and allow licensing authorities to use a simple adjustment to the existing fee system to pay for additional policing needed during late-night opening*

19. Alcohol Disorder Zones (ADZs) were introduced via the Violent Crime Reduction Act 2006. They permit local authorities (with the consent of the police) to designate areas where there are problems with alcohol-related nuisance, crime and disorder as ADZs. In theory ADZs allowed councils to charge a levy on problem premises.
20. However, since the regulations for ADZs came into force in June 2008 no local authorities have chosen to establish one in their area. We have received feedback on this from local authorities that indicates that this is due to the lengthy and costly process involved in setting up an ADZ, along with the negative impact creating an ADZ might have on an area's image.
21. Local Authorities have shown by not setting up any ADZs that they do not feel this policy is a suitable tool for tackling alcohol related crime. Accordingly the Government intends to repeal the legislation enabling ADZs.
22. The policy intention behind ADZs will be met more effectively through the new Late Night Levy. This policy proposal would enable Licensing Authorities to charge late opening premises a levy to help pay for the cost of policing the local night-time economy, where this is deemed necessary.
23. It is intended that the levy would be introduced as an additional charge for Licensed Premises that Local Authorities have the discretion to introduce. This would apply to premises that have a licence to open beyond the time that the local authority deems appropriate (e.g. all premises that open after midnight on any day of the week).

*Policy k – Substantial overhaul of the system of Temporary Event Notices to give the police more time to object, enable all responsible authorities to object, increase the notification period and reduce the number that can be applied for by personal licence holders.*

24. A temporary event notice (TEN) is a notification to the licensing authority that an individual or premises intends to conduct licensable activities on a temporary basis for a period not exceeding 96 hours.
25. This proposal would make a number of changes to TENs to improve their effectiveness and ensure that events held using TENs are properly regulated.

These are:

- making sure existing licensing conditions apply when the applicant is already a licensed premises;
- extending the period of time that the police have to object (from 48 hours);
- extending the right to object to other responsible authorities under the Act including the right to object under the three other licensing objectives.
- increasing the period of notice given to a licensing authority in advance of the event. Currently this is 10 working days, but this could be increased to take account of the fact that extending the time that the police have to object to a TEN will impact upon the licensing authority's ability to schedule a hearing in advance of the event to consider the objection.
- amending the legislation to address the issue of the number of TENs in a single vicinity.

## Protecting Children from the harm of alcohol

### *Policy l – introduce tougher sentences for persistent underage sales*

26. This proposal is to double the fine for persistent under-age selling from £10,000 to £20,000 and to extend the period of voluntary closure that can be given by police as an alternative to prosecution to bring this in line with the fine. Currently police can give a closure notice of up to 48 hours, but the consultation proposes amending this closure period to set a lower limit of 168 hours (7 days).
27. The intention behind setting a lower and upper limit for the period of voluntary closure is to give police the flexibility to decide upon an appropriate period of voluntary closure as an alternative to prosecution based on the type of premises being sanctioned. This could include consideration of the size of the premises and the type of business. This gives police the power to ensure that the sanction given is a proportionate penalty for the premises found to have committed the offence. Additional guidance will be issued to encourage police to use this sanction flexibly.

### *Policy m – Trigger automatic sentences for persistent underage sales*

28. This proposal is to amend the legislation to ensure that all premises found to be persistently selling alcohol to children have their licence reviewed, regardless of whether they have opted for voluntary closure or to face prosecution in court. At the review process the licensing authority has the power to impose a 3 month licence suspension, impose further conditions on the licence or revoke the licence. Making licence reviews automatic gives licensing authorities the power to consider each case and if seen to be necessary, the power to make a decision to revoke the licence.

