

<b>Title: Mandatory Licensing Conditions</b>  <b>IA No:</b> <b>Lead department or agency: Home Office</b>  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 5 June 2014		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> Debbie Goodier, 020 7035 0572			
<b>Summary: Intervention and Options</b>		<b>RPC Opinion:</b> GREEN	

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
-£3.80m	-£3.80m	£0.38m	Yes   IN

**What is the problem under consideration? Why is government intervention necessary?**  
 Alcohol-related crime and anti-social behaviour is at unacceptable levels. In 2011/12, 47 per cent of violent crime was alcohol-related. Fighting, anti-social behaviour and public drunkenness have become all too familiar sights in our city centres. Alcohol-related harm is estimated to cost society £21bn per year. £11bn of this is alcohol-related crime.  
 The findings of the Mandatory Code review are mostly positive. However, consultation responses, technical group discussions and meetings with representatives of the trade all provided strong evidence that the conditions could be made more effective.

**What are the policy objectives and the intended effects?**  
 Our proposed amendments aim to further the promotion of the licensing objectives and to make the mandatory licensing conditions more effective in achieving the objectives that were originally set for them, namely to:

1. raise standards across the industry;
2. ensure that alcohol is sold responsibly; and
3. ensure that the alcohol industry plays its part in tackling the unacceptable levels of crime and disorder that blight our communities.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
 Option 1 – Do nothing  
 Option 2 - Amend the mandatory licensing conditions to make them more effective (preferred option)

The results of a review of the Mandatory Code showed that the mandatory conditions are generally effective in promoting the licensing objectives; that compliance with them is generally at a high level; and that the ongoing costs to business of complying with them are very low. We believe that there are steps that can be taken to build on those positive results and make the current conditions more straightforward and effective.

<b>Will the policy be reviewed?</b> It will not be reviewed. <b>If applicable, set review date:</b> Month/Year					
Does implementation go beyond minimum EU requirements?			Yes		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro Yes</b>	<b>&lt; 20 Yes</b>	<b>Small Yes</b>	<b>Medium Yes</b>	<b>Large Yes</b>
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded: 0</b>	<b>Non-traded: 0</b>	

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister: \_\_\_\_\_ Norman Baker \_\_\_\_\_ Date: 22nd June 2014

# Summary: Analysis & Evidence

# Policy Option 2

**Description:** Introduce the proposed amendments to the mandatory conditions

## FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High: -5.12	Best Estimate: -3.80

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	3.78	0.18	5.12
Best Estimate	3.09	0.11	3.80

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

Transitional costs reflect familiarisation requirements for businesses, licensing authorities and the police, and initial costs of amending promotions that no longer comply with the conditions and menus to promote the availability of small measures (in Year 2).  
Ongoing annual costs reflect additional resources needed by business to ensure future compliance with the conditions.

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

None.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	N/K	N/K	N/K

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

None.

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

Primary benefits expected to be increased effectiveness of the Mandatory Code, particularly in relation to preventing crime and disorder. A lack of evidence means that we cannot quantify these benefits. Instead a breakeven analysis has been carried out (see Section E) which show how many crimes would have to be prevented in order to offset costs.  
Section E highlights further potential benefits that might fall to consumers and businesses.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
-------------------------------------	-------------------	-----

Cost estimates dependent on several assumptions about the number of businesses affected, therefore subject to considerable uncertainty.

Risk that the changes will have minimal impact in terms of the licensing objectives and that therefore the costs will not be outweighed by the benefits.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.38	Benefits:	Net: -0.38	yes	IN

# Evidence Base (for summary sheets)

## A. Strategic Overview

### A.1 Background

The United Kingdom faces a particular challenge, as levels of harmful drinking, deaths and crime due to alcohol are high and have risen over the last 50 years. Government has an important role to play: in making sure that people are able to make informed choices; in encouraging responsible drinking; and in making sure that businesses sell alcohol responsibly.

We recognise that the majority of retailers do sell alcohol responsibly. However, there is a minority of licensed premises that operate irresponsible practices and promotions, which encourage excessive drinking and promote a binge-drinking culture. This all too often leads to crime, anti-social behaviour and public nuisance. The Mandatory Code was introduced in 2010 in order to restrict those practices and promotions that lead to harm and to help to ensure that retailers sell alcohol responsibly.

This impact assessment follows a review of the Mandatory Code, which included:

- Questions on the effectiveness of the mandatory conditions in the Alcohol Strategy Consultation
- A survey of police licensing officers and trading standards officers seeking their estimates of levels of compliance with the conditions
- Three technical groups at which regulators, the industry and legal professionals were represented.
- Meetings with 44 representatives of licensed premises in five locations (Ipswich, Newcastle, Nottingham, Southampton and Westminster) about the ongoing costs of the existing conditions.

### Coalition commitment

The Coalition Programme for Government committed to tackling the harmful use of alcohol.

