

**SCRUTINY REVIEW PANEL 2 – 2017/2018: LICENSING PANEL  
MEETING 3 – 23 NOVEMBER 2017**

**BRIEFING NOTE**

**“Reducing the Strength”**

Restricting the sale of cheap, high strength alcohol is a measure some licensing authorities are using to deal with alcohol-related problems, in particular street drinking. This briefing note deals with two aspects of this:

- Designating areas where the licensing authority will seek a voluntary ban on high strength alcohol.
- Imposing conditions restricting the sale of high strength products on individual licences

**Voluntary Bans**

The Local Government Association has produced guidance for licensing authorities considering setting up a scheme whereby retailers would voluntarily remove specified products from sale. There would be several stages to this:

- Gathering an evidence base of alcohol-related problems. A multi-agency approach is recommended, with information from the police, health and other responsible authorities, and residents being included. The evidence would need to focus on the geographical areas affected by e.g. street drinking, and the specific products implicated in any harm caused (so, for instance, high strength but higher priced “craft” products may be excluded from any ban). At this stage consideration should be given to alternative measures to tackle street drinking that may be less onerous for retailers.
- Designing an outline scheme, to include the area and products to be covered, places where such products are available, etc.
- Consultation with relevant agencies and retailers. At this stage licensing authorities need to be mindful of competition law. Retailers must not engage in “anti-competitive” behaviour by, e.g. entering into restrictive agreements or concerted practices. In practice, this means that retailers signing up to a scheme must do so individually and independently, without discussing prices or other commercially sensitive information with their competitors. Therefore, retailers would need to be approached by the licensing authority individually.
- Implementing and reviewing the scheme.

NB: that participation in any such scheme would remain voluntary, although if as part of the scheme a premises agrees to have a condition placed on their licence, that condition would have full force and effect.

### **Imposition of Conditions**

In appropriate circumstances a condition restricting the sale of high strength alcohol may be imposed. Such conditions should not be imposed in a blanket fashion, and must be tailored to the individual premises. They are likely to be most appropriate on review, where high strength alcohol has been implicated in problems with the premises.

The Competition and Markets Authority has held that, where businesses are restricting sales because of a legally binding condition, this would not breach anti-competition rules since the legal framework have removed autonomy from the business in that regard.

### **Application in Ealing**

Ealing has not designated any areas where a voluntary ban would be sought. Members may wish to consider this as part of the current review of licensing policy – evaluating any evidence and undertaking consultation, as outlined above, would need to take place before any such inclusion.

Licensing Sub-committees have at hearings imposed conditions restricting the sale of high strength alcohol on a number of premises licences, generally off-licences. The Sub-committee has sought the agreement of the applicant before imposing the condition. Where such a condition is considered appropriate, however, it may not be necessary to have agreement, although it is preferable if this is the case. The usual rules about conditions (appropriateness, tailored to the premises, etc.) will apply, and any condition may be appealed within 21 days of the grant of the licence.

Those premises with conditions restricting sales of high strength goods must comply with those conditions, and will be in breach of their licence and subject to review and/or prosecution if they do not do so.

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