### *Policy n – Ban the sale of alcohol below cost price*

29. There has been a growing concern over the last few years about how cheaply some alcoholic drinks are being sold. We are also aware of the public's unease and their perception of heavily discounted alcohol being a key contributory factor to unacceptable levels of alcohol-related crime and disorder - in many cases as a result of "pre-loading" in preparation for a night out.
30. Over a quarter of local residents perceive drunk and rowdy behaviour to be a problem in their area. There is a belief that most of the alcohol which contributes to this drunk and rowdy behaviour is irresponsibly priced and sold, allowing irresponsible drinkers to be able to get drunk cheaply. Examples of deals such as bottles of cider containing more than the weekly recommended unit guidelines but costing less than the price of a pint of beer in an average pub continue to contribute to calls for action by Government. Victims of crime and anti-social behaviour, as well as senior figures from the enforcement and health sectors that have first-hand experience of tackling the harms caused by excessive and irresponsible consumption, have long called on the Government to take firm action to tackle cheap sales of alcohol.
31. The government is committed to ensuring that local people are able to enjoy all parts of their community without feeling intimidated by those who have drunk too much alcohol and to reducing the burden on frontline services of dealing with drunken behaviour. As set out in the Coalition Agreement, the government is carrying out a review of alcohol pricing and taxation and associated with this a ban on the sale of alcohol below cost. The responses to the consultation will inform the review. For more information go to: [http://www.hm-treasury.gov.uk/alcohol\\_taxation.htm](http://www.hm-treasury.gov.uk/alcohol_taxation.htm)
32. The definition of 'cost' has implications for the policy, powers required, enforcement and different incentives. The 'cost' of an alcoholic product differs between retail businesses as they negotiate their own prices with suppliers, have different internal cost structures and may base overall profitability on a basket of goods. This can make it difficult for a retailer to prove, or an enforcement authority to check, whether a product has been sold 'below cost'.
33. There are a number of ways in which such a ban might work, and Government must find an approach which is compatible with EU trade and competition laws and realistic to enforce. Most EU countries who have tried similar policies have banned selling below 'net invoice price' where the reference price is broadly the unit price on the invoice.

34. One option would be to specifically define an 'average cost'. This might be easier to enforce than determining the true cost of each product, but could be a barrier to trade. An alternative option might be to introduce a mandatory licence condition by amendment to the Mandatory Code of Practice (Mandatory Licensing Conditions Order 2010) through secondary legislation. Under these circumstances, it would be a breach of the licence condition to sell alcohol below what it cost the premises. This would have the advantage of not having to define what the cost is. Where responsible authorities or interested parties were concerned about the prices being offered in local shops this could trigger a licence review.

*Policy o – Enable local authorities to increase licensing fees so that they are based on full cost recovery*

35. Licence fees have not been increased since their introduction and therefore some sort of increase is long overdue. This would be hugely welcomed by local authorities who have long argued that their enforcement costs exceed their fee income. The government commissioned Elton report in 2006 concluded that there was a £43m shortfall for the three year period 2004/05 to 2006/07 and recommended an increase of 7% for the three year period 2007/08 to 2009/10. This has never happened and the Government therefore proposes to enable local authorities to increase the licence fees so that they are based of full cost recovery.
36. The Government also acknowledges that adopting a tougher licensing regime as outlined in these proposals may lead to an increase in the number of licence reviews conducted and a subsequent risk of increased burden on local licensing authorities. Any additional burdens on licensing authorities should also be reflected in local fees.

*Policy p – Enable licensing authorities to revoke licenses due to non-payment of fees*

37. Automatically revoking licences for non-payment of fees would involve a simple change that could save local authorities many thousands of pounds currently spent in recovering unpaid annual fees through councils' own recovery sections and bailiffs. A precedent can be found for it in the Gambling Act. The consultation proposes to amend the legislation so that a premises licence is automatically revoked if the premises has failed to pay the annual fees.

*Policy q – Consult on the impact of the Mandatory Code of Practice for Alcohol Retailers and whether the current conditions should be removed*

38. In April 2010, the previous administration introduced a Mandatory Code of Practice for Alcohol Retailers, which was intended to be introduced in two stages. The first stage, which took place in April 2010, imposed conditions on licensed premises to:
- (a) Ban irresponsible promotions in the on-trade
  - (b) Ban dispensing alcohol directly into the mouths of customers
  - (c) Ensure that free tap water was available in all licensed premises in the on-trade
39. The legislation for the Mandatory Code for Alcohol Retailers contains two further conditions for licensed premises, which were originally envisioned to be introduced in October 2010. These conditions were to:
- (d) Ensure that all licensed premises (both on and off-trade) have an age verification policy in place
  - (e) Ensure that all premises are able to offer smaller servings of beer, wine and spirits.
40. The consultation asks for responses on whether or not the conditions contained within the Mandatory Code should be repealed.

