

**EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES (ALCOHOL DISORDER ZONES)
REGULATIONS 2008**

No. 1430

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These regulations make provision for local authorities to impose a charge on some alcohol licence holders in an Alcohol Disorder Zone (ADZ) to pay for additional enforcement services in respect of alcohol related nuisance and disorder. The regulations include provision for: a framework to apportion the charge to individual premises; exemptions from the charge; discounts from the charge; collection and enforcement of the charge; the consultation process; and the review of an ADZ.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 These draft Regulations replace an earlier draft version of the Regulations that has now been withdrawn. As detailed in its Eighth Report of Session 2007-08 the Joint Committee previously had concerns as to why the Regulations contained no bespoke appeal process. In a memorandum dated 17th January 2008 the Home Office explained that no such appeal mechanism was contained in the Regulations, but that instead recourse could be had to the local authorities' complaints procedures, the Local Government Ombudsmen in England and the Public Services Ombudsman for Wales and judicial review. Noting the contents of this Memorandum in its Eighth Report the Committee concluded that the earlier set of Regulations were defectively drafted in so far as regulation 17(2)(j) used the word "appeal" because this referred to recourse to these pre-existing arrangements.

3.2 The draft Regulations have been withdrawn and re-laid before Parliament to amend this drafting defect highlighted by the Joint Committee. This has also given the department an opportunity to make changes to this Explanatory Memorandum which was itself criticized by the Merits Committee and to the draft statutory guidance. On the question of challenging an ADZ the policy remains the same. The ADZ process has a series of checks and balances built into the process including a 28 day consultation period, the opportunity for licensees to implement a voluntary action plan and, if the ADZ is designated, a review every three months. The guidance provides for ADZs to be integrated into local authorities' complaints procedures and if necessary licensees will have redress to the Local Government Ombudsmen in England and the Public Services Ombudsman for Wales. License holders will also have redress to Judicial Review. The complaints process is set out in the draft *Alcohol Disorder Zones Guidance*. If necessary the guidance will be updated to take into account points raised during Parliamentary debates before being formally issued to practitioners.

4. Legislative Background

4.1 Sections 15 – 20 of the Violent Crime Reduction Act 2006 empower local authorities to designate ADZs where there is nuisance, disorder or annoyance associated with the consumption of alcohol in the locality or with the consumption of alcohol supplied in the locality which is likely to be repeated. The Act allows the Secretary of State to make regulations enabling local authorities to charge certain licensed premises, in designated ADZs, for additional enforcement activity. The Act provides for a stepped approach, including a public consultation, with designation only occurring where licensees do not comply with the steps set out in a voluntary action plan.

5. Territorial Extent and Application

5.1 These regulations apply to England and Wales only.

6. European Convention on Human Rights

6.1 Vernon Coaker, Parliamentary Under Secretary of State for the Home Department has made the following statement regarding Human Rights:

‘In my view the provisions of the Local Authorities (Alcohol Disorder Zones) Regulations 2008 are compatible with the Convention rights.’

7. Policy Background

7.1 Alcohol related violent crime, nuisance and disorder remains a serious problem in some city and town centres in England and Wales.

7.2 Alcohol related violent crime

The latest British Crime Survey (2006/7) suggests that up to half of violent crimes (46%) may be alcohol related.

The National alcohol strategy “Safe. Sensible. Social.” also highlights that:

- About a fifth (17%) of all violent crime occurs in or around pubs and clubs;
- Offenders were thought to be under the influence in nearly half (44%) of acquaintance violence;
- Around half of all violent incidents take place at the weekend; and that
- The majority of violent incidents take place at night; this is particularly the case for stranger violence and wounding offences (66%).

7.3 Sales of alcohol to underage persons

Test purchase campaigns in licensed premises show that sales to underage persons are still a significant problem, though there has been recent improvement in premises’ performance. Following successive Alcohol Misuse Enforcement Campaigns (AMEC, 2004-2006) and the pilot Tackling Underage Sales of Alcohol Campaign (TUSAC, October 2006) the test purchase failure rate was stable at approximately 20%; following the national TUSAC (summer 2007) the test purchase failure rate had reduced to approximately 15%. The campaign, however, continued to show a high level of underage sales with 40% of problem premises selling alcohol to an underage person on at least one occasion.

7.4 Rationale for ADZs

The Licensing Act 2003 enables licensing authorities to tackle alcohol related crime, nuisance and disorder (including violent crime and underage sales) that is attributable to individual premises through the modification, suspension or revocation of licenses upon review.

7.5 However, it is not always possible to identify a clear audit trail linking problems in the public space to one or more licensed premises. Alcohol related nuisance or disorder in the public space may be the cumulative result of drinking in a number of premises. In such cases, the provisions in the Licensing Act may be insufficient to enable local authorities and the police to tackle alcohol related nuisance or disorder in the public space that requires additional enforcement activity – for example, additional police or trading standards officers.

7.6 Rather than pursuing the option of general a levy on licensed premises to pay for this additional enforcement activity in the public space, the Government considers that a highly selective power for local use, as a last resort, will fulfil this objective where all other activity has failed to curb the problem. ADZs would enable local authorities to tackle high levels of alcohol related nuisance or disorder within a defined zone by requiring license holders in that zone to pay for additional police and local authority enforcement services.

7.7 Prior to designating an area as an ADZ, the local authority would publish a voluntary Action Plan jointly with the police for a specified locality, rather than for individual premises. The Action Plan will set out a combination of measures to prevent alcohol related crime and disorder taking place in a specified public space. The Action Plan will involve the local authority, police and license holders by setting out what is to be expected from them. For example, the police may agree to temporarily put on additional police during the early hours and expect licensed premises to sign up to an approved accreditation or award scheme, such as “Best Bar None”. The local authority may also set out what voluntary financial contribution

should be paid by licensed premises to contribute to a reduction in nuisance or disorder.

7.8 In cases where there has been insufficient implementation of the voluntary Action Plan, the local authority may designate a locality as an ADZ. Designation permits local authorities to levy compulsory charges on certain license holders for above-normal levels of enforcement activity by that authority and the police, such as frequent visits by police officers/ PCSOs to licensed premises or additional activity by trading standards officers.

7.9 A local authority should only consider designating a locality as an ADZ after other measures available to that authority, and to the police, to tackle high levels of alcohol related nuisance or disorder have been tried and have failed to solve the problem. An ADZ must be reviewed every three months to ensure that it is still required.

7.10 The Violent Crime Reduction Act 2006 sets out that the ADZ regulations must be accompanied by guidance to assist local authorities and the police exercise and perform their powers and duties. The accompanying guidance sets out (at Chapter 2) what alternative steps should be taken before a local authority considers proposing an ADZ in any particular locality.

7.11 The guidance does not specifically mention Business Improvement Districts (BIDs) as these are not available in every area and are on a voluntary basis only. ADZs are about ensuring that in areas that have particular alcohol related problems that "above normal" levels of enforcement are available and that the cost of providing this additional enforcement activity is met by license holders in that designated area. In fact, ADZs are unlike any current tool or power available to local authorities or the police. The nearest comparison is that of the Manchester City Centre Safe scheme which is explained in the regulatory impact assessment at Annex A.

7.12 Once an ADZ is proposed, following the Action Plan stage, the regulations allow for a key series of checks and balances before an ADZ is designated. It is intended that premises should broadly pay for the additional enforcement activity they

receive and the regulations provide for a charging formula using rateable value as a proxy measure for premises capacity, and the length of time they are open. The actual level of charge will be dependent on the additional enforcement services required. The policing and local authority services provided in an ADZ are additional to the existing baseline services and the regulations make this clear. The nature of the charging mechanism is dealt with in full in Chapter 5 of the accompanying Guidance.

7.13 It is not known at this stage exactly how many ADZs will be designated in the first year. The Regulatory Impact Assessment estimates that 30 areas will start the ADZ process in the first year, but it could be that all or none move towards full designation. This will be entirely dependent on the success and take up of the voluntary Action Plan.

