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Cabinet  
Scrutiny Board 2  
Council

15<sup>th</sup> February 2005  
17<sup>th</sup> February 2005  
22<sup>nd</sup> February 2005

**Report of Head of Corporate Policy**

**Response to Consultation Paper: "Drinking Sensibly - The Governments Proposals"**

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### **1 Purpose of the Report**

1.1 This report seeks your agreement to a response to the Consultation Paper on "Drinking Sensibly - The Governments Proposals", published in January 2005 on behalf of the Home Office, Department for Culture, Media and Sport and the Office of the Deputy Prime Minister.

### **2 Recommendations**

2.1 Cabinet is recommended to:

- Consider and amend, as necessary, the draft response contained in Appendix 1 to this report and refer it for consideration by Scrutiny Board 2 on 17<sup>th</sup> February;
- Refer their proposed response to full Council on 22<sup>nd</sup> February 2005.

2.2 Scrutiny Board 2 is recommended to consider the report and the views of Cabinet.

2.3 Council is recommended to endorse the views of Cabinet.

### **3 Information/Background**

3.1 A Consultation paper on "Drinking Sensibly" was published in January 2005, received on 21<sup>st</sup> January and brief information was sent via the Members Bulletin on 28th January 2005, explaining the content of the paper and offering further information if required.

3.2 This consultation follows the publication in November 2004 of the Government's National Alcohol Harm Reduction Strategy.

3.3 The paper outlines the Government's concerns about the level of alcohol-fuelled violence currently being reported across the country and sets out a proposed response. It does not rule out other options. The paper details recent measures introduced and new proposals to combat a range of issues, including under- age sales, irresponsible promotions, alcohol related disorder and changing the culture of "binge drinking".

- 3.4 Responses to the Consultation Paper must be returned to the Home Office by 28<sup>th</sup> February 2005. The proposed response has been developed in consultation with the Coventry Community Safety Partnership, the Crime and Disorder Reduction Strategy Programme Delivery Group and the Children and Young People's Strategic Partnership.
- 3.5 The Consultation Paper reviews recent legislation and other measures and makes it clear that responsibility for tackling alcohol misuse cannot rest with the Government alone but requires partnership working at both national and local level, between the Government, the drinks industry, health and police services, individuals and communities.
- 3.6 There are 6 Chapters, pertaining to the following themes:
- **Chapter 1 - Introduction:** This chapter describes the extent of the problem, using some stark statistics. In 2002-2003 nationally, 44% of all violent crime was fuelled by alcohol, 35% of all attendances at Hospital A&E Departments were related to alcohol and one in five violent incidents take place around pubs or clubs. It sets the consultation into context –following the publication of the National Alcohol Harm Reduction Strategy in 2004 and the implementation of the Alcohol Misuse Enforcement Campaigns, which took place during last summer and again over the Christmas period. This campaign showed clearly that the Police cannot address the issue alone and need the commitment of others such as town planners and Crime and Disorder Reduction Partnerships to address some of the problems experienced due to drunken behaviour. It also describes some of the powers introduced or enhanced through the Licensing Act 2003.
  - **Chapter 2 - Alcohol Disorder Zones (ADZ):** This chapter describes some of the existing powers which can be applied to geographical areas, in particular Designated Public Places Orders, (DPPOs, banning anti social drinking) and Dispersal Orders, (where groups of two or more people may be dispersed by the Police if behaving in an anti social manner). The Government is proposing to build on these powers through the introduction of Alcohol Disorder Zones. These could require licensed premises within the identified problem area to contribute to the costs of policing and other associated expenses such as the removal of litter etc. Representatives of the affected premises would have the opportunity to agree a corrective action plan prior to the imposition of the ADZ. This chapter also raises the possibility of a national voluntary contribution from the drinks industry, which would be used to finance improved education.
  - **Chapter 3 - Under-Age Sales:** This section reports the findings of the summer enforcement campaigns. Nationally, 45% of on-licences and 31% of off-licences, which were targeted by the police, made sales to under-age children. It suggests that further powers may be needed which would lead to licensed premises, including both on and off-sales, to be closed temporarily following a defined "trigger" event.
  - **Chapter 4 - Changing the Culture:** This chapter concentrates on the use of enforcement powers to achieve a shift in behaviours. It lists the Fixed Penalty Notices available to the police and the additional penalties imposed for late payment of these fines, which include in some circumstances clamping of offenders' motor vehicles. It also challenges the current view where excessive alcohol consumption can be used as a mitigating factor at court. In relation to the industry, the paper favours a "No ID, no Sale" approach. It proposes the creation of a new civil order, "The Drinking Banning Order" which will allow prohibitions, including exclusion areas, to be imposed upon an individual, over the age of 15 years of age, who has committed alcohol related offences or associated disorder.