## **E. Appraisal (Costs and Benefits)**

## Option 1 – Do nothing

### Costs

41. Under Option 1, the existing costs and benefits prevail, as outlined below.

Table 1: Costs of alcohol to society

Body/ organisation	Annual Cost	Explanation of cost
Alcohol related crime (including costs to the victims of crime and to society)	£8bn to £13bn	This estimate takes into account the costs in anticipation of crime, the direct physical and emotional costs to victims, the value of lost output, and the costs to the health service and Criminal Justice System. It is estimated on the basis of attributable fractions calculated from the Offending, Crime and Justice Survey. <sup>7</sup>
Licensing authority	£21.6m	This estimate is based on a sample of 48% of licensing authorities in 2007/08 <sup>8</sup> . The costs are net of the value of licensing fees collected as these are transfers
Trading standards and police enforcement costs	Unknown	The costs of enforcement including inspections and reviews of premises licences, test purchases, police prevention of sales of alcohol to under-age drinkers and dispersal of drunk and rowdy individuals or crowds. It is not possible to extract these costs from other costs associated with upholding the law relating to alcohol.
NHS <sup>9</sup>	£2.7bn <sup>10</sup>	Includes hospital inpatient and day visits (both wholly and partially attributable to alcohol), A&E costs, ambulance service costs, GP consultations and specialist treatment
Licensee (through compliance with licensing conditions) and Licensing fees	Admin costs of applying for licences: £83.9m  Licensing fees: £48.8m	The administrative costs were estimated by DCMS using BIS's standard cost model. Licensing fees are estimated using the same survey of licensing authorities as above. There will also be additional compliance costs but it is not possible to estimate these as they will vary for each premises depending on the particular conditions imposed and the nature of those premises.
<b>Total</b>	<b>£12bn - £18bn</b>	

### Benefits

42. The alcohol industry plays a significant part in the economy. It is estimated that the industry contributes around £29bn to the UK's Gross Domestic Product both directly and through multiplier effects. In total, it is estimated that 668,000 people are directly employed in the production and

<sup>7</sup> See Impact Assessment for the enabling power for the Mandatory Code

<sup>8</sup> The LGA/LACORS Licensing Fee Survey 2008, the results of which are published in *unfinished business: a state-of-play report on alcohol and the licensing act 2003*

<sup>9</sup> Whilst health is not a licensing objective, the alcohol-related health costs are significant and are therefore still presented. See the Impact Assessment published alongside *Safe, Sensible, Social - consultation on further action* for further details of the calculations, available at:

[http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH\\_086412?IdcService=GET\\_FILE&dID=169372&Re ndition=Web](http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_086412?IdcService=GET_FILE&dID=169372&Re ndition=Web)

<sup>10</sup> This figure includes all the cost to the NHS of those injuries that arise as a result of crime. There is therefore likely to be some double counting with the costs of crime estimate. Initial estimates suggest that between £600m and £1.5bn of the estimated costs of crime may be to the NHS. However, this is not comparable to the £2.7bn estimate of the total cost of alcohol to the NHS.

retailing of alcohol and including indirect and induced jobs, over 1.8m jobs in the UK economy are supported by the alcohol industry.<sup>11</sup>

43. When drunk responsibly, alcohol can enhance social occasions and can have an important and positive role to play in society.<sup>12</sup> However, it has not been possible to quantify these additional social benefits.

## **Option 2 – To introduce the policies outlined in the consultation document**

### **Policy Costs**

#### **Cost to the alcohol industry**

##### *Policies a-h - Giving more local powers to refuse and revoke licences*

44. These policy proposals are concerned with empowering local authorities, the police and local people to tackle premises that are breaking the existing conditions of their alcohol licence, or from preventing businesses that are not beneficial to the local community from getting a licence. As such, it will not cause additional cost burdens to responsible businesses that sell within the terms imposed by their licence.
45. The policies that are proposed should not increase criminal justice costs as the changes proposed to the Licensing Act are not intended to bring more offenders to justice. Instead, they empower the local authorities to refuse applications and initiate reviews, both of which are done outside of the criminal justice system. Under the proposals in the consultation, appeals against these decisions would only be allowed on process grounds (i.e. in which the local authority did not follow due process) and they may be settled outside of the courts, therefore appeals in Magistrates Courts should not be increased.

##### *Policy I - Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences*

46. Early Morning Restriction Orders (EMROs) are an existing piece of legislation introduced under the Crime and Security Act 2010. Accordingly the only costs that would be generated from the proposals in this consultation would be those that occurred above the costs generated by existing legislation. The proposal being consulted on would amend the existing legislation to give local authorities greater discretion in how they use it. As local authorities will decide whether to apply an EMRO and for what hours to apply it to, it is not possible to accurately estimate on a national level what further costs this amendment to EMROs will introduce.