The commitments were:

- Banning the sale of alcohol below cost price.
- Reviewing alcohol taxation and pricing to ensure it tackles binge drinking without unfairly penalising responsible consumers, pubs and important local industries.
- Overhauling the Licensing Act to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems.
- Allowing councils and the police to shut down permanently any shop or bar found to be persistently selling alcohol to children.
- Doubling the maximum fine for under-age alcohol sales to £20,000.
- Permitting local councils to charge more for late-night licences to pay for additional policing.

### The Government's Alcohol Strategy

On 23 March 2012 the Government launched its Alcohol Strategy, which aims to radically reshape the approach to alcohol and reduce the number of people drinking to excess. The Alcohol Strategy is targeted at harmful and hazardous consumers and aims to limit the impact on responsible consumers. It made an undertaking to review current commitments within the Mandatory Code for Alcohol to ensure they are sufficiently targeting problems such as irresponsible promotions in pubs and clubs. The Strategy also made a commitment to consult on applying the Mandatory Code to all sectors involved in the sale of alcohol, where relevant.

## **A.2 Groups Affected**

### **Consumers**

We believe that consumers will benefit from most of the proposed amendments to the mandatory licensing conditions. The requirement to display prices of small measures on menus and price lists will raise awareness of the measures available and assist consumers in making informed choices about what they order. Extending the definition of valid identification will enable foreign visitors whose identification includes an ultra-violet feature but not a hologram to provide valid identification on request. Requiring that free tap water is potable will exclude the provision of water that is unsuitable to drink as a means of discouraging requests for tap water. A minority of consumers will find that promotions they enjoyed are banned due to an amendment that will make all listed promotions irresponsible in all circumstances.

### **Off-trade alcohol retailers**

The only mandatory licensing condition that applies to the off-trade is the one that requires an age verification policy. Making the designated premises supervisor (DPS) rather than the premises licence holder responsible for ensuring that the policy is applied will require no extra work, but will require some businesses to make a change to their procedures. In many small businesses the premises licence holder and the DPS are the same person, so this change will have no impact. Extending the definition of valid identification will have no necessary impact on businesses as they will retain discretion as to which forms of identification they accept.

### **On-trade alcohol retailers**

Only a tiny irresponsible minority will be adversely affected by the proposed changes that will make all listed promotions irresponsible in all circumstances and require tap water to be potable. Many businesses have told us that they would welcome greater consistency in the interpretation of the irresponsible promotions condition. Businesses operating across policing areas have to check each one's interpretation of what constitutes a significant risk of crime and disorder or public nuisance before introducing a promotion across their chain. Other operators complain that inconsistent interpretation is exploited by irresponsible operators and that takes customers away from those who comply with the condition. As outlined above, changes to the age verification condition will have a minimal impact. We propose to phase in a requirement to show the prices of small measures in menus and price lists over twelve months so that alterations can be made in the normal course of updating prices.

### **Enforcement bodies**

The amendments to the mandatory conditions will place no additional requirements on the police or others with regard to enforcement.

## **A.3 Consultation**

### **Within Government**

Cabinet Committee clearances were gained for the publication of the Alcohol Strategy, which contained a section on the Mandatory Code. However, that section contained no firm proposals for changes to the mandatory licensing conditions.

### **Public Consultation**

The public consultation on the Alcohol Strategy ran from 28 November 2012 to 6 February 2013 and around 1,450 responses were received. A majority of respondents considered that each of the five conditions is effective in promoting at least three of the four licensing objectives. The age verification condition received the highest level of support at between 73% and 84% for each of the licensing objectives. However, the majority of respondents (58%) did not believe that the mandatory licensing conditions do enough to target irresponsible promotions within the on-trade. A survey of police licensing officers and trading standards officers found consistently high levels of estimated compliance (81 -100%) with four of the five mandatory conditions. For the fifth condition, age verification, compliance appeared a greater issue in some areas, with several estimating it as low as 41-60%. Focus groups were held with 44 representatives of a wide range of businesses in five locations. The general consensus was that the ongoing costs of compliance with each condition are either very low or non-existent. An exception is the irresponsible promotions

condition, where there were complaints that it is inconsistently applied, generating costs for business.

Government officials have also held discussions with the police, local authorities, trade organisations, legal professionals and representatives of businesses about possible changes to the mandatory licensing conditions.

## **B. Rationale**

### **B.1 Background**

There is a strong link between alcohol and crime, particularly violent crime. Crime Survey data from 2011/12 shows that in around half (47%) of all violent incidents in England and Wales the victim believed the perpetrator to be under the influence of alcohol. This was highest in incidents of stranger violence (65%), followed by acquaintance violence (41%) and then domestic violence (39%)<sup>1</sup>. We also know that alcohol can be a contributory factor in incidents of minor crime and anti-social behaviour which blight our communities. 11% of respondents to the Crime Survey had experienced or witnessed drink-related anti-social behaviour in the past year<sup>2</sup>. This was the most common form of anti-social behaviour experienced.

Teenagers in England are more likely to drink alcohol than those in many other European countries<sup>3</sup>. A survey of 11-15 year olds in 2011 found that 12% had drunk alcohol in the last week, with 22% of those who had drunk in the last week having drunk 15 units or more<sup>4</sup>.