7.14 Consultation

The Government has consulted stakeholders informally and formally on both the content of the ADZ regulations and guidance. The consultation has covered local authorities, the police, police authorities, alcohol retailers and members' clubs. Informal consultation on the ADZ arrangements commenced in June 2006 until March 2007. Formal consultation on the draft regulations (and guidance) was undertaken from 2 April 2007 until 1 June 2007. Annex B provides details of who was consulted and a summary of responses on the key points.

7.15 The regulations and accompanying Guidance have since been revised to take into account comments made by the Joint Committee on Statutory Instruments and the Merits Committee. The revised Guidance has also been seen and commented on by the British Beer and Pub Industry, the Wine and Spirits Trade Association, the British Retail Consortium, LACORS and the LGA. This consultation took place in March 2008 and the Guidance was revised in light of the comments received.¹

¹ The revisions to the Guidance as a result of this additional consultation are set out in section 3 of Annex B to this Explanatory Memorandum. See pages 32-37.

7.16 The intention is to update the draft Guidance if necessary to take account of any wider issues raised during Parliament's scrutiny of the regulations before being formally issued. The Guidance is available at:

http://police.homeoffice.gov.uk/news-and-publications/publication/operational-policing/Alcohol_disorder_zones_guid1.pdf?view=Binary.

8. Impact

8.1 A Regulatory Impact Assessment (RIA) was prepared for ADZs and has been revised following consultation with stakeholders. The RIA is attached at Annex A.

9. Contact

9.1 Mark Cooper at the Home Office can answer any queries relating to this instrument.

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ANNEX A (EXPLANATORY MEMORANDUM)

Alcohol Disorder Zones: Regulatory Impact Assessment

1. Title of proposal: Alcohol Disorder Zones.

2. Purpose and intended effect:

i) The objective –

2.1 The objective of this proposal is to reduce alcohol fuelled violence and disorder in town and city centres.

ii) Background –

2.2 Alcohol disorder zones (ADZs) are designed to tackle the problem of alcohol-related crime and disorder in town and city centres through a focus on the public space and/or the management of individual premises.

2.3 ADZs will sit alongside other measures to change individuals' behaviour through awareness-raising along with firm action against those involved in alcohol-related crime or disorder; enforce the provisions of the Licensing Act 2003 to tackle individual problem premises; and secure the collective responsibility of licensed premises to help build a robust local infrastructure to manage the night time economy.

2.4 Alcohol disorder zones would:

- Help improve operating practice in a number of premises, without having to go down the route of a licence review for each one. These improvements could be things like rigorous proof of age checks or a clear policy on drinks promotions.
- Help manage the public space. The problem could be caused by a lack of late-night transport facilities for example, or a need for staggered closing times to avoid letting a flood of people out onto the streets at the same time.

Existing powers:

2.5 The Licensing Act 2003 strengthens the powers available to police and licensing authorities to deal with businesses which fail to comply with licensing law. These include a new mechanism for reviewing licences when problems arise rather than having to wait for renewals before taking action, and a flexible range of measures following the review, including a reduction in trading hours or licensable activities.

2.6 The Police and Criminal Justice Act 2001 gave local authorities the power to designate non-drinking zones in areas with a history of anti-social behaviour related to drinking in the street or park. A Designated Public Place Order (DPPO) gives police the power to confiscate alcohol within the zone.

2.7 Whilst there has been no research into the reasons that local authorities seek a DPPO, it is clear that some of them are in place in town and city centres to address the problem of people leaving pubs and clubs with drinks, or drinking alcohol purchased from off licences in the streets.

2.8 The Anti-Social Behaviour Act 2003 gave the police the power to disperse groups and take people under 16 home in areas designated as dispersal zones. The zones are designated with the consent of the local authority where the police officer has reasonable grounds for believing that groups of two or more are causing people alarm or distress, or that anti-social behaviour is a significant or persistent problem.

2.9 Business Improvement Districts (BIDs) are an investment in the local trading environment through the provision of added value services funded by local businesses through a levy on their rates bill. Businesses identify the area and the issues and put together a proposal which should include performance indicators and management structure. Businesses must vote in favour of a BID in order for it to be established. At present, BIDs take an average of 18 months to establish, and so provide longer-term rather than immediate solutions to night-time economy problems.

iii) Rationale for Government Intervention:

2.10 Despite an improvement in the management of licensed premises, there is still a problem with disorder in town and city centres. This is often difficult to blame on particular premises. It is arguably less about badly-run premises and more about the effect of large numbers of people leaving pubs and clubs under the influence of alcohol, and competing for limited services.

2.11 The Home Affairs Committee Report on Anti-Social Behaviour² recognised this particular problem of alcohol-related disorder in the public space:

“The Government’s strategy currently focuses on irresponsible individual drinkers and individual premises...on their own, these measures will not solve the problem of alcohol disorder. This is because disorder and alcohol-related ASB occur most frequently in public spaces outside the control of even the best-run premises.”

2.12 The Police and Local Authorities are incurring the costs of dealing with this disorder. These costs range from extra policing costs to extra street cleaning costs and rubbish collection costs. The Prime Minister’s Strategy Unit estimated the annual cost to services as a result of alcohol-related crime and disorder to be £3.5 billion.³

2.13 The Civic Trust’s National Survey of Evening and Night-Time Activities in England drew responses from 89 local authorities. It identified insufficient late-night transport provision, litter and rubbish, fouling of streets, fear of crime and noise pollution as serious problems linked to the night-time economy. 51% of respondents saw a need for additional policing to respond to night-time economy problems.

² Home Affairs Committee Fifth Report of Session 2004-5 on Anti-Social Behaviour, 5th April 2005. HC80-1

³ Alcohol Harm Reduction Strategy for England, March 2004.

2.14 The majority of local authority respondents to a review of the Code of Practice on Litter and Refuse, carried out by ENCAMS in 2003 identified a particular problem with litter in city centres on Friday and Saturday between 9pm and 12am.

2.15 In their evidence to the Home Affairs Select Committee, Alcohol Concern cited polling evidence that 70% of police officers believed that “attending alcohol-related incidents frequently diverted staff away from tackling other kinds of crime”. Stephen Green, Chief Constable of Nottinghamshire, told the Committee that “behind guns and drugs, drink-related violence is probably our next biggest threat, so it does influence operational deployment”.⁴

2.16 In its conclusions, the Home Affairs Committee report recommended that pubs and clubs in designated areas should pay a mandatory contribution to help solve local problems of alcohol-related disorder.

2.17 There are several examples of voluntary schemes set up by the Police or Local Authority in partnership with the local licensed trade, where premises are paying for extra policing or other services. One such example is Operation Tranquillity in Stockton, where 20 pubs, clubs and takeaways contribute an average of £80 a week (depending on size and opening times) for an extra sergeant and four police officers to support late night town centre venues. In the first three months of the Operation, ‘violence against the person’ figures were down 21% on the previous year.

2.18 Manchester City Centre Safe was identified as an example of good practice in the Alcohol Harm Reduction Strategy for England. City Centre Safe takes a partnership approach to tackling alcohol-related crime, involving the police, the council, the trade, transport companies and others. It involves targeted enforcement against poorly-run premises, an accreditation scheme for well-run premises, and voluntary contributions from the trade, for example for a marshalled night-bus service.

2.19 Government intends to continue encouraging voluntary schemes, and Business Improvement Districts. However, it also needs to provide extra tools for areas which have not managed to secure the voluntary co-operation of premises to tackle the problem. At one end of the scale, these areas might need to improve operating practice in a number of premises, without having to go down the route of a licence review for each and every one. These improvements could be things like rigorous proof of age checks across all premises, or a clear policy on drinks promotions.