##### *Policy j – Repeal the unpopular Alcohol Disorder Zone power and allow licensing authorities to use a simple adjustment to the existing fee system to pay for additional policing needed during late-night opening.*

47. When the Late Night Levy is introduced, this will provide an extra annual cost for premises that open late in an area which decides to introduce the levy.
48. The Late Night Levy will not be introduced nationwide, and local authorities will need to decide whether or not the levy is applied in their area. There is no central collection of data on how late premises stay open and how many premises nationwide open beyond certain times. Accordingly, it is not possible to give an accurate estimation of the likely costs for industry under this proposal.

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<sup>11</sup> *The economic outlook for the UK drinks sector and the impact of the changes to excise duty and VAT announced in the 2008 Budget and Pre-Budget Report*, Oxford Economics, February 2009.

<sup>12</sup> See for example Peele S and Brodsky A. (2000). "Exploring psychological benefits associated with moderate alcohol use: A necessary corrective to assessments of drinking outcomes?". *Drug and Alcohol Dependence*, 60:221-247.

49. To give an illustration of the possible costs that could be imposed by this levy, different scenarios have been laid out below. NB – these are purely illustrative, given the difficulties with accurately calculating the possible costs that are laid out above.
50. It has not yet been determined how much will be charged under the Late Night Levy. To provide illustrative examples, we have here used two different possible levies. The current range values for the annual Licensing Fee is between £70 and £1905, and assuming that the levy charge is unlikely to be significantly more or significantly less than the current licence fee we have based the possible levies used for the calculations on this range. As such, we have used levies of £100 and £2000 to calculate the possible range of costs under the policy.
51. It will be at the discretion of local authorities as to whether they charge the levy or not. This makes it impossible to accurately estimate how many areas the levy will be charged in, and what type of areas will take up the levy.
52. In regards to what type of areas will take up the levy, we have used two different “types” of areas to calculate our illustrative examples: for smaller areas, with fewer premises that open late at night we have used an indicative figure of having an average of 50 late-night premises. For larger areas, with more premises that open late at night, we have used an indicative figure of having 200 premises that have a licence to open late on at least one day. Due to the lack of available data on how many late-opening premises there are within each area, these area “types” are illustrative estimations.
53. To provide an illustrative example of the number of areas that will take up the levy, we have a range of possible scenarios in terms of take-up:
- Scenario 1 – The Levy is taken up only by a few of the bigger, inner city areas. For this we have calculated the cost by estimating that 10 large areas take up the levy.
  - Scenario 2 – The levy is taken up by a majority of the bigger inner city areas, and many smaller areas as well. For this we have calculated the cost by estimating that 50 large areas take up the levy, as well as 100 small areas.
54. The total costs that would result under these different scenarios and different charges are laid out in the table below.

*Table 2 – The range of costs under different scenarios and under different charges*

	Charge of £100	Charge of £2000
Scenario 1	£400,000	£1,200,000
Scenario 2	£3,000,000	£9,000,000

55. Accordingly, under this illustrative example, the range of total annual costs to the industry under the late night levy is between £400,000 and £9,000,000. As this is purely illustrative and not based on reliable evidence it has not been included in the total costs.

*Policy k - Substantial overhaul of the system of Temporary Event Notices to give the police more time to object, enable all responsible authorities to object, increase the notification period and reduce the number that can be applied for by personal licence holders.*

56. Enabling all responsible authorities to object to a TEN will simply make an existing power more widespread in the local community, and as such will not add an extra cost to local businesses.
57. While giving the police more time to object and increasing the notification period required for applications for TENs will require applicants that are applying for a TEN to plan further ahead in advance, they will not add a substantial cost on to the process of applying for a TEN.
58. Reducing the number of TENs that can be applied for by personal licence holders to 12 could add a cost to any businesses that intended to hold more than that number of Temporary Events in a year.

However, as data is not held on how many businesses or individuals apply for more than 12 TENs in a year presently, and because events that use TENs vary significantly and therefore the average revenue raised by these events could not be calculated, it is not possible to provide a realistic estimate for what cost this would cause. As such, we are asking in the consultation what the impact would be of limiting the number of TENs that a personal licence holder can apply for to 12 a year, in order to collect information on whether this would have a significant impact on businesses.

59. This policy should not increase criminal justice costs as the changes proposed to TENs simply empower the local authorities to refuse applications, which is done outside of the criminal justice system. Under the proposals in the consultation appeals against these decisions would only be allowed on process grounds (i.e. in which the local authority did not follow due process) and they may be settled outside of the courts, therefore appeals in Magistrates Courts should not be increased.

*Policy l – Introduce tougher sentences for persistent underage sales; AND*

*Policy m – Trigger automatic licence reviews following persistent underage sales*

60. As no licensed premises should be selling alcohol to underage individuals, these policy proposals will not provide any additional costs for law-abiding businesses.