- **Chapter 5 - Irresponsible Promotions:** Against the background of a vibrant and competitive market, this chapter makes clear the expectation of sensible marketing and a wider social responsibility. It commends the work by the Portman Group in labelling and promotion of products. The British Beer and Pub Association is also developing a code of practice on "point of sale promotions". The Government indicates that it will support the industry in ending those promotions that encourage excessive or "speed drinking" through offers like "All you can drink for £x".
- **Chapter 6 - Conclusions:** The proposals in the consultation document are intended to ensure that alcohol misuse is considered socially unacceptable. The measures within the paper focus on enforcement measures and incentivising change through the alcohol industry.

**4 Proposal & Other Options to be Considered**

4.1 It is proposed to submit a Coventry Community Safety Partnership response (Appendix 1), of which the Local Authority are a key stakeholder

**5. Other specific implications**

	<b>Implications (See below)</b>	<b>No Implications</b>
Area Co-ordination	<input type="checkbox"/>	
Best Value		<input type="checkbox"/>
Children & Young People	<input type="checkbox"/>	
Comparable Benchmark Data		<input type="checkbox"/>
Corporate Parenting		<input type="checkbox"/>
Coventry Community Plan	<input type="checkbox"/>	
Crime and Disorder	<input type="checkbox"/>	
Equal Opportunities		<input type="checkbox"/>
Finance		<input type="checkbox"/>
Human Resources		<input type="checkbox"/>
Human Rights Act		<input type="checkbox"/>
Health and Safety		<input type="checkbox"/>
Impact on Partner Organisations	<input type="checkbox"/>	
Information and Communications Technology		<input type="checkbox"/>
Legal Implications		<input type="checkbox"/>
Property Implications		<input type="checkbox"/>
Risk Management		<input type="checkbox"/>
Race Equality Scheme		<input type="checkbox"/>
Sustainable Development		<input type="checkbox"/>

	<b>Implications (See below)</b>	<b>No Implications</b>
Trade Union Consultation		☐
Voluntary Sector – The Coventry Compact		☐

### **5.1 Area Co-ordination**

Area Co-ordination provides a focal point for co-ordinating multi-agency responses to local community safety issues.

### **5.2 Coventry Community Plan**

Key priorities within the Coventry Community Plan are to reduce crime and the fear of crime, protecting children from harm and providing more support for those who misuse drugs and alcohol. Some of these points are reflected in the 4 Licensing Objectives noted below .

### **5.3 Crime & Disorder**

Section 17 of the Crime & Disorder Act 1998 requires Local Authorities to consider crime and disorder implications in all service areas. In addition to this the responsibility for granting new or varied alcohol licenses now lies with the City Council, who must promote the 4 licensing objectives :The prevention of crime and disorder; public safety, the prevention of public nuisance and the protection children from harm.

The recent audit of crime, disorder and substance misuse for Coventry, demonstrated that alcohol related crime and disorder is a cause for concern in some areas. It is particularly significant in relation to violent crime and a Local Public Service Agreement target To reduce the number of alcohol related crimes and disorder is under consideration. .

### **5.4 Impact on Partner Organisations**

The proposals will obviously impact on the Police and potentially a number of other organisations who work together in the City to reduce crime, disorder and anti-social behaviour.

## **6. Timetable**

6.1 Comments on the proposals must be with the Home Office by 28<sup>th</sup> February 2005

## List of background papers

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Papers open to Public Inspection

**Description of paper**

**Location**

## Appendix 1

This appendix provides responses to the specific questions contained within the consultation document. They have been provided predominantly by representatives of the Local Authority, but are also reflective of the views of key partners such as the Police.

### **Q1 How would the proposed Alcohol Disorder Zones (ADZ's) link with existing powers and the new powers under the Licensing Act?**

information in relation to the envisaged size of potential areas is rather vague. However ADZs might reflect the geographical areas of Designated Public Places Orders and, where relevant, Dispersal Areas (ASB Act 2003) and be used in conjunction with other powers. There is no reference to other policies, such as the potential to introduce a "special cumulative impact policy", in response to particularly problematic areas. The ADZ is certainly not the only means available to address these issues, nor should it be the first option. It is hard to envisage local areas where this sort of sanction would be useful as no examples were forthcoming during the recent consultation on Licensing Policy in relation to a general presumption of the negative effects of cumulative impact.