2.20 At the other end of the scale, the solutions to the problem may lie in actions that are more focused on the public space. The problem could be caused by a lack of late-night transport facilities for example, or a need for staggered closing times to avoid letting a flood of people out onto the streets at the same time.

2.21 If we do not take further action to address the problem of alcohol related disorder, and to encourage the trade to take action, then the problem will continue.

⁴ Home Affairs Committee Fifth Report of Session 2004-5 on Anti-Social Behaviour, 5th April 2005. HC80-1, p. 27

There is significant concern about alcohol-related disorder in town and city centres – 61% of the population think that alcohol-related violence on the streets is increasing.⁵

2.22 There is a risk that the problems will start to outweigh the benefits of the expansion in the night-time economy. The ODPM publication “How to Manage Town Centres” recognises this risk: “New challenges have emerged in town centres, particularly alcohol-related disorder and violent crime, and strains on public services. These challenges put at risk the future development of vibrant and inclusive town centres and the tourism industry.”⁶

3. Consultation

i) Within Government

3.1 The publication of the consultation document “Drinking Responsibly”, which first announced the proposal in January 2005, was approved by the Cabinet. The following Departments have been consulted in more detail during the development of the policy and preparation of this part of the Violent Crime Bill:

- The Home Office (the lead Department);
- The Department for Culture, Media and Sport;
- The Department of Health;
- The Office of the Deputy Prime Minister;
- The Department for Environment, Food and Rural Affairs; and
- The Treasury.

ii) Public consultation

3.2 Around 250 responses were received to the consultation paper “Drinking Responsibly”. These included responses from the leading alcohol retailer trade associations, police forces, local authorities and trading standards, the Small Business Service, voluntary sector organisations and public health bodies.

3.3 The response to the ADZs proposal was mixed. Broadly, the Police were concerned that ADZs would be complex or costly to establish and open to legal challenge about the justification for imposing a charge on premises. However, they are strongly supportive of the polluter pays principle, and the need for the trade to take some responsibility for alcohol-related disorder. The ADZ policy has been developed with these concerns in mind, and the scope for legal challenge has been minimised by building in checks and balances into the process for example, a 28 day consultation period at the outset and by opting for a consistent national formula to set charges.

⁵ Interim Analytical Report, Prime Minister’s Strategy Unit. November 2003. p.53

⁶ How to Manage Town Centres, Office of the Deputy Prime Minister March 2005

3.4 Similarly, local authorities agreed with the polluter pays principle behind ADZs, but had concerns about the administration costs. Again, the policy has been developed with the aim of minimising these costs. The process of gathering evidence for an ADZ sits with the production of local crime and disorder audits and strategies by Crime and Disorder Reduction Partnerships (CDRPs). There will be no general duty on Local Authorities to set up ADZs. Ultimately, an ADZ will be another intervention (more often as a last resort) for use by the CDRP, which will need to consider whether the benefits locally outweigh the costs and whether an ADZ is an appropriate solution to the local problem. We anticipate that the costs associated with collecting the charge would be minimal because the structures are already in place to collect licensing fees. The aim is for the charging formula to include a provision for local authorities to recoup these administration costs.

3.5 The trade were concerned that the system would penalise well-run premises unfairly, and felt that poorly run premises should be targeted instead through the existing Licensing Act mechanisms. ADZs would work very much in parallel with the Licensing Act, but their purpose is to encourage collective action and responsibility for the problems of alcohol-related disorder that cannot necessarily be blamed on particular premises. We have sought to allay industry concerns by building discounting options into the charging mechanism.

3.6 The Government has considered the responses carefully and taken the comments on board in developing the proposals. The Home Office has held meetings with key stakeholders, including representatives from the licensed trade, the police and local authorities as the policy has developed.

4. Options

Option One: Do Nothing

4.1 Under this option, powers under the Licensing Act 2003 would be used by the police and licensing authorities to tackle poorly run premises on a case by case basis, and to close them down if necessary. The better-run premises would be encouraged to sign up to a national voluntary code of practice, and to apply for local accreditation.

4.2 The Licensing Act crime and disorder provisions are not focused on the problem of disorder in the public space around licensed premises, or on the need for action by licensed premises to tackle it.

4.3 Often the disorder cannot be blamed on particular premises but rather occurs as a result of large numbers of people under the influence of alcohol on the streets competing for services.

4.4 This disorder is resulting in extra costs to the police, local authorities and other service providers, amounting to some £3.5 billion a year nationally, according to the Alcohol Harm Reduction Strategy for England, and so diverting resources away from elsewhere. There is a need for a proper partnership approach to solving the problems at a local level, with the constructive involvement of all sectors of the trade.

Option two: Compulsory contributions from licensed premises to the additional public sector costs associated with crime and disorder in the night-time economy

4.5 Under this option, all licensed premises would pay a levy on their business rates towards the costs of alcohol-related crime and disorder.

4.6 This option lacks any incentive for the licensed trade to consider other ways to tackle alcohol-related disorder on a voluntary basis, and may discourage partnership working. Licensed premise owners may see no reason why they should take any other voluntary steps to tackle alcohol-related disorder, having been forced to pay.

4.7 The option does not target problem areas, but applies a blanket solution that well-run premises in areas with low levels of alcohol-related crime and disorder would consider to be unfair.

4.8 The other risk of this option is that it will discourage the setting up of Business Improvement Districts. Premise owners are unlikely to agree to pay an extra BID levy on top of the compulsory levy to tackle alcohol-related disorder.

Option three: Introduce Alcohol Disorder Zones (ADZs)

4.9 Under this option, local authorities and the police would have the option of establishing ADZs in areas where they considered that alcohol-related disorder was a problem. ADZs would add to the range of tactical options available to Local Authorities and the Police to tackle alcohol-related disorder.

4.10 The local authority would be required to consult on the boundaries of the zone, and the appropriateness of an ADZ to tackle the local problem. The trade and the public would have 28 days to make representations at this stage. Following this period of consultation, the trade would have eight weeks to work with the local authority and police to develop an action plan to tackle the problem, and to take reasonable steps to implement the actions. These actions may be premise-specific actions such as clear signage warning customers that they will be asked for proof of age, or an agreement to put a stop to irresponsible promotions. They may also include actions with a public space focus, such as paying for extra late-night transport or providing security for bus stops or taxi ranks.

4.11 At the end of the eight weeks, the local authority and the police would decide whether there had been substantial progress towards implementing the actions. This decision would be as objective as possible, and based on clearly defined actions and outputs reasonable within the timeframe, for example:

- All licensed premises within the ADZ to display clear signage telling customers that they will be asked for ID if they look under 21; or
- All premises to agree to contribute £x to the cost of a night-bus service to run on Friday and Saturday nights between the hours of 10pm and 3am.

4.12 If the local authority and police decided that premises had not made substantial progress towards implementing the action plan, then charges would be imposed on all premises whose principal purpose is to sell alcohol (i.e. excludes

restaurants, theatres and cinemas) within the ADZ boundaries. These charges would be based on a national model which would be devised to reflect the different costs of dealing with alcohol-related disorder in particular types of areas. Although the compulsory charging is limited to this category of premises the voluntary action plan could cover all licensed premises, depending on local circumstances.

4.13 The charges would remain in place until the local authority and the police deemed that substantial progress had been made on tackling the problem through other means – or possibly where there was a sustained reduction in the levels of crime and disorder. This would be a local decision. There would be a quarterly review of the continued appropriateness of the charge, and it would be open to anyone affected by the legislation to apply for the ADZ to be revoked on the grounds that it was no longer necessary.

4.14 ADZs would put the focus onto effective action planning and partnership working, whilst retaining the threat of charging should this process fail.