*Policy n – Ban the Below Cost Sale of Alcohol*

61. This policy is at an early stage of development and no firm proposals are being put forward in this consultation. It is not possible to calculate the possible costs of this policy ahead of a clear proposal for implementing the policy – as such, the costs of this policy have not been calculated here.
62. An Impact Assessment with the full cost of this policy will be published when a clearer idea of the policy structure is known.

*Policy o – Enable local authorities to increase licensing fees so that they are based on full cost recovery*

63. Increasing licence fees would create an extra financial burden for all licensed premises, both in the on-trade and the off-trade.
64. As we are proposing to allow local authorities to amend their own licensing fees to achieve full cost recovery, it is difficult to estimate how much the fee would need to rise by. However, the Elton Review of Licensing Fees (2006) recommended that in order to close the gap between the revenue of the licence fees and the costs associated with licensing, fee levels should increase for the three year period from 2007/08 by 7%. While this figure is likely to be at the bottom range of the rise needed as it was recommended in 2006 but not implemented, it provides a useful illustration of the possible costs that raising the licensing fee could cause for business.
65. The table below sets out the amount paid under the current licensing fee, the total number of premises paying those fees and the difference between what would be generated over a 10 year period with an annual 7% increase over the first three years, as opposed to a 10 year period where the fee levels remained at their current level.

*Table 3 – Extra costs generated over a 10 year period after annually increasing the Licence Fee by 7% in the first three years*<sup>13</sup>

Current bandings & fees charged	Number of premises paying those fees	Fees charged after first 7% increase (Year One)	Fees charged after second 7% increase (Year Two)	Fees charged after third 7% increase (Year three-year ten)	Total current annual cost of licence fees to trade	Difference in cost to trade after 10 years of updated fees
Band A (£70)	41131	£75	£80	£86	£2,879,170	£5,802,200
Band B (£180)	91637	£193	£206	£221	£16,494,660	£33,240,800
Band C (£295)	21335	£316	£338	£361	£6,293,825	£12,683,600
Band D (£320)	4732	£342	£366	£392	£1,514,240	£3,051,600
Band E (£350)	11395	£375	£401	£429	£3,988,250	£8,037,300
Band D with multiplier (£640)	607	£685	£733	£784	£388,480	£782,900
Band E with multiplier (£1050)	714	£1,124	£1,202	£1,286	£749,700	£1,510,800
<b>Total</b>					<b>£32,308,325</b>	<b>£65,109,200</b>

66. According to these calculations the increase in cost to business after 10 years of increased fees, following annual increases to the licence fee of 7% in the first three years, would be £65,109,200, or £6.5m a year average, when compared to how much they would pay at the current licence fee levels. It should be noted that the cost of this measure would be paid to the licensing authority, and as such would be cancelled out by the benefit provided.

*Policy p – enable licensing authorities to revoke licenses due to non-payment of fees*

67. As it is a requirement for all licensed premises to pay their licence fee, this policy proposal will not provide any additional costs for law-abiding businesses.
68. This policy should not increase criminal justice costs as the changes proposed simply empower the local authority to revoke a licence on non-payment which would be done outside of the criminal justice system. Under the proposals in the consultation appeals against these decisions would only be allowed on process grounds (i.e. in which the local authority did not follow due process) and they may be settled outside of the courts, therefore appeals in Magistrates' Courts should not be increased.

*Policy q – Consult on the impact of the Mandatory Code of Practice for Alcohol Retail and whether the current conditions should be removed*

69. As this policy relates to removing existing legislation, it should not impose any extra costs on business or enforcement agencies.

**TOTAL COSTS**

Over 10 years - £65,109,200

**Policy Benefits**

70. The aim of the proposals is to reduce alcohol related crime and disorder and public nuisance.

<sup>13</sup> Source of data on number of licenses under each band:

[http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/images/research/Number\\_of\\_Premises\\_Licences\\_Club\\_Premises\\_Certificates\\_and\\_Personal\\_Licences\\_by\\_fee\\_band\\_2009.xls](http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/images/research/Number_of_Premises_Licences_Club_Premises_Certificates_and_Personal_Licences_by_fee_band_2009.xls)

## Benefits of the proposed policies

### *Policy n – Enable local authorities to increase licensing fees so that they are based on full cost recovery*

71. As noted above, the main additional cost which accompanies the policies in the consultation is linked to the rise in the licence fees. As the revenue raised from the licence fee goes directly back to licensing authorities, the costs associated with this policy are cancelled out by the benefits it provides for local authorities. Therefore, it should be counted as providing a benefit of £65,109,200 over ten years, or £6,510,920 average.

