



End of binge drinking? The Government's new proposals - Will they work?

BRIEFING

Introduction

Some of you may recall our Briefing note on the proposed mandatory code put forward by the Government last year. The Government intended to introduce (amongst other things) the following:

- An end to “irresponsible” drinks promotions in on-licensed premises;
- A requirement for alcohol to be available in smaller measures. The intention was to stop the practice of only offering large glasses of wine, double measures of spirits or pints of beer/cider;
- The introduction of a age verification scheme for those selling alcohol on-line or by mail order;
- To allow local authorities to impose local licensing conditions either on individual premises or on groups of premises within an area.

What has been announced today?

The Home Secretary, Alan Johnson, has announced that the Government will introduce the above measures save that the age verification scheme will apply to all licensed premises and not just the mail order or on-line trade. The proposal to

allow local authorities to impose local licensing conditions appears to have been dropped.

So nothing particularly new here, save that the age verification scheme is no longer aimed at those selling alcohol on-line or by mail order but at the entire licensed trade.

We believe that a breach of the new laws will be treated in the same way as a breach of licence condition and therefore punishable by a fine of up to £20,000 and or 6 months in prison.

What about the existing voluntary age schemes?

There seems to be an assumption from those reporting in the media today that there is no age verification currently in place.

It is already an offence to sell alcohol to a person under the age of 18. Both the on-trade and off-trade have implemented voluntary schemes which involve training staff to challenge anyone who appears to be under a certain age in order to assist in preventing or minimising the risk of sales of alcohol to underage persons. Most of the trade has adopted a Challenge 21 scheme or moved to Challenge 25. Without wishing to state the obvious this means that bar staff or cashiers are instructed to challenge anyone who appears to them to be under the age of 21/25 depending on the adopted



scheme for identification, failing which the sale of alcohol must not proceed.

Those who have worked in the licensed trade will know that it is not always easy to establish the age of a person. Bar staff and cashiers have to make a very quick judgment and whilst the vast majority will use their best endeavours, there is no doubt that mistakes can happen. Is it right that such mistakes be punishable as now proposed by the Government? Is the real problem actually the sale of alcohol to underage persons or are young persons able to acquire alcohol in other ways?

When will the changes come into effect?

The Government has indicated that Parliament will debate the changes within the next few weeks, but the measures dealing with irresponsible promotions and making tap water available will come into effect in April. The proposals on age verification and ensuring that small measures are available to customers are more likely to come into force in October.

What is the Conservative Party's position?

The Shadow Home Secretary has announced that a Conservative Government will introduce the following measures:

- Significant tax increases on "alcopops", strong beer and strong cider;
- Supermarkets and other retailers to be banned from selling alcohol below cost price;

- "A much tougher licensing regime" where local councils and the police will be given new powers to restrict the number of late licences awarded to shops, takeaways and other venues.

Conclusion

Whenever binge drinking hits the headlines we hear about 24 hour licensing. There are in fact, very few 24 hour licences and most of those that have been granted are not utilised in full. We have yet to see any evidence that late night licences at off-trade premises have actually increased crime and disorder or public nuisance. The Government appears to be convinced that alcohol will be a significant issue at the next election and will no doubt be seeking to push through changes to the licensing laws. It is to be hoped that these are properly thought through and, as always, the devil will be the detail.

We will report further when we see the actual small-print of these proposals.

We woke today to headlines and news bulletins suggesting exciting changes afoot that will end binge drinking. Sorry to disappoint you!

For further information please contact:

Robert Botkai

Partner : Winckworth Sherwood Solicitors
DT 020 7593 5004
rbotkai@wslaw.co.uk