### **B.2 Policy Justification**

The findings of the Mandatory Code review are that the mandatory licensing conditions are effective in promoting the licensing objectives, that compliance with them is generally at a high level and that the ongoing costs to business of complying with them are very low. Taken together, these findings provide a persuasive case for retaining the five conditions. However, consultation responses, technical group discussions and meetings with representatives of the trade all provided strong evidence that the conditions could be made more effective. The rest of this section will address the justification for each amendment that we propose to make. The existing mandatory licensing conditions are set out in Annex A.

#### **1. Irresponsible promotions: make the listed promotions irresponsible in all circumstances**

Police licensing officers frequently complain about the requirement for a promotion to be carried on in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children. The judgment that there is a significant risk is not an easy one, requiring multiple factors to be considered.

Several businesses complained that the condition is inconsistently applied. This was said to generate costs in two ways; for a business operating across police force areas, there is a need to check each force's view on a planned promotion; in areas where the condition is not rigorously enforced, responsible businesses claim to lose customers to those offering irresponsible promotions. We believe that the complexity of the judgment required of the police is the main cause of the inconsistencies in the application of this condition complained of by businesses.

#### **2. Irresponsible promotions: delete an exemption for table meals to a ban on the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee.**

The Licensing Act defines a table meal simply as a meal eaten while seated at a table, a counter or other structure which serves the purpose of a table. This definition is so broad that

---

<sup>1</sup> Crime Survey for England and Wales 2011/12, Nature of violent crime tables. Office for National Statistics

<sup>2</sup> Crime Survey for England and Wales 2011/12, Experiences of anti-social behaviour, year ending September 2012. Office for National Statistics

<sup>3</sup> Hibell B, Guttormson U, Ahlstrom S, et al (2009) *The 2007 ESPAD report: substance use among students in 35 European countries*. The Swedish Council for Information on Alcohol and Other Drugs, Stockholm.

<sup>4</sup> Smoking, drinking and drug use among young people in England in 2011. Health and Social Care Information Centre

the exemption has become a loophole that can be exploited to enable irresponsible promotions to take place. We understand that this exemption was intended to benefit the organisers of dinner dances, where it is quite common to offer an unspecified quantity of alcohol as part of the ticket price. Such events will need to change the way they operate by specifying the quantity of alcohol included in the ticket price.

**3. Irresponsible promotions: delete a reference to all reasonable steps in section 1(1) so that the responsible person will simply be required to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions.**

All reasonable steps is a subjective term that leads to different perceptions of what action is necessary in order to comply with this part of the condition. As such, its use creates problems for both regulators and licensees.

**4. Irresponsible promotions: delete the ban on provision of free or discounted alcohol where provision is dependent on the outcome of a sporting event or the likelihood of something occurring (Section 1(2)(d))**

A ban on all listed promotions in all circumstances would apply to some relatively harmless promotions covered by this section. An example of such a promotion might be a free drink if an English team wins a match. The amount of free alcohol that would be provided in this example is clear; either a free drink (England win) or none (England do not win). While promotions relating to sporting events can be irresponsible, in our view this would tend to be in scenarios where the trigger event for free or discounted drinks might happen an unpredictable number of times, such as a free drink whenever the England football team won a corner. Legal advice is that the latter sort of promotion would be covered by the ban on provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee (section 1(2)(b)). Therefore, this section is redundant.

**5. Dispensing alcohol directly by one person into the mouth of another: this should cease to be a stand alone condition and should be subsumed in the condition on irresponsible promotions.**

Dispensing alcohol directly into the mouth of another was never a widespread practice and many regulators and representatives of businesses regard it as an odd choice for a mandatory condition. Given that it was frequently offered as a special promotion, we intend to include it in an amended irresponsible promotions condition.

**6. Free tap water on request to customers: require that the free tap water provided is potable.**

At two of the technical groups there were reports of customers sent to the toilets when they requested free tap water. Another anecdote was of a tap on a barrel containing brackish water. While it might be argued that businesses operate in this way at the risk of losing customers, tightening the condition appears a small but sensible improvement.

**7. Age verification policy requirement: make the designated premises supervisor responsible for ensuring that the policy applies to their premises.**

Currently the premises licence holder is responsible for applying the policy. Regulators have highlighted that where pub companies and supermarkets are concerned, the license holder may be an area manager or a licensing manager based at headquarters, with no day to day responsibility for management of the premises. Since the designated premises supervisor should be responsible for the day to day management of the premises, businesses accept the logic of giving the legal responsibility for applying the policy to that role. Our proposal is that the licence holder will remain responsible for setting the policy. This will enable supermarkets and pub companies to retain consistent policies across their branches.