### *Policy p - Consult on the impact of the Mandatory Code of Practice for Alcohol Retail and whether the current conditions should be removed*

72. The consultation also asks for opinions on whether or not the Mandatory Code for Alcohol Retailers should be repealed. The Mandatory Code is a piece of legislation that is partially commenced, with the second half due to come in at the beginning of October 2010. By repealing the mandatory code, the annual costs that would have been come into force had the policy been implemented would be saved.
73. As can be seen in the table below, the savings relate mainly to the age verification condition as we have assumed that the transitional costs associated with the smaller measures condition (and all the other conditions) have been incurred by most affected businesses.

*Table 4 – Total annual recurring costs of the Mandatory Code<sup>14</sup>*

Mandatory conditions and requirements		Total recurring annual costs
1	Restrictions on on-trade promotions	£200,000
2	Prevent dispensing into the mouth	£0
3	Age verification policy/system	£37,240,000
4	Smaller measures – ½ pint beer	£0
	- 125ml wine	£0
	- 25ml or 35ml spirits	£0
5	Free tap water	£1,720,000
<b>Total (may not sum due to rounding)</b>		<b>£39,160,000</b>

74. Therefore, if the Mandatory Code for Alcohol Retailers is repealed, it will provide an annual benefit of £39,160,000, or £391,600,000 over 10 years.

### *All policies*

75. The proposed policies will help to ensure that local authorities and the police are empowered to reduce alcohol related crime. The likely benefit of each individual policy is likely to be less than the benefit of imposing all the policies as a comprehensive package to reduce alcohol related crime. Hence, this Impact Assessment will consider the expected benefits of all the other proposed policies together.
76. However, due to the inherently random nature of crime, particularly alcohol related crime, and a lack of data around the nature of alcohol consumption as opposed to simply the amounts being consumed, it is not possible to quantify the expected benefits of many of the proposed policies. However, it is possible to estimate the impact that the proposed policies would need to have on

<sup>14</sup> Impact Assessment for the Mandatory Code for Alcohol Retailers, 2010

crime and disorder in order to justify the cost identified above. Aside from the increase in licence fees (which is covered above) the only policy which we have illustrative costs for is the Late Night Levy. While our costs on this are only illustrative, they can be used to demonstrate how small the impact would be that our policies would need to have on alcohol related crime in order to cover the costs.

*Table 4: Reduction in violent offences (excluding robbery) needed to justify the illustrative cost of the Late Night Levy<sup>15</sup>:*

					Offences needed to be prevented (proportion of current alcohol related offences) to save:
Total cost of the proposed policies in year one	Total offences in 2008/9 (BCS)	Proportion which is alcohol related (BCS)	Total offences which are alcohol related	Average social cost of one crime	Year one
£400,000	1.843m	50.4%	929,628	£5,500	73 (0.008%)
£9,000,000	1.843m	50.4%	929,628	£5,500	1636 (0.2%)

77. Table 4 shows that the benefits of introducing the policy on the Late Night Levy would justify the illustrative costs of implementation if it reduced alcohol-related violence by either 0.008% or 0.2%. Given the extremely low reductions that these represent, we are confident that this would be the case.

## TOTAL BENEFITS

Over 10 years –

Licensing Fee - £65,109,200

Mandatory Code - £391,600,000

**Total - £456,709,200**

## F. Risks

### Option 2 – Introduce the measures laid out in the consultation

*Risk – The proposals put a heavy bureaucratic burden on businesses and on enforcement agencies, which discourages their take-up*

Mitigation – We have already held initial meetings with stakeholders from both licensing authorities and the police to discuss the measures, and through carrying out this public consultation are seeking the views of these agencies in order to ensure that any measures introduced do not create such a burden.

*Risk – The proposals have an unintended impact on responsible premises that are not the cause of alcohol related crime.*

Mitigation – We have already met with representatives from the on-trade and the off-trade as well as manufacturers to discuss the likely impact the proposed measures would have on their businesses. We will continue to seek the views of these parties throughout the consultation to

<sup>15</sup> All violence includes wounding (both more and less serious), assault with minor injury and assault without injury. The average unit cost for all violence is an amalgamation of the unit costs for the different types of violent crime. The percentages are percentages of alcohol-related crime, not total offences.

ensure that the policies have as small as possible an impact on responsible businesses while having a strong impact on those premises that sell alcohol irresponsibly.