### **Q2 how long should the warning period be?**

The warning period should not be so long as to allow the effects of disorder to increase the opportunity to cause damage within communities. The requirement to issue more than one warning in an agreed period should be reflected in conditions of licenses within the area, even if there has been no need to designate an ADZ. These warnings would need to be clear about how the ADZ would complement other measures, such as Designated Public Places Orders. The paper presents insufficient information about what a "robust warning system" might be to make judgements about the detail.

Locally police working within the City Centre already use a sort of "traffic light" approach to emerging problems, beginning with a meeting to discuss what help and support is available. If this does not resolve issues an action plan will be agreed and in extreme cases where the situation deteriorates, an application can be made for the licence to be revoked.

### **Q3 What costs might be recovered?**

The costs proposed outline only those which are directly associated with Crime and Disorder. They do not cover additional costs of the Criminal Justice System; cleaning the streets; the costs to the health service, in particular through Accident and Emergency Units; or the provision of additional late night transport. There may be opportunities through the introduction of Local Area Agreements to "pool" the costs recovered in order to target a range of resources as needed on the ground.

### **Q4 Who should pay the costs?**

It is difficult to be clear about how the costs might be apportioned - some premises within a ADZ may not contribute to increases in Crime and Disorder at all, in fact the opposite may be true. Where business in the area can demonstrate that they are not contributing to the disorder it seems unfair that they should have to pay.

#### **Q5 How should these costs be apportioned?**

There is also the consideration of levels of cost. It would be unreasonable to expect a small pub to contribute the same amount as a nightclub within the same area. Footfall measures for each establishment might be considered or capacity- although this might favour small establishments where "vertical drinking" is encouraged as opposed to those serving food at tables, for example. The Licensing Act 2003 used the rateable value of premises to determine licence fees. The same method could be considered for calculating these costs.

#### **Q6 Should "Off-Licenses" be included? Should this be the same for all off-licenses or dependant on trigger offences e.g. sales to under 18s)?**

It is likely to be unfair for all premises and licensees to contribute the same. There must be an equitable approach to the recovery of costs, but sanctions already exist to deal with issues such as under-age sales. Some alcohol fuelled anti-social behaviour is linked to under age sales but in reality proving the source of the sales is often more problematic.

#### **Q7 how should the zone be defined? Who would need to be consulted?**

Although public consultation would be useful, it is likely to slow the process of application considerably. It might be more useful to reflect numbers of complaints already received. This could also link locally with areas identified through the Anti Social Behaviour Task Group through hotspot mapping and in addition, as the local information sharing and tasking groups are developed, the ADZ might be considered as part of a range of tactical options available to partners. The local authority should be consulted before a zone is created.

#### **Q8 How should the withdrawal of the Zone be determined?**

Given that the imposition of a Zone would have a financial impact on licensees, it may be sufficient to require representation by those affected to a local licensing forum or similar, where a proposed voluntary action plan to address identified issues might cause the situation to be reconsidered. The Coventry Licensing Forum currently plans to meet quarterly and the terms of reference and membership are being reviewed to ensure that there are more representatives of the industry, whilst maximising opportunities to improve links between industry (not only alcohol but fast food etc) and other local partners. The Zone should be designated and removed by the Licensing Committee after consideration of evidence from interested parties. It may also be necessary to consider the issues of displacement through existing monitoring facilities, both where an ADZ is imposed or agreed.

#### **Q9 Should payment be enforced through Licensing penalties? If not, then how?**

Closure notice, or suspension of a licence may not be the only way of enforcing this, although it is hard to think of a method of enforcement which is as responsive or relevant, which does not incur the expense of seeking a ruling through the courts.

Provisions within the Licensing Act 2003 allow connected issues relating to a premises to be dealt with in a single response -e.g. noise and alcohol issues will be addressed in an holistic way, so a single "licensing" penalty would seem appropriate.

**Q10 Do Local Authorities see new burdens resulting from this?**

Insufficient detail has been provided on this point to comment extensively, however any new power which includes collecting data, liaising with different agencies, consultation, and decision making processes will need additional funding.

The newly published licensing fees have been raised above the levels set in the consultation paper and appear to make a greater contribution to administration and enforcement costs. However locally the Licensing Team still anticipate that there will be an annual deficit of expenditure over income in the region of £70,000 before the proposals in the consultation document are taken into account..