**8. Age verification policy requirement: identification bearing ultra-violet feature to be considered valid.**

This measure is intended to extend the range of international passports and national identity cards that may be accepted as proof of age. The current minimum requirement for valid identification is that it bears the person's photograph, date of birth and a holographic mark. International Civil Aviation Organisation standards for machine readable passports do not

require a holographic mark, but do require the use of ultra-violet fluorescent ink on the biographical data page. In addition, an ultra-violet security feature often appears on national identity cards where there is no holographic mark.

#### **9. Make small measures available to customers: Make customers more aware of the availability of small measures**

The existing condition only requires that small measures are available and that customers are made aware of their availability. In practice, premises often do no more to make the customer aware than affixing a small sign to some part of the bar area. We propose two new requirements. The first will be that the prices of small measures must be shown in any menu or price list. The second will require that customers are offered a small measure whenever they do not specify a measure.

### **C. Objectives**

Section 19A of the Licensing Act 2003 allows the Secretary of State to “specify conditions relating to the supply of alcohol and applicable to all relevant premises licences or relevant premises licences of a particular description if the Secretary of State considers it appropriate to do so for the promotion of the licensing objectives.” The four licensing objectives are:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

Our impact assessment for the Licensing Act 2003 (Alcohol Mandatory Licensing Conditions) Order 2010, set out the objectives of introducing a Mandatory Code for alcohol retailers as follows:

- a) to raise standards across the industry;
- b) to ensure that alcohol is sold responsibly; and
- c) to ensure that the alcohol industry plays its part in tackling the unacceptable levels of alcohol-related crime and disorder which blights many of our communities.

Our proposed amendments aim to **further the promotion of the licensing objectives** and to **make the mandatory licensing conditions more effective** in achieving the objectives that were originally set for them.

### **D. Options**

**Option 1 is to make no changes (do nothing).** This is the no change option. This option will do nothing to make interpretation of the irresponsible promotions condition more consistent. It will mean that some foreign passport and national identity card holders will continue to have their identification rejected as proof of age. It will mean that many customers’ awareness of the availability of small measures will remain poor.

**Option 2 is to introduce the proposed amendments to the mandatory conditions (preferred option).** The Government committed to review current commitments within the Mandatory Code to ensure they are sufficiently targeting problems such as irresponsible promotions in pubs and clubs (March 2012) and has consulted about the effectiveness of the mandatory licensing conditions. Consultation responses, technical group discussions and meetings with representatives of the trade all provided strong evidence that the conditions could be made more effective. Details of the proposed amendments are set out in section B.2 above.

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

## General Assumptions

- Employment costs are based upon the average hourly wage for *publicans and managers of licensed premises* from the Annual Survey of Household Earnings 2012<sup>5</sup>, uprated by 21% to account for other 'on costs'<sup>6</sup>.
- Estimates of time required are consistent with the previous Mandatory Code impact assessment<sup>7</sup>, unless otherwise stated.
- Benefits could not be explicitly estimated due to a lack of data so a breakeven analysis is presented towards the end of this section.

### Option 1 - make no changes (do nothing).

No impact.

### Option 2 - introduce the proposed amendments to the mandatory conditions (preferred option).

All costs and benefits have been evaluated and monetised where possible; however in instances where data is lacking, sensitivity analysis has been undertaken to provide an indicative estimate. Costs and benefits are set out for each of the nine amendments in turn. An assessment of the net impact of Option 2 as a whole is set out at the end of this section.

**2.1 Irresponsible promotions: make the listed promotions irresponsible in all circumstances**  
**2.3 Irresponsible promotions: delete the ban on provision of free or discounted alcohol where provision is dependent on the outcome of a sporting event or the likelihood of something occurring (Section 1(2)(d))**

### COSTS

These two measures are expected to result in a small administrative cost to only those premises that currently choose not to comply with the Code because of the ambiguity of these terms. Based on a small sample of responses from police forces and local authorities, we estimate that 1% of on-trade premises (equal to 1,175 premises) do not currently comply with the irresponsible promotions requirement. It has been assumed that these two amendments would affect all of those premises (likely to be an upper bound estimate if some still choose not to comply) and that it would take one manager per premises, with employment costs of £12.62 per hour, 4 hours to check that existing promotions comply with the amended code and design revised promotions where necessary. Additionally, it is estimated that it will take 1 hour per year to check that future promotions comply. The **initial cost to business is £59,000**, and **annual cost to business is £15,000 per annum..**

This is our best estimate based on consultation responses from police forces and local authorities. However, to account for uncertainty around the assumption of 1% non-compliance and to demonstrate the potential impact of any errors in this assumption we have performed sensitivity analysis. If non-compliance was at the higher rates of 5% or 10% of on-trade premises, then the initial costs to business would be £296,000 and £593,000 respectively, while the annual costs would be £74,000 and £148,000 respectively.

We have researched the number of operators offering inclusive package holidays in the United Kingdom and have found only four that include alcohol as part of the package. Three of the four specify a number of free drinks or drink vouchers per person per day. Hence, they would comply with the revised condition on irresponsible promotions. We found only one operator promising free drinks with no apparent limit included in the price of the holiday. Licensed premises that carry out that offer could be considered in breach of the condition as presently written and would certainly be in breach of the amended condition. Businesses such this will be able to replace the irresponsible promotions with promotions that comply with the Code, as other companies already have. Our judgement is that this change would have no impact on profits. However it is possible that there might be a distributional affect on consumers between businesses offering inclusive holidays in the UK.