4.15 There is a possible unintended consequence of an ADZ on the reputation of the area with possible impacts on the local economy (for example would people want to spend leisure time in an area designated as an ADZ or indeed live there?). It is difficult to gauge the impact that designation might have on economic indicators (for example house prices) if at all. The ADZ is a tool to tackle a problem that already exists. So while its use might send a signal – bad publicity - about the social health of a locality, it is the crime and disorder that blights an area and impacts on the local economy and quality of life. It could be argued that use of an ADZ could have a positive impact because it sends a positive message that something is being done to tackle the problem. It seems safe to make the assumption that any stigma of being designated an ADZ would be short term, while the zone was in place. It would be counterbalanced by longer-term improvements in the area and reductions in alcohol-related disorder and the fear of crime. These improvements would encourage people back into the area, and enhance the area's reputation as a safe and pleasant place to live or to visit. We intend to monitor the impact of ADZs on localities.

4.16 There is a possible risk of displacement of the problem onto neighbouring areas. However, this risk is minimal because the focus of the policy is on improving the safety and attractiveness of the area and improving the local infrastructure. It is not about moving people out of the area or discouraging them from coming in.

5. Costs and benefits

i) Sectors and Groups Affected

5.1 Those affected by option two, a levy on all licensed premises and by option three, the creation of a new power to designate ADZs and to charge premises whose principal purpose is to sell alcohol a mandatory contribution to the costs of alcohol-related disorder, would include:

- Premises licensed to sell alcohol within the boundaries of the Alcohol Disorder Zone;
- Police forces;

- Local Authorities;
- The public; and
- Consumers.

ii) Benefits

Option One: Do Nothing

5.2 The ‘do nothing’ option would avoid the need for the trade and local partners to get to grips with a new set of powers and a new concept of collective responsibility for the costs of alcohol-related disorder.

5.3 This option would be the most popular with the licensed trade, who already feel that they are unfairly blamed for the problems of alcohol-related disorder. As such, it could be argued that it is the option most likely to encourage industry goodwill and the spread of good practice.

Option two: Compulsory contributions from all licensed premises to the additional public sector costs associated with crime and disorder in the night-time economy

5.4 This option would have the benefit of ensuring that the public sector costs of dealing with alcohol-related disorder are fully covered by the licensed trade in line with the “polluter pays” argument. It recognises that voluntary action alone is unlikely to result in significant contributions from licensed premises, and will not capture poorly run premises unlikely to participate in a voluntary scheme.

5.5 The levy would pay for additional policing and enforcement costs, which would have a fairly immediate impact on the levels of alcohol-related crime across the country. It may be that recorded crime levels would rise initially as the police make more arrests due to a higher presence, but we would expect to see them fall in the longer term. Voluntary arrangements in place across the country, in which licensed premises pay for extra policing, have reported significant reductions in alcohol-related crime. For example, Operation Tranquillity in Stockton reported a reduction of 21% in “violence against the person” in its first three months of operation. In this example, premises contributed an average of £80 a week to pay for five extra police officers.

5.6 The levy could justifiably be set at a level to cover local authority costs as well as policing costs. It could pay for services such as extra transport provision and taxi and bus marshals, which would also have a significant impact on alcohol-related crime and disorder. Manchester City Centre safe includes voluntary funding initiatives such as a late night bus service, and reported a reduction in the levels of alcohol-related crime of 8.5% in the first year and 12.3% in the second year.

5.7 If we were to assume that this option would lead to a 10% reduction in alcohol related crime across England and Wales then this would lead to a benefit of £188million accruing to the government and individuals.

Option three: Introduce Alcohol Disorder Zones

5.8 The main benefit of an ADZ would be the reduction in the costs to criminal justice and healthcare agencies, and victims, of alcohol-related crime and disorder. Linked to this would be longer-term benefits to businesses which are more difficult to quantify. These include increased custom for licensed premises as the area's reputation improves and peoples' fear of crime lessens. The action planning process would be likely to encourage the setting up of Business Improvement Districts or voluntary contribution schemes, which would secure a longer-term financial investment from businesses towards improvements to the local environment.

5.9 Each local authority, together with the police (probably the CDRP in practice) would set its own targets for the reduction of alcohol-related crime, and expected outputs at the start of the action planning process. These would be based on the CDRPs assessment of the exact nature of the problem and the expected impact of the actions in the action plan. Licensed premises would have to make substantial progress towards implementing the actions in the plan in order to avoid the imposition of charges. Charges imposed on all premises in the ADZ whose principal purpose is to sell alcohol would be subject to a quarterly review of their continued appropriateness. An ADZ would only be lifted once substantial progress had been made towards tackling the problem of alcohol-related crime and disorder.

5.10 The Manchester City Centre Safe experience gives us a useful benchmark from which to predict the likely benefits of an ADZ. City Centre Safe is characterised by a partnership approach to solving the problems of alcohol-related disorder. For example, the police run a 'top ten' list of premises with high levels of crime:

“Once the list has been compiled, each of the top ten licensees are sent a letter outlining their position in the Top 10, and inviting them to attend a meeting at the police station.

This information is then presented to the licensee and area manager or company director at a meeting. A course of action is then agreed with the licensee to tackle the specific crimes within each of the ten venues. The agreed action is then sent to the licensee and area manager/company director in written form, with a copy for the licensee to sign and return to City Centre Safe indicating full compliance with the scheme.

The premises will then enter into a three month monitoring period where the crime and incident levels will be examined... At the end of the monitoring period, the crime and disorder figures would be compared with the previous quarter to evaluate the impact the action plan has had upon the crime figures. The action plan may be reviewed at any time during the three month period, but in any case at the end of the three month period.”⁷

5.11 As a result of this approach, which also includes an accreditation scheme for well-run premises, and full use of enforcement tools by the police and Trading Standards, the level of serious assaults in Manchester City Centre was reduced by

⁷ Manchester City Centre Safe, Top Ten Policy Document, December 2004.

46% between 1999/ 2000 when the scheme was established and 2004/ 05 (the last year for which comparable data is available) ⁸

Year	Number of serious assaults in the City Centre	Percentage change on previous year
1999/ 2000	225	N/A
2000/ 01	211	- 6.2
2001/ 02	185	- 12.3
2002/ 03	198	+ 7.0
2003/ 04	186	- 6.1
2004/ 05	122	- 34.4

The temporary rise in the number of serious assaults in 2002/ 03 may be due to the fact that the Commonwealth Games and World Cup were both held in that year. The fall in the number of serious assaults over five years is equivalent to an average of approximately 12% per year.

5.12 Based on the experience in Manchester we estimate that ADZs, which would have a greater focus on public space issues, would lead to a reduction in all alcohol-related crimes (including more serious wounding, less serious wounding and common assault) of around 10% over a year.

5.13 We split our example ADZs into three tiers based on the type of area. To estimate our benefits we chose Manchester to represent those in Tier 1 (likely to be large city centres). Peterborough represents Tier 2 ADZs (city and large town centres), whilst Lichfield represents those ADZs in small towns (or very small cities).

5.14 We then obtained police-recorded crime data from the Crime Statistics website for the example areas on more serious wounding, less serious wounding and common assault. To compensate for the fact that only a proportion of crimes are reported to the police, we used the BCS multiplier of 1.79 for wounding and 7.7 for common assault to estimate the actual levels of these crimes. We then accounted for the fact that not all violent crime is due to alcohol ⁹.

5.15 We then used the cost per crime as estimated by the Home Office ¹⁰. For common assault and less serious wounding the cost is £1,400 per crime and for more serious wounding the cost is £8,800. This includes the emotional cost to victims. ¹¹ Due to changes in the titles of offences we know that the cost associated with common assault is likely to be an overestimate, whilst the costs associated with both wounding categories are underestimates.

5.16 We estimate that about 30 areas will start the ADZ process in the first year.

⁸ Greater Manchester Police recorded crime statistics

⁹ British Crime Survey 2003-4

¹⁰ Dubourg, W R, Hamed, J and Thorns, J, 'Estimates of the economic and social costs of crime in England and Wales: Costs of crime against individuals and households, 2003/4', RDS Online Report, London: Home Office, forthcoming.