## G. Enforcement

### Enforcement Costs

78. We do not expect that these proposed policies will require any significant increase in enforcement activity or impose any significant additional costs on licensing authorities. There may be some costs caused by having to ensure that the Late Night Levy system is being maintained, which may lead to more enforcement activity taking place. However, these costs will be met with the revenue raised under the levy, and will also be far outweighed in the long term by the savings that local authorities will benefit from a result of being able to use the above powers to cut down on alcohol related crime.

## H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

<b>Option</b>	<b>Costs</b>	<b>Benefits</b>
<b>2</b>	<b>£6.5m/year (avg. over 10 years)</b>	<b>£45.6m/year (avg. over 10 years)</b>
	Cost to alcohol industry	Benefits to local authorities and alcohol industry
Source:		

Our preferred option is option 2, due to the minor reductions in alcohol related crime (which we are confident will be achieved) that would be needed to justify the associated costs, and the significant benefits it would contain for both local authorities and the alcohol industry.

## J. Monitoring and Evaluation

The impact of the order will be subject to internal review based on feedback from local authorities and police after 12 months and the legislation may be amended accordingly.

## K. Feedback

Feedback from those affected by the policy is currently being sought through carrying out a public consultation.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added to provide further information about non-monetary costs and benefits from Specific Impact Tests, if relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their actual costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p>
<p><b>Reasons for not planning a PIR:</b> [If there is no plan to do a PIR please provide reasons here] As we are only at consultation stage it is not yet possible to plan for a post-implementation review.</p>

## Annex 2. Specific Impact Tests

### Small Firms Impact Test

1. In developing the content of the consultation we have been particularly mindful of the potential impact on small firms and will ensure that we fully engage them over the consultation period.

### Industry structure

2. The figures in Table A1 suggest that based on the number of employees, approximately three quarters of all alcohol retailers are small businesses.

Table A1: Number of small businesses selling alcohol in England and Wales, March 2008<sup>16</sup>

Type of retailer (SIC 2003 <sup>17</sup> )	Estimated number of enterprises in England and Wales (and proportion of all licensed premises) with:	
	Less than 20 employees	Less than 50 employees
Retail sale in non-specialised stores with food, beverages or tobacco predominating (5211)	25,110	25,552
Retail sale of alcoholic and other beverages (5225)	5,088	5,121
<b>Off trade</b>	<b>30,198 (64%)</b>	<b>30,673 (65%)</b>
Hotels (5510)	6,102	7,345
Restaurants (5530)	52,770	54,823
Bars (5540)	43,473	45,379
<b>On trade</b>	<b>102,346 (77%)</b>	<b>107,547 (81%)</b>
<b>All alcohol retailers</b>	<b>132,544 (74%)</b>	<b>138,220 (77%)</b>

### Will the proposals in the consultation affect small businesses?

3. Some of the proposals contained within the consultation will affect all types of licensed premises, including those which qualify as small businesses. In particular the following policies are all likely to have an impact on small businesses:
  - i) Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences.
  - j) Repeal the unpopular power to establish Alcohol Disorder Zones and allow licensing authorities to use a simple adjustment to the existing fee system to pay for any additional policing needed during late-night opening.
  - k) Substantial overhaul of the system of Temporary Event Notices to give the police more time to object, enable all responsible authorities to object, increase the notification period and reduce the number that can be applied for by personal licence holders.
  - l) Introduce tougher sentences for persistent underage sales.
  - m) Trigger automatic licence reviews following persistent underage sales.
  - n) Ban the sale of alcohol below cost price.
  - o) Enable local authorities to increase licensing fees so that they are based on full cost recovery.
4. It is worth noting, however, that option (n) which would ban below cost selling of alcohol is not expected to have a major impact on small businesses, as it is not believed that they frequently engage in the practice of selling alcohol below cost price.

<sup>16</sup> This table is based on data from *UK Business: Activity, Size and Location – 2008* which contains data from a snapshot of the Inter Departmental Business Register (IDBR) taken on 21 March 2008. Table B3.1 provides a breakdown of the number of enterprises in the UK by SIC and number of employees and those figures have been scaled down to estimate the number of small enterprises in England and Wales using the figures in Table B3.4, which breaks down the number of enterprises in the UK by SIC and Government Office Region.

<sup>17</sup> Standard Industrial Classification of Economic Activities 2003

5. It should also be noted that under the voluntary closure option in policy (l) local authorities will be encouraged to use this option proportionately, and to take into account the size of the firm affected. Therefore, smaller firms should face less of a burden under this option than larger firms.