<sup>5</sup> See table 14.5a <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcn%3A77-280149>

<sup>6</sup> Eurostat: [http://epp.eurostat.ec.europa.eu/portal/page/portal/labour\\_market/labour\\_costs/main\\_tables](http://epp.eurostat.ec.europa.eu/portal/page/portal/labour_market/labour_costs/main_tables)

<sup>7</sup> <http://www.alcohollearningcentre.org.uk/library/Resources/ALC/OtherOrganisation/alcohol-industry-vol-1.pdf>



A minority of **consumers** will find that promotions they previously enjoyed are banned under the amended conditions. Again, our judgement, based upon conversations with affected businesses, is that this change would have no impact on profits. However it is possible that there might be a distributional affect on consumers – the altered promotions might attract a different set of consumers.

### **BENEFITS**

Option 2.1 is expected to reduce the administrative burden for those **businesses** that operate across police forces and must therefore check multiple police forces' views on proposed promotions. We do not know how many businesses are likely to be thus affected so have been unable to quantify this benefit. Option 2.1 may lead to a redistribution of customers and therefore revenue from businesses currently offering irresponsible promotions due to inconsistent interpretation of the guidance to those acting responsibly. As this is a distributional effect there will be no net benefit to business.

There may be a small 'opportunity cost' benefit to the **police** from having to deal with fewer enquiries from businesses. We have no information on the number of enquiries currently dealt with by police forces so have not been able to quantify this benefit.

See *General Benefits* section for further benefits linked to the strengthening of the conditions.

### **2.2 Irresponsible promotions: delete an exemption for table meals to a ban on the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee.**

### **COSTS**

This amendment involves considerable uncertainty in terms of the number of businesses that might be affected.

We assume that 50%-75% (i.e. most but not all) of the 15,810 premises that are large (rateable as band D or E) and likely to sell food (do not suffer the multiplier for exclusively or primarily selling alcohol) are likely to sell 'table meals'. A further assumption is that 5%-20% (i.e. a minority) of these premises may offer deals for unspecified or unlimited quantities of alcohol. We also expect a proportion of Temporary Event Notice (TEN) events to be affected. We use the proportion of premises that provide food and alcohol out of all on-trade license holders (65,010 / 117,458) to estimate that 69,304 of the 125,217 TENs operating in 2011/12 could be affected and apply the same assumptions as above (50%-75% and 5%-20%) to estimate the quantity that may offer deals for unspecified or unlimited quantities of alcohol. This is more likely to be an overestimate because some businesses will have multiple TENs (up to 12 per year) while these costs are estimated on a per business basis, not a per event basis.

This results in the estimation that between 2,128 and 12,767 premises and TENs that provide food and alcohol run table meal promotions that would be affected by this amendment and would therefore have to spend extra time ensuring that such promotions complied with the amended Code. We again assume that this would require an initial 4 hours of time for one manager costing £12.62 per hour and 1 hour per year thereafter. This results in an initial **business impact** of between £107,000 and £645,000 with a midpoint best estimate of **£376,000**; and then between £27,000 and £161,000 with a midpoint estimate of **£94,000** per year. Note that although some premises will run more than one affected event per year, it should only take a small amount of time each year to ensure compliance with this element of the Code in addition to all the others elements which managers of affected premises currently have to do.

If this measure reduced the volume of certain table meal events, then there might be an impact on **consumers** in terms of reduced choice. We were unable to quantify this cost.

### **BENEFITS**

See *General Benefits* subsection.

### **2.4 Irresponsible promotions: delete the ban on provision of free or discounted alcohol where provision is dependent on the outcome of a sporting event or the likelihood of something occurring (Section 1(2)(d))**

### **COSTS**

We estimate that this measure will result in **zero** business costs. In fact, since it is deregulatory in nature, it may result in small savings to business.

### **BENEFITS**

The removal of the ban on responsible promotions linked to the outcome of a sporting event may benefit both **businesses** and **customers** in terms of increased custom and increased enjoyment respectively.

***2.5 Dispensing alcohol directly by one person into the mouth of another: this should cease to be a stand alone condition and should be subsumed in the condition on irresponsible promotions.***

### **COSTS**

This amendment has **zero** impact on business costs.

### **BENEFITS**

This amendment has no benefits as its impact is already covered by the irresponsible promotions condition.

***2.6 Free tap water on request to customers: require that the free tap water provided is potable.***

### **COSTS**

We estimate that all **businesses** would be able to comply with this requirement with **negligible** additional costs as it only impacts upon businesses that are already required to have a water supply.

### **BENEFITS**

This amendment would benefit customers in the minority of establishments not currently offering potable drinking water by giving them that option.

See *General Benefits* section for further benefits linked to the strengthening of the conditions.