¹¹ Dubourg, W R, Hamed, J and Thorns, J, 'Estimates of the economic and social costs of crime in England and Wales: Costs of crime against individuals and households, 2003/4', RDS Online Report, London: Home Office, forthcoming, p 18

5.17 We applied the 10% reduction in these crime types that we might reasonably expect per area. Based on an assumption of how many ADZs might fall into each tier, we estimate that there will be overall benefits of £28 million.

TIER	EXAMPLE	BENEFIT	LIKELY NUMBER OF ZONES IN TIER	WHOLE TIER BENEFIT
1: Large city	Manchester	£2,426,702	5	£12,133,511
2: Medium sized city or town	Peterborough	£909,453	15	£13,641,791
3: Small town or city	Lichfield	£232,383	10	£2,323,830
			TOTAL BENEFIT	£28,099,132

5.18 Our modelling suggests that the majority of benefits occurring in large city centres are likely to be from reduced woundings. In smaller centres the majority of benefits will arise from reduced common assaults. This is based on the breakdown of crime types that are found in the areas we examined.

5.19 We have carried out a sensitivity analysis on these figures, which is at Annex A.

iii) Costs Generated by the Proposals

Option One: Do Nothing

5.20 This option would not result in any new costs to the alcohol retail industry. However, the costs presently falling to local authorities and the police in managing the problem would not be reduced.

Option Two: Levy on all licensed premises

5.21 There are presently around 160,000 on and off licensed premises in England and Wales. The Prime Minister's Strategy Unit estimated the annual cost of alcohol-related crime and disorder to be £7.3 billion. This includes £1.8 billion of Criminal Justice Service costs.

5.22 The £1.8 billion direct costs to the CJS includes the policing costs of investigating and reporting crime and processing arrests, and costs to the courts, prison and probation services. Policing costs make up roughly half of this cost or £900million. If we take this estimate as a basis for the calculation, a levy would need to be set at an average level of £5,625 a year per premise to cover these service costs.

Option Three: Alcohol Disorder Zones

5.23 There could be costs to premises at the action planning stage of an ADZ.

5.24 The decisions on the actions needed to reduce alcohol-related disorder would be taken at a local level. They would need to be significant actions that would have an impact on the level of disorder, and so licensed premises would be likely to incur some costs. Although the action plans would vary according to local needs, we have made an attempt to estimate the likely costs per premise in different types of ADZ.

5.25 The actions and costs below are based on examples of good practice in places like Manchester, where partnership working is having a significant impact on levels of alcohol-related disorder. We will develop these examples through a working group that we are setting up, comprising of local practitioners with experience of dealing with alcohol-related disorder. The working group will look in more detail at the kinds of actions that might be appropriate in different types of ADZs, and the costs associated with them.

5.26 Possible actions:

- *All licensed premises within the ADZ to contribute £500 a year (weighted) to the cost of an extra late-night bus service, and policing around bus stops.* [Based on the costs of the Manchester late-night bus service]
- *All licensed premises within the ADZ to contribute £80 (weighted) a week for the services of four extra police constables to patrol xxx street.* [Based on Operation Tranquillity in Stockton Town Centre].
- *All licensed premises to participate in Pub/Club Watch.* [Small monthly cost for membership, but cost rises as level of benefits do, e.g. shared radio network, regular meetings etc.]
- *All licensed premises to display clear signage informing customers that they will be asked for ID if they appear to be under 21.* [Proof of age materials and signage are available free of charge from several organisations, including Citizencard.]

5.27 Based on our initial assessment of these typical actions, and the experience of voluntary schemes such as Operation Tranquillity, it would seem reasonable to estimate that the local action plan might cost premises around £100 a week (weighted according to rateable value). Again this is likely to be an overestimate. The costs are based largely on a city centre example, and so may well be lower in a small market town. We will develop these costings with the practitioner working group that we will be setting up to develop the detail of the policy.

5.28 We estimate that around 30 areas may move to the action planning phase of an ADZ in the first year. We think that this is possibly an overestimate, but think it very unlikely that there will be more than 30 ADZs in the first year. ADZs will take time to establish, and are only likely to be used when all other options have been considered and in areas with a significant alcohol-related disorder problem.

5.29 ADZs could range in size from 10 premises in a very small town to over 300 in a large city centre. The number in the top band would be constrained by the number of large cities in the UK, but these are the areas where the potential benefit is

greatest as they tend to have the most crime. However, some city centre ADZs would probably be limited to a couple of streets with a concentration of licensed premises, rather than the whole city. This is certainly the case with many of the existing Designated Public Place Orders. An average ADZ might cover 40 licensed premises.

Estimated annual costs to the licensed trade = (£100 x 52 weeks) x 40 premises x 30 ADZs = **£6.2m**

5.30 There would be distributional costs if the ADZ were to reach the charging stage, through a payment from licensed premises to be retained by the Police and Local Authority to cover the additional costs that they incur in managing the crime and disorder in the night-time economy. These distributional costs will be considered further through the practitioner-level working groups.

5.31 The charge could be set nationally in three tiers to reflect the different costs of different types of potential ADZ (large city centres, smaller market towns and more rural areas). It would reflect a basket of typical initiatives taken to deal with high levels of alcohol-related disorder, and is likely to be higher than the cost of a typical action plan. For example, the action might include action around seeking proof of age which is cheap for premises to implement. If they do not do this during the action planning phase, the local authority and police response at the compulsory charging stage might be extra test purchasing operations to tackle those selling to under-18s. This would of course be more expensive.

5.32 The charge would be weighted according to rateable value and hours of opening. The most appropriate weighting mechanism has yet to be decided, and will be informed by discussions of the working group and the higher level Stakeholder Group. For more information on charging options please see section below.

5.33 We estimate that 6 ADZs will reach the stage of charging in the first year. Again this is probably an overestimate. We anticipate that the vast majority of areas will successfully implement their action plans in the light of the threat of charging. It would be very much in the interests of local partners and the licensed trade to implement sustainable longer term solutions to the problems through voluntary arrangements or Business Improvement Districts, rather than to manage the problem through charging subject to quarterly review. It would seem reasonable to work on the basis of a maximum of 20% of the areas reaching the formal warning stage actually getting to the stage of charging.

5.34 There is some further exploration of the issues around the level of the charge, and some options for how it could be set in the next section. If the cost of the action plan is around £100 a week per licensed premise, then it might be reasonable to estimate that the charge might be £200 a week (weighted according to rateable value). For the purposes of the costings, we have taken account of the cost to business of the action plan in the voluntary phase only. We have only included the extra £200 a week mandatory charge in the compulsory charging costings. In reality, at this stage, premises would probably be incurring a certain extra cost as they worked towards implementing the action plan or other voluntary arrangements to secure the lifting of the charge.

5.35 Based on this estimate, the revenue from the charge for local authorities and the police would amount to around £2.4 million nationally, £400,000 a year per ADZ.

5.36 The local authority would be able to recoup administration costs from the revenue raised through the charges. This is in recognition of the fact that there would be some extra costs incurred in collecting the charge and in carrying out the quarterly reviews. These costs would be minimal, because the structures for collecting the charge will already be in place to collect license fees from premises. The evidence gathering and the decision to go down the ADZ route would form part of the usual work of the CDRP in identifying priority areas for local action and the appropriate response to the problem. An ADZ would be another tool that local authorities and the police could use if they deemed that the benefits of it would outweigh the cost. They would be under no obligation to use it.

5.37 We anticipate that the number of ADZs at the charging stage would decrease year on year as the action planning took effect and they began to see a sustained reduction in alcohol-related crime.

Options for the ADZ Charging Scheme

5.38 The total cost of Option 3 will depend on the number of ADZs which are actually designated in practice. 'Full' ADZ designation is expected to be associated with a basket of additional policing and other measures, and will be triggered if voluntary agreement on measures cannot be reached or proves to be ineffective in addressing alcohol-related disorder. These measures are expected to include activities which could have been provided voluntarily but have not been (e.g. street cleaning) and other more targeted measures to address the problems of disorder directly (e.g. additional policing).