**Q11 A Voluntary approach to initiatives to reduce disorder?**

Voluntary initiatives are welcome but statistics show that these, in themselves, are not sufficient to deal with the problems.

**Q12 Should the concept of a voluntary fund be further developed at national level, primarily for producers?**

The use of voluntary contributions to educate seems sensible. However, fluctuating levels and irregularity of contributions might make meaningful, planned programmes of work difficult. The approach seems rather haphazard, with local sanctions and costs alongside a national voluntary contribution.

**Q13 what should trigger a temporary closure for under-age sales?**

We support the proposal that the trigger should be incurring a significant number of Fixed Penalty Notices for under-age sales within an agreed time period. The financial implications of enforced closure may lead to a stronger lead from both breweries and managers in relation to the extent to which staff are expected to seek proof of age and allows for the possibility of introducing an industry financed proof of age scheme This is also likely to impact on the cost and detail of staff training programmes.

In addition, with regard to off licenses, closure could be triggered by two or more sales, or convictions for sales, of any age-restricted goods (e.g. cigarettes, fireworks, solvents etc).

**Q14 who should exercise the power?**

The options put forward are a Police Superintendent, the Chief Executive of the Local Authority or an Inspector of Weights and Measures, or through the Magistrates Courts.

When the majority of responsibility in relation to licensing has been transferred to the Local Authority it would seem sensible that this power should also be part of that remit. An appeals process might be heard through the courts as in other licensing functions.

(To go back to Magistrates would be a retrograde step, unless as part of the actual prosecution a request is made of the court to make an order revoking the personal licence. This is similar in principle to the method used in "Prohibiting Persons from taking part in the management of a food business" under the Food Safety Act 1990 – following more than one relevant conviction, a person may be the subject of a Prohibition Order).

**Q15 What penalty should a breach of the closure order attract?**

The penalty for unauthorised sale of alcohol is £20,000 or up to 6 months imprisonment. We agree that the penalty should be maintained at a similar level if the deterrent is to be effective.



**Q16 The Government welcomes views on whether such orders should have a maximum term? If so what? Should they be applicable geographically or only apply during certain times of the day? What should the penalties for breach be?**

This seems in essence to be an Anti Social Behaviour Order (ASBO). Even the routes of application are similar. As such it is likely to face the same issues in relation to enforcement. It may be more effective to rigorously impose bans at specific locations by licensees themselves. If the behaviour is already registering as persistent or as a series of events, an ASBO should already have been considered. The minimum 2-year term for an ASBO might make it unsuitable for use in this way, but a sort of "mini-asbo" for drunkenness might cause additional confusion.

**Q17 What offences should a review cover? Should it be drunk and disorderly or drink driving offences only, or should there be focus on violent offences.**

Locally there is likely to be a focus on reducing violent offences and this and other offences against "the person" make up the reduction requirements within the Home Office targets PSA1. At the stage where Crime and Disorder Partnerships are required to include measures relating to substance misuse in local strategies, it would be a missed opportunity if alcohol misuse and violence were not linked at all levels. Someone who is repeatedly arrested for being drunk and disorderly is occupying police and court time, which could be better spent. Locally we have proposed an LPSA target to reduce the numbers of alcohol related crimes. The social, economic and community implications whilst difficult to measure are nevertheless, very real. Whilst the use of fixed penalty notices for offences of drunkenness can reduce the time it takes for the police to deal with a prisoner, there is the potential to deliver counselling following a subsequent similar offence.

**Irresponsible Promotions**

The 5<sup>th</sup> section of this paper looks at promotions and the negative effects that promotions like "Girls Drink Free" or "All you can drink for £x?" can have on the night time economy, fear of crime and the safety and health of individuals. The paper commends the work by the Portman Group in relation to packaging, naming and promotion of drinks. It accepts that this work has not put an end to "speed drinking" and is looking to the industry to give clear guidance on this matter.

We would prefer to see the end to all drinking promotions which essentially provide cheap alcohol within fixed timescales which encourages a binge drinking culture. E.g. "happy hours", "buy two get one free", "buy two glasses of wine, get the bottle free" etc.

**General Comments**

Although recognising the need for enforcement measures we would welcome a more rounded approach to include work in relation to public health, late night transport and other related issues. The proposals concentrate on the crime and disorder aspect of drinking with little reference to long term health of individuals or the increased personal risks encountered through excessive drinking.

Many of the proposals are complementary or similar to existing measures.