***2.7 Age verification policy requirement: make the designated premises supervisor responsible for ensuring that the policy applies to their premises.***

### **COSTS**

We estimate that the cost should be **negligible** as the effect of this amendment is simply a transfer of responsibility within a business. In most cases the responsibility will have been delegated to the designated premises supervisor (DPS) or bar manager already. If it has not, then there could be a cost saving to the business as a bar manager is likely to have a lower opportunity cost than an owner or regional manager. However there may be some efficiency savings associated with an owner or regional manager applying the requirement across several premises. We assume that the two effects are roughly offsetting.

### **BENEFITS**

See *General Benefits* section for further benefits linked to the strengthening of the conditions.

***2.8 Age verification policy requirement: identification bearing ultra-violet feature to be considered valid.***

### **COSTS**

We expect the business impact of this amendment to be **zero**. The choice to use ultra violet technology is at the discretion of the premises. Therefore we assume that the cost of purchasing ultra-violet torches would only be incurred if it were outweighed by the benefits to the business of doing so (e.g. from increased trade).

### **BENEFITS**

This amendment will benefit young **consumers** who hold certain types of identification, such as foreign visitors, by enabling them to provide valid identification to prove their age before being sold

alcohol. The linked consequence is that **businesses** will benefit by having access to an increased consumer base. We do not have data on the number of individuals who only hold identification with an ultra-violet feature and who are potential customers of licensed premises, therefore we have not been able to quantify these benefits.

Improving the identification requirements also has wider benefits linked to the licensing objectives and original Mandatory Code objectives. See *General Benefits* section for further discussion of these.

## **2.9 Make small measures available to customers: Make customers more aware of the availability of small measures**

### **COSTS**

There will be administrative costs to **businesses** that have to alter their menus or price lists to comply with this amendment, but only where such an alteration would not otherwise occur, e.g. when prices or range of products changed. Of the 117,458<sup>8</sup> on-trade premises, we estimate that 20% would be unaffected due to having price lists that can be changed with negligible costs (e.g. blackboards) and that a further 80% of the remainder would be unaffected because they would update their price lists or menus anyway within the 12 month phasing in period. In arriving at this estimate, we bore three factors in mind. The first is that a duty escalator on alcoholic drinks has been in place since 2008 and will remain in place at least until 2014/15. The second factor is inflation. The Consumer Price Index showed a 2.5% increase in the cost of alcoholic beverages to April 2013<sup>9</sup>. The third factor is changing product lines; some licensed premises make a feature of regularly changing their offer of beers or wines, but all do change the products they stock over time. Our estimates leave 18,793 premises for which we assume that this requirement would require 1 hour of a manager's time, at £12.62 per hour. For stationery costs we split the 117,458 premises into 57,090 licensed restaurants<sup>10</sup> for which we assume a high cost of £50 to update menus, and 60,368 (117,458-57,090) 'other' licensed on-trade premises for which we assume a lower cost of £5 to update menus. This results in a one-off business cost, occurring in Year 2, of **£775,000** to the nearest thousand. There would be no on-going costs.

### **BENEFITS**

This amendment will benefit **consumers** by enabling them to make better informed choices from a wider range of options when buying alcohol. It is unclear how many consumers would be affected so we have been unable to quantify this benefit.

See *General Benefits* section for further benefits linked to the strengthening of the conditions.

## **GENERAL COSTS**

### **Familiarisation Costs**

We have assumed a general administrative burden to businesses through familiarising themselves with the new elements of the Code. We assume that it would take 1 hour of a manager's time, at £12.62 per hour, for the 117,458 on-trade premises and 0.5 hours of a manager's time, at the same cost, for the 45,419 off-trade premises (less time as only one new condition that affects off-trade businesses). Total familiarisation costs for **businesses** are therefore estimated at **£1.77m**.

There will be familiarisation costs for **licensing authorities** and the **police**. These are expected to be **£24,000**. This estimate is based on an assumption that 3 officers in each of the 349 licensing authorities would require 1 hour of their time, valued at £18.03<sup>11</sup> per hour, to become familiar with the changes; and that 3 police officers in each of the 43 forces would require 1 hour of their time,

<sup>8</sup> This figure derives from Table 5 of the Alcohol and Late Night Refreshment Licensing Statistics 2011/12. It is the total number of premises licenses and club premises certificates where there are on-sales of alcohol or both on- and off-sales. The impact assessment on late night refreshment uses figures from Table 2 of the same statistics as these include modelling to account for licenses granted by the small number of local authorities did not respond, whereas Table 5 does not. However, the figures in Table 2 do not break down between on- and off-sales, so the most accurate option for this impact assessment was to use the Table 5 figures.

<sup>9</sup> Consumer Price Inflation, April 2013, Office for National Statistics, Table 3.

<sup>10</sup> UK Business: Activity, Size and Location – 2012 Table B3.4 SIC code 5610:

<sup>11</sup> Median hourly wage for local government administrative occupations (licensing officers) and business and public service associate professionals (Trading Standards Officers). Data was obtained from the 2012 Annual Survey of Hours and Earnings.