5.39 How the costs of these measures are distributed depends on the nature of the charging regime adopted. We believe that the charging regime should follow a number of principles:

- It should be levied on all licensed premises within the ADZ whose principal purpose is the sale of alcohol (this will exclude restaurants, cinemas and theatres). This will emphasise the fact that the ADZ is addressing issues that are a problem for the whole area, rather than limited to particular premises. It will also avoid confusion, potential controversy and additional costs which would accrue if it had to be decided which premises should pay and which should be exempt;
- It should follow a national formula. This will avoid situations where what are deemed necessary measures, and their costs, varies considerably across the country;
- It should reflect the differing costs of dealing with alcohol-related disorder in different types of ADZ. This reflects the fact that what is necessary in a small market town with only a few premises could well be different from a large urban centre with many hundreds.

5.40 However, there are still a number of options for how these principles should be applied in practice, as well as a number of other issues. We discuss a number of

these options here. The exact form of the charging regime will be decided in consultation with stakeholders and a practitioner-level working group in the course of developing the ADZ policy.

Cost-recovery versus incentivising objectives of the charge

5.41 It seems appropriate that the charge should only be levied if efforts to achieve voluntary actions have failed or those actions have been ineffective in reducing alcohol-related disorder.

5.42 An option would be for the charge to reflect the full costs of alcohol-related disorder, as for instance estimated by the Home Office and the Prime Minister's Strategy Unit, including the costs of health treatment, violence and so on. (Option 2 only looks at recovering the costs to the CJS). The argument in favour of this might be that only by facing the full costs of disorder will licensees face the most incentive to adopt appropriate disorder-reducing measures. However, this would have a number of disadvantages. First, it would make licensees effectively liable for costs, many of which are out of their control or not the result of their actions. Second, it would represent a significant burden on licensees – an average charge of £45,000 per annum per licensed premises would have dramatic effects on the industry and cause very many businesses to become unprofitable. For these and other reasons, such a punitive charge does not seem attractive or viable.

5.43 This suggests that a charge should focus more on recovering the costs of actions taken to address alcohol-related disorder. This is attractive since it is more transparent and can more easily be explained by reference to visible initiatives. It can also be expected to have a more predictable effect on disorder levels, since it will relate to specific targeted activities. It will also limit the level of the charge, and therefore have fewer undesirable impacts on businesses.

5.44 However, for the prospect of a charge to continue to provide an incentive to cooperate in the action planning process, it should still be set at a level in excess of the costs of voluntary action. Otherwise, licensees will see no benefit in avoiding an ADZ designation and hence no benefit in voluntary action. In practice, the costs of voluntary action will anyway be less than the costs of local authority and police action where the voluntary process has failed. For example, a voluntary step to tighten up proof of age policies and display clear signage informing customers about the policy would incur minimal cost to business. However, if businesses fail to take this voluntary step at the action plan phase, the local authority and police response in the charging phase may well be more costly enforcement action such as Trading Standards test purchasing operations.

5.45 The nature of the measures adopted in the ADZ are also likely to provide some incentive for licensees to cooperate to avoid an ADZ being designated in the first place. High levels of policing and other similar activities, especially around particular licensed premises, could signal the existence of a 'problem', with negative connotations and associated impacts of company reputation, image and so on. Thus the adoption of additional measures in the ADZ themselves might result in indirect costs for licensees, encouraging them to adopt more attractive collective measures.

Tailored charging formula

5.46 It is a general principle of charging for social costs that the ‘polluter pays’. This suggests that the charge should be higher for those licensees which make a greater contribution to generating alcohol-related problems. Options for how the charge could be tailored to reflect licensee characteristics include:

- Premises size. Larger premises serve greater numbers of drinkers, and often in environments which encourage higher levels of consumption. Licences often specify premises size. Alternatively, rateable value could be used as an indicator of premises size;
- Discounting. There may be some scope for discounting for premises which meet certain criteria. For example, it may be possible to offer a discount for premises which close before midnight, in recognition of the increased crime and disorder after this time.

5.47 This is not an exhaustive list. Other desirable features might involve having lower charges for licensees who have adopted more good practice measures voluntarily. This would provide them with some ‘reward’ for cooperating in the action planning process, especially if charging arises because of the inaction or non-cooperation of other licensees in the area. However, we do not currently have a means for measuring ‘good practice’, and there is no national accreditation scheme for licensed premises, so it is not clear how easy it would be to tailor charges in this way.

National charging formula

5.48 A national charging formula is attractive since it would allay fears that charges could be subject to undesirable local influence and be used as a ‘funds raiser’. However, there is clearly a need to reflect local requirements for dealing with different types and scales of problem. For instance, large urban centres with many premises and drinkers will need more resources than a small town or village.

5.49 The number of premises in the local authority area would seem, therefore, to be the simplest scalar to apply to the charging formula. This could be simplified by having a number of ‘tiers’ for ADZs in different areas, as suggested above. Other scalars in the formula could include the number of premises actually within the ADZ, measures of urbanisation, local transport availability, levels of disorder and so on. Such a formula would then give a prediction of the amount of additional resources necessary to deal with an ADZ of a given type. Consultation and analysis would be required to support the development of such a formula. However, a starting point might be the funding formula which is currently used by the Home Office to decide on resource requirements of difference police forces, which includes population levels, population density and employment, among other variables.

Charge collection

5.50 The licensing authorities currently collect charges for licences to sell alcohol. It seems natural to collect the ADZ charge through the same channels. This will ensure compliance with the charging scheme, and minimise additional collection

costs. However, the ADZ charge is a temporary charge to reflect short-term measures to address particular alcohol-related problems. It will therefore be necessary to ensure that the charging system is flexible enough to be able to levy and collect charges on a temporary basis. This might also facilitate flexible payment plans, including instalments, for businesses that require them.

6. Small Firms Impact Test

6.1 We have had an initial steer from the Small Business Service that weighting the charge in either option two or option three according to rateable value would minimise the risk of a disproportionate impact on small firms. However, we will be having further discussions with the SBS as we develop the charging model and assess the likely cost impact.

6.2 Option 2 would lead to the most small firms facing extra costs despite not contributing to the problem. Option 3 might still have some cases of small firms facing an additional cost but this will at least be in areas where these externalities are being generated and the firm has some opportunity to improve the situation.

7. Competition Assessment

7.1 The likely impact on competition between premises inside the ADZ and those outside should be fully taken into account by local authorities when drawing up the boundaries of the ADZ. The boundaries should be drawn so as to minimise such effect.

8. Enforcement, Monitoring and Evaluation:

8.1 The ADZs option would require a certain amount of monitoring and evaluation by Crime and Disorder Reduction Partnerships. At the end of the formal warning period, the level of implementation of the action plan by the trade would need to be assessed, and a judgement made about whether to impose the charges. If charges were introduced, the situation would need to be monitored on an ongoing basis, with a formal review after twelve months.

8.2 Monitoring the levels of alcohol-related crime and evaluating the impact of measures to tackle it is something that a well-performing CDRP with an identified problem with alcohol-related crime would be doing anyway. The formal reviews at the end of the action planning formal warning period and after twelve months of charging are additional burdens falling to the CDRP. We anticipate that local authorities would be able to recoup administration costs from the charge.

8.3 Failure to pay the charge would lead to an automatic suspension of the licence held by the premises. This would be the same if option two, the levy on all premises, were pursued.

9. Summary and Recommendation

9.1 The Home Secretary favours option three. The net benefit is estimated to be around £21.8 million, based on the expectation of a 10% reduction in alcohol-related crime and disorder in areas designated as alcohol disorder zones.

9.2 Option three would encourage the licensed trade to implement collective actions to tackle the problem of alcohol-related disorder in their local area where other attempts have failed, rather than simply to pay for the management of it by local authorities and the police.