#### Exemptions for small businesses

6. One of the aims of the proposed changes is to empower local communities to tackle those businesses, both small and large, that are contributing to alcohol related crime in their area. Exempting small businesses could jeopardise this aim because it is likely that there are a number of small businesses who are selling alcohol irresponsibly and therefore who should face the same measures as their larger counterparts. We therefore do not consider it appropriate to exempt small businesses from the proposals in the consultation.

#### Alternative approaches to exemptions which could reduce burdens on small firms

##### *Issue statutory guidance*

7. Under Section 182 of the Licensing Act 2003, the Secretary of State must issue guidance to licensing authorities and they must have regard to that guidance when carrying out all of their licensing functions. We will therefore be issuing guidance to licensing authorities on any of the proposals that are legislated on to ensure that licensing authorities do use their new powers appropriately and in a proportionate and targeted manner.

#### Estimated cost to small firms

8. The costs of implementing the proposals in the consultation are calculated in the Impact Assessment. The only costs which have been given a monetary value are the rises in the licensing fees, which will affect premises differently according to the business' rateable value. As there is no data available on how small businesses are divided between the different categories of rateable value, it is not possible to differentiate the total cost to small businesses from the total cost to the industry as a whole.
9. However, as fees are calculated based on rateable value the licence fee structure charges less to those businesses with less valuable property. Because one of the factors that affects the value of a premises is its size, it is likely that many small businesses will occupy premises with a lower rateable value. Accordingly it is likely that smaller businesses will face a less significant burden from the rise in licence fees than larger businesses. However, it should be noted that other factors, in particular location, also have a significant impact on rateable value, so that some smaller businesses located in valuable premises are likely to qualify for higher fees.

#### Consultation with small firms

10. In developing these conditions prior to the consultation, Government officials have held discussions with a range of key industry stakeholders who represent small businesses. These included the Association of Licensed Multiple Retail, the Association of Convenience Stores, the British Retail Consortium and the Federation of Wholesale Distributors.
11. Many of the issues raised in the pre-consultation meetings regarding small businesses were focused on the introduction of the Late Night Levy, including the following:
  - It was pointed out that some small businesses may want to change their opening hours to avoid paying the Late Night Levy, and that this opportunity should be made available to them. The Home Office agreed to take this into consideration when finalising the details of the policy.
  - Some representatives also wanted to see the charge under the Late Night Levy varied according to the size of the business. A question on reductions and exemptions under this policy is included in the consultation document.
12. During the consultation we will actively seek the views of small firms in particular to the policies that we have identified above as having an impact on small businesses, and we will ensure that we consult with the relevant trade bodies for small businesses.

## Annex 3. Policies being consulted on for option two

The Government intends to introduce more flexibility into the current licensing regime to allow local authorities and the police, to clamp down on alcohol-related crime and disorder hot spots within local night-time economies. To rebalance the licensing regime the Government is proposing the following measures:

- a. Give licensing authorities the power to refuse licence applications or call for a licence review without requiring relevant representations from a responsible authority.
- b. Remove the need for licensing authorities to demonstrate their decisions on licences are necessary for the promotion of the Licensing Act objectives.
- c. Reduce the evidential burden of proof required by licensing authorities in making decisions on licence applications and licence reviews.
- d. Increase the weight licensing authorities will have to give to relevant representations and objection notices from the police.
- e. Simplify Cumulative Impact Policies to allow licensing authorities to have more control over outlet density.
- f. Increase the opportunities for local residents or their representative groups to be involved in licensing decisions.
- g. Enable more involvement of local health bodies in licensing decisions by designating PCTs (or equivalents) as a responsible authority.
- h. Amend the process of appeal to avoid the costly practice of rehearing licensing decisions.
- i. Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences.
- j. Repeal the unpopular power to establish Alcohol Disorder Zones and allow licensing authorities to use a simple adjustment to the existing fee system to pay for any additional policing needed during late-night opening.
- k. Substantial overhaul of the system of Temporary Event Notices to give the police more time to object, enable all responsible authorities to object, increase the notification period and reduce the number that can be applied for by personal licence holders.
- l. Introduce tougher sentences for persistent underage sales.
- m. Trigger automatic licence reviews following persistent underage sales.
- n. Ban the sale of alcohol below cost price.
- o. Enable local authorities to increase licensing fees so that they are based on full cost recovery.
- p. Enable licensing authorities to revoke licences due to non-payment of fees.
- q. Consult on the impact of the Mandatory Licensing Conditions Order and whether the current conditions should be removed.