<http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-280149>, multiplied by 21% to account for other 'on costs'.

valued at £36.69<sup>12</sup> per hour, to become familiar with the changes. This is an opportunity cost as it involves the reallocation of resources rather than the hiring of additional resource.

Licensing authorities may choose to communicate the changes to premises in their area, As when the mandatory conditions were introduced in 2010, there will be no requirement to amend premises licenses to show the amended conditions. The Home Office will communicate the changes through guidance on the gov.uk website and direct communication to leading trade bodies. Therefore, it is expected that the communication cost to licensing authorities will be minimal.

### **Combined Impact (One In Two Out)**

The total business impact of these amendments is estimated to be **£2.20m in Year 1, £0.88m in Year 2** and then **£0.11m per year thereafter**, leading to an Annualised Equivalent Net Cost to Business of £0.38m in 2009 prices. This would therefore be an IN for One In Two Out purposes.

Based upon the upper bound estimates described above, the EANCBC becomes £0.52m.

### **GENERAL BENEFITS**

The primary objective of these measures in combination is to make the mandatory licensing conditions more effective in achieving the objectives that were originally set for them and to further the promotion of the four licensing objectives:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

The proposed amendments would promote these objectives through making the condition on irresponsible promotions clearer and easier to enforce (2.1, 2.2, 2.3 and 2.7), making it easier for customers to choose to consume less alcohol (2.6 and 2.9) and making the day to day manager of premises responsible for applying an age verification policy, supporting the objective of protection of children from harm (2.7 and 2.8).

The public consultation provided evidence that the existing Mandatory Code conditions are considered effective in promoting the licensing objectives to some degree. This can be taken as limited evidence that measures which make the conditions more effective might further promote the objectives. However, as there is no evidence of the likely *scale* of impact of these measures, we have been unable to provide quantified benefits. Instead we present a breakeven analysis which shows the size of impact that would be required in order to offset the costs of the measures calculated in the preceding section. This provides an indication of whether the policy is likely to be net beneficial over all. Of the four licensing objectives, only the first is associated with easily identifiable metrics so the breakeven analysis is confined to this objective.

**Table E1. Breakeven Analysis of Proposals**

<i>Scenario</i>	<i>Average annual cost of proposals (£m)</i>	<i>Crime type</i>	<i>Total crimes (millions)</i>	<i>% alcohol related</i>	<i>Total alcohol related crimes (millions)</i>	<i>Unit cost of crime (£)</i>	<i>Crime reduction required to break even</i>	<i>% reduction required to break even</i>
Best	0.40	Assault without injury	1.51	19	0.29	1,837	216	0.08
		Criminal damage	34.8	37	12.9	1,105	358	0.003
High	0.54	Assault without injury	1.51	19	0.29	1,837	292	0.10
		Criminal damage	34.8	37	12.9	1,105	485	0.004

<sup>12</sup> Home Office calculation in 2011/12 prices based on ASHE and CIPFA data and estimates of additional 'on costs'.

Table E1 compares the ‘best’ and ‘high’ cost scenarios to the volume of criminal damages and assaults without injury that are estimated to be alcohol related, and the costs of those offences as estimated in Home Office costs of crime methodology<sup>13</sup>. The average annual cost in the ‘best estimate’ scenario is £0.40m. Therefore the proposals would have to result in a reduction of 216 assaults without injury or 358 criminal damage offences in order to ‘break even’ (i.e. for the benefits of crime reduction to offset the costs). This is equivalent to only 0.08% of alcohol related assaults without injury and 0.003% of criminal damages, suggesting that these targets are highly achievable should the proposals have even a minor impact on crime and disorder. The figures increase slightly under the ‘high’ scenario but remain very small in percentage terms.

## F. Risks

The Mandatory Code review has highlighted potential risks relating to two of the proposed amendments.

### Irresponsible Promotions

Amending the condition to make all promotions irresponsible in all circumstances will rule out some promotions that a reasonable person would not consider carried a significant risk. The deletion of the ban on provision of free or discounted alcohol where provision is dependent on the outcome of a sporting event or the likelihood of something occurring mitigates this risk to some extent by allowing relatively harmless promotions such as a free drink if an English team wins.

### Age verification policy requirement: identification bearing ultra-violet feature to be considered valid.

This may be perceived as weakening the condition by adding a further feature as evidence that ID is valid. It may also be perceived as further complicating decisions on whether ID is valid, when those who train staff want those decisions kept as simple as possible.

## G. Enforcement

Enforcement will be the responsibility of licensing authorities, the police and trading standards departments. These enforcement authorities are existing bodies that are already responsible for enforcing the licensing conditions of the Licensing Act 2003. Our survey of the police and trading standards officers indicated that, in general, compliance with the existing conditions exceeds 80%. The amended conditions place no onerous new burdens on licensees, therefore it is anticipated that compliance will remain at a high level. Therefore, we do not expect that these measures will require any significant increase in enforcement activity.