9.3 We estimate that there would be costs to the licensed trade of around £6.2m a year in order to implement an effective action plan. This should be offset against the long term benefits of increased custom due to a safer more welcoming city or town centre environment.

10. Summary costs and benefits table

	Quantified Costs	Quantified benefits	Unquantified costs	Unquantified benefits
Option 1	-	-	-	-
Option 2	To business £900m	To government and individuals £188m	Cost of raising revenue	Long term area benefits
Option 3	To business: Voluntary £6.2m Charged £2.4m	To government and individuals from reduced crime £28m Revenue to government £2.4m	Cost of raising revenue Opportunity cost for CDRP staff	Long term area benefits

10.1 The net benefit for option three is +£21.8 million compared to a large net cost to option two and no net benefit of option one. The quantified benefits outweigh the quantified costs.

10.2 The large net cost quantified above for Option 2 can be explained by the fact that it is not a targeted measure. This is a blanket measure and would charge businesses in local authority areas where there was no problem with alcohol-related disorder, or where levels of disorder were minimal. The vast majority of alcohol-related disorder occurs in a small number of high crime areas, and so this large net cost is not surprising.

11. Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

SignedVernon Coaker

Date 31st March 2008

**Vernon Coaker, Parliamentary Under Secretary of State for Crime Reduction,
Home Office**

Mark Cooper at the Home Office can answer any queries relating to this instrument (telephone 020 7035 1827 or email Mark.Cooper16@homeoffice.gsi.gov.uk).

ANNEX A (RIA)

Sensitivity analysis on Option 3 Benefits

If we readjust our cost per crime to be £700 for common assault, £2100 for less serious wounding and £10,000 for a more serious wounding then we see the following benefits

TIER	EXAMPLE	BENEFIT	LIKELY NUMBER OF ZONES IN TIER	WHOLE TIER BENEFIT
1: Large city	Manchester	£2,506,597	5	£12,532,987
2: Medium sized city or town	Peterborough	£782,985	15	£11,744,772
3: Small town or city	Lichfield	£206,884	10	£2,068,837
			TOTAL BENEFIT	£26,346,596

These costs are for illustration only. Reducing the cost of common assault reduces the benefits of ADZs but similarly increasing the cost of woundings increases the benefits. Here the effects of the new costings lead to a slight reduction in the benefit.

Update to RIA following consultation

Following Royal Assent, we undertook further consultation with statutory and other key stakeholders on the draft regulations and guidance.

The feedback received is outlined in Annex B of the Explanatory Memorandum. Following this feedback, we have sought to increase the safeguards including the discounts and exemptions for businesses affected through clarification of the charging mechanism.

This includes the assurance reiterated in the Guidance that Alcohol Disorder Zones are a measure of last resort and the inclusion of a series of safeguards such as specification of the additional services to be received in a designated zone.

The charging formula also includes use of the ‘patronage’ and ‘principal use’ test to exempt those establishments whose primary purpose is not the supply of alcohol. Discounts up to 90% are also available where the license holder is not open during the service period; where the steps set out in the Action Plan are implemented; and where a license holder is a member of a suitable accreditation scheme.

Feedback from stakeholders also led to the use of licensed premises’ rateable value as the most generally recognised and accepted indicator of capacity and the measure being adopted.

We believe that the Regulations and Guidance strike a proper balance between ensuring that action can be taken appropriately to reduce alcohol related crime and disorder in designated zones and ensure greater collective responsibility to reduce alcohol misuse, whilst ensuring that sufficient safeguards are in place to protect properly run businesses.

Alcohol Disorder Zones are indeed a measure of last resort and should only be considered where all other approaches have been considered and deployed. The Government prefers that wherever possible a voluntary partnership approach should be adopted but believes that where this fails to protect the public from alcohol related crime and disorder, Alcohol Disorder Zones provide the mechanism for focused work to improve community safety.

ANNEX B (EXPLANATORY MEMORANDUM)
CONSULTATION SUMMARY

1. Stakeholders Consulted/Responding to Consultation

Local Authorities

Local Government Association (LGA)
Welsh Local Government Association (WLGA)
Society of Local Authority Chief Executives (SOLACE)
London Councils
Local Authorities Co-ordinators of Regulatory Services (LACORs)
Brighton and Hove Council
London Borough of Camden
Lancaster City Council

Police

Association of Chief Police Officers (ACPO)
Police Superintendents' Association
Police Federation
British Transport Police

Police Authorities

Association of Police Authorities (APA)

Alcohol Retailers

British Beer and Pub Association (BBPA)
Bar Entertainment and Dance Association (BEDA)
Association of Licensed Multiple Retailers (ALMR)
Wine and Spirit Trade Association (WSTA)
British Retail Consortium (BRC)
Association of Convenience Stores (ACS)
Federation of Small Businesses (FSB)
British Hospitality Association (BHA)
The Co-Operative Movement
British Institute of Inn Keeping (BII)
Business in Sport Limited (BISL)
Mitchell and Butlers
Punch Taverns

Members' Clubs

Central Council for Physical Recreation (CCPR)
Committee of Registered Clubs Association (CORCA)

Others

Welsh Assembly Government
Alcohol Concern
The Commission for Local Administration in England
Public Services Ombudsman for Wales

2. Key points arising from consultation

2.1 A number of key themes and points came across in the consultation which covered both the ADZ Regulations and Guidance.

2.2 Alcohol retailers from the off and on trade were predictably strongly opposed to ADZs for a number of reasons including the following arguments:

- preference for a voluntary partnership approach and use of Business Improvement Districts rather than designation
- regulatory and financial burden that business might incur, and concerns about levels of charging if un-regulated
- belief that the Licensing Act 2003 provides a sufficient regulatory framework for regulating the sale of alcohol at the point of sale
- concerns about the practicability of the charging formula and preference for use of rateable value
- preference for longer timescales to consultation and formal avenues of independent appeal
- sector representations with regards the case for discounts and exemptions

2.3 Statutory stakeholders were broadly supportive of any measure which is designed to reduce alcohol related crime and disorder but raised the following issues:

- some feared that ADZs were complex to use and would prefer a simpler charging mechanism
- some would have preferred a set threshold at which level ADZs would be deployed, and feared that data collection to prove the case might be difficult.
- some would preferred a charging mechanism without having to invest so much effort in terms of service prior to the possible charging stage.

2.4 The government has sought to strengthen the process and safeguards in response to the consultation. It recognises that respondents have raised issues of genuine concern to them, but believes the link between the misuse of alcohol and crime and disorder in the public space warrants further action as outlined in the ADZ regulations and guidance. Specifically, it has accepted that rateable value of premises

should be one of the measures used to determine charges where applicable, outlined clearly in the Guidance the process to be followed, and sought to include discounts and exemptions as necessary to reward well run premises who meet their obligations as defined in action plans. It also recognises that ADZs should be used as a measure of last resort and has strengthened its guidance accordingly.

2.5 However, the Government does not accept all the criticism that was made and believes that the structure it has outlined provides a balanced approach allowing for sufficient flexibility to ensure that local circumstances can be accounted for whilst providing sufficient consistency to ensure a fair approach for all concerned.

3. Consultation on the revised Guidance in March 2008

3.1 From January to March 2008 the Guidance was revised to improve explanation of the existing policy.

3.2 In addition to the consultations outlined in sections 1 and 2 of this annex, the revised Guidance has also been seen and commented on by the British Beer and Pub Industry, the Wine and Spirits Trade Association, the British Retail Consortium, LACORS and the LGA. This consultation took place in March 2008 and the Guidance was revised in light of the comments received. Some of the comments, and subsequent revisions to the Guidance, are outlined in the tables below.