## H. Summary and Recommendations

<b>Option</b>	<b>Costs</b>	<b>Benefits</b>
<b>2</b>	To businesses for checking compliance with amendments - £2.98m transitionally, then £0.11m annually.	Benefits (not quantified) from reduced crime and disorder. Benefits to businesses and improved clarity of conditions. Benefits to consumers from improved choice.
Source:		

The quantifiable elements of this proposal result in a negative NPV of -£3.80m. However it would only take a modest reduction in crime and disorder for the unquantified benefits to outweigh these

<sup>13</sup> See, for example,

costs, and there are other benefits likely to accrue in respect of the other licensing objectives as well as to consumers and businesses from some of the individual amendments, as set out in Section E.

## I. Implementation

The Licensing Act 2003 allows the Secretary of State to by order specify conditions relating to the supply of alcohol. Hence, the Government intends to amend the mandatory conditions via secondary legislation (an affirmative order).

The Home Office will produce guidance for regulators and the licensed trade on the changes to the mandatory licensing conditions.

## J. Monitoring and Evaluation

No formal monitoring of the effectiveness of these amendments will be undertaken. The Home Office does undertake regular engagement with those who will be affected by these amendments. As set out below, such engagement will be used to seek views on the effectiveness of the amendments.

## K. Feedback

In order to assess the impact of the amendments to the mandatory licensing conditions, the Government will seek views from those who will be most affected by the policy. The Home Office will therefore seek feedback from the alcohol industry and its representatives, the police, licensing authorities, trading standards departments, and responsible authorities when considering the effectiveness of the amendments. This will be achieved by regular meetings between those organisations affected and Government officials.

## L. Specific Impact Tests

### Small Firms Impact Test

All five mandatory licensing conditions apply to the on-trade, while only the condition on age verification applies to the off-trade. There are no exemptions for small or micro-businesses. They are therefore in the scope of One In Two Out. Small businesses are often defined in terms of employee numbers. If we use this definition, then the vast majority of licensed trade businesses are classified as 'small or micro businesses'. These businesses often rely on a pool of shift workers and only have a small base of full time management staff. The industry snapshot below attempts to estimate the proportion of small businesses selling alcohol in England and Wales.

Table L1: Number of affected small businesses in England and Wales<sup>14</sup>

Standard Industry Classification 2007	Description	Number with <10 employees in England and Wales (Micro)	Number with <20 employees in England and Wales (Small)	Number with <50 employees in England and Wales (Medium)
4711	Retail sale in non-specialised stores with food, beverages or	23,056	24,354	24,803

<sup>14</sup> This table is based on data from UK Business: Activity, Size and Location – 2010 which contains data from a snapshot of the Inter Departmental Business Register (IDBR) taken on 22 March 2010. Table B3.1 provides a breakdown of the number of enterprises in the UK by Standard Industry Classification 2007 and number of employees. These numbers are scaled down to England and Wales using table B3.4 (regional distribution). These data also include those restaurants, hotels and shops which do not sell alcohol. This is likely to skew the results. In March 2010 there were 182,800 premises licences and club premises certificates with an authorisation to sell alcohol.

4725	tobacco predominating Retail sale of alcoholic and other beverages	4,285	4,454	4,486
5510	Hotels	4,284	5,616	6,814
5610	Restaurants	46,259	51,483	53,593
5630	Public Houses and bars	32,905	38,751	40,664
<b>Total</b>		<b>110,789</b>	<b>124,658</b>	<b>130,360</b>
<b>Percentage of total</b>		<b>84%</b>	<b>94%</b>	<b>98%</b>

There is no available data which can tell us whether small businesses are more likely to offer irresponsible promotions, to provide tap water that is unsuitable to drink or fail to list the prices of small measures. It is therefore difficult to estimate whether small businesses will be disproportionately affected by the amended conditions. As previously highlighted, the requirement for the designated premises supervisor to ensure that an age verification policy is applied will have no impact on small businesses where the premises license holder and the designated premises supervisor are the same person.

### **Competition Impact**

The Government considers that most of the proposed amendments will have no impact on competition. There are two amendments that will have some effect on competition. Businesses have complained that inconsistencies in the application of the ban on irresponsible promotions have been exploited by irresponsible competitors. Clarification and simplification of that condition will ensure that inconsistencies of interpretation are significantly reduced, creating a more level competitive playing field. However, the simplified condition will rule out some promotions that hitherto have been considered responsible, thereby placing some limitation on the ways in which businesses can compete.

Requiring all on-trade premises to display the costs of small measures in menus and price list should promote fair competition, with customers more easily able to make price comparisons between competing premises.

### **Social Impact**

As outlined in section A2 above, the Government believes that consumers will benefit from several of the amendments to the mandatory licensing conditions. More generally, if the mandatory licensing conditions are more effective in achieving their objectives, society will benefit from higher standards across the industry and reduced levels of alcohol-related crime and disorder.

## CURRENT MANDATORY LICENSING CONDITIONS

### Sections to which changes are proposed are underlined

1.—(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4.—(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.