3.3 British Beer and Pub Association and the Wine and Spirit Trade Association comments

Comment	Response
The guidance still needs to explain more clearly that if the ADZ continues after the initial three months, the charge must be reduced because it will relate only to the enforcement activity and will no longer need to cover the set-up charges. If this is not the case, we believe it will be open to legal challenge	The Guidance says, “It is expected that these costs will be recovered over the first three months of ADZ charges (before the first ADZ review), and that as a consequence the level of charges will be reduced after this period.” Page 20
There is still no indication of what might constitute reasonable financial contributions under an action plan or an ADZ	Disagree. Placing a limit on charges would require amending the original ADZ policy as agreed by Ministers and Parliament.
The recognition in the previous draft guidance of the role of BIDs and other partnership initiatives appears to have been lost in the re-drafting. The revised draft guidance should be more robust in encouraging a general partnership approach. We remain concerned that the ADZ legislation has the potential to undermine existing partnership arrangements	The Guidance says, “Voluntary partnerships between local authorities, the police and licence holders, backed by enforcement activity where necessary, are the Government’s preferred way of working to reduce alcohol related disorder.” Page 7
The Action Plan should not impose blanket conditions on premises within the zone, but should be a mechanism to address and find solutions to key	Disagree. It is conceivable that there will be cases where a voluntary Action Plan

<p>issues affecting the zone. The previous draft guidance had taken on board our concerns in this respect, but the emphasis appears to have been lost in the re-draft</p>	<p>measure to improve operating practices could constructively apply to all licensed premises in a specified locality.</p>
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3.4 LACORS comments

Comment	Response
<p>Whilst the charging process is better in that now have the option to charge at Action Plan stage will still reiterate that it is unlikely that the full costs of implementing an ADZ will be fully met by recharging.</p>	<p>Disagree. This would require amending the original ADZ policy as agreed by Ministers and Parliament.</p>
<p>Further more the fact that the responsibility for collecting the charge and reimbursing others lies with the LA – the LAs will have to be responsible for paying other parties for the costs they incur irrespective of whether the charge is paid while it goes through the extremely bureaucratic and time consuming process of attempting to recover charges due!!! (Appreciate it relates to LA03 but surely if licences can be suspended for non payment of ADZ related fees, there should be provision in the Act to allow premises licences to be suspended for non payment of annual fees!)</p>	<p>Section 15(1) of the Violent Crime Reduction Act 2006 says, “The Secretary of State may, by regulations, make provision for the imposition by a local authority of charges to be paid to the authority.”</p>
<p>Can you advise what you based you cost calculations on for the LA costs in the table on page 18?</p>	<p>The figures are for illustration purposes only.</p>
<p>The main concern with the document is the use of the term “local authorities” throughout (particularly pages 10/11) without further detail and guidance as to who has the responsibility for the decision making process. The guidance HAS to include details on whether this is to be done at the full Council, Executive, Licensing Committee or delegated to the Licensing Officer etc. Without this guidance there could be inconsistent approaches taken. Or if it is the government’s intention that LAs can decide their own approach then this needs to be explicitly stated in the guidance to mitigate any possible calls from the trade of inconsistency of approach. The government may want to cite good practice as being for example to hold a licensing committee hearing with representations from interested parties before embarking on an action plan</p>	<p>The Guidance says, “Regulations 25 and 26 provide that the power to designate an ADZ is not a function of the local authority executive. The expectation is that the full council will make decisions on whether to designate a locality, leaving the flexibility to implement an ADZ delegated to either the Cabinet or a committee of the local authority” Page 17</p> <p>The Guidance also says, “Regulations 25 and 26 provide that the power to revoke an ADZ is not a function of the local authority executive. The expectation is that the full council will make revocation orders. Reviews should therefore be conducted by a full council, given that revocation of an ADZ is one of the available options.”</p>

	Page 28
The guidance on page 10 sets out 8 matters which must be included in a notice (which would make the notice run to several pages!) goes beyond the 4 set out in the draft ADZ regs which include the invitation to make reps within 28 days. (see 4 (1)of regs)!! he requirement to is provide licence holders with all of this information and either provide details to other parties (eg RAs, BTP etc) or to let them know where they can get that information.	The Guidance mentions the contents of a proposal notice that must be included according to the regulations, and those that may be included in appropriate cases. Page 11
The suggested requirement in page 10 that LAs "should also consult" should read "may wish to consult"... What purpose would there be in consulting a neighbouring LA if the ADZ were in the centre of the LA – many miles away from the boundaries of neighbouring authorities? It's over burdensome to state "should".	The Guidance says, "The local authority should also consult [councils responsible for areas just outside the proposed zone] where they are likely to be affected by the proposed ADZ." Page 12
The suggestion to consult "licence holders just outside the zone" lacks definition and clarity	The Guidance says, "The local authority should also consult the following parties where they are likely to be affected by the proposed ADZ: councils responsible for areas just outside the proposed zone (for example in neighbouring streets or roads)" Page 12
Similarly "those responsible for non-licensed business premises" – This could run to hundreds of businesses that are closed during the period those within the ADZ are operating.!! At most this should be "may wish to consult" but even then you are talking about a potentially huge exercise, which could be avoided by consulting with local business organisations such as the chamber of commerce.	The Guidance says, "The local authority should also consult the following parties where they are likely to be affected by the proposed ADZ: local business organisations (such as the chamber of commerce), and, where possible, those responsible for non-licenced businesses" Page 12
As well as advising the Secretary of State of a decision not to progress an ADZ, wouldn't it be good practice for LAs to publish a simple public notice to that effect to let residents etc know?	The Guidance says, "It is good practice for local authorities to inform local residents of a decision not to progress a proposal by means of a notice in public places and/ or a local newspaper." Page 13
What, if any, is the timescale for publicising a	The Guidance says,

<p>formal order, should it decide to go ahead with an ADZ?</p>	<p>“Such notification by formal order, and of licence holders, should be made by the local authority as soon as possible following a decision to designate a locality.” Page 18</p>
<p>The paragraph “if only a few licence holders have failed to implement the Action Plan, RAs should consider use of powers under the LA 03 as an alternative to a designation of an ADZ” is contradictory to the whole basis of the ADZ process, which is to only start going down that route if all other avenues (including powers in LA03) have been exhausted!</p>	<p>The Guidance says, “If only a few of the licence holders have failed to implement the Action Plan, responsible authorities (as defined at section 13(4) of the Licensing Act 2003) should reconsider use of powers under the Licensing Act 2003 as an alternative to designation of an ADZ.” Page 17 The circumstances under which use of the Licensing Act provisions are reconsidered may differ from those before an ADZ was proposed.</p>
<p>As currently written the examples of services that can charged for, appears to be an exhaustive list – it needs to be clear these are only examples and other services may also be required and charged for.</p>	<p>The Guidance says, “Regulation 11 provides that any non-baseline services by the local authority, the chief officer of police or the British Transport Police in or in connection with the ADZ (including the above examples) can be paid for by compulsory charges.” Pages 18-19</p>
<p>Will reiterate our concern that hotels will be exempt, as may councils have a large number of stag and hen hotels where drinking on the premises is an issue.</p> <p>Also restate our concerns about the plan to remove the requirements for village halls/other such community facilities to have a DPS. This could potentially mean that more such premises apply for premises licences with option to sell alcohol... and therefore could be caught by ADZ (particularly as there is evidence that such premises are often quite problematic when just using TENs). It is going to be much more difficult to charge these premises as they are often hired out to different people every night of</p>	<p>Disagree. This would require amending the original ADZ policy as agreed by Ministers and Parliament.</p>

the week and the guidance needs to reflect how this would be addressed.	
the process is very bureaucratic and will be resource intensive to manage/administer. This is particularly the case in terms of calculating charges, allowing for discounts, providing statements, exemptions, etc and will only serve to increase the debt already borne by authorities as result of LA03.	Disagree. This would require amending the original ADZ policy as agreed by Ministers and Parliament.
having an ADZ will not enhance the nighttime economy or reputation of the area as it is a last resort attempt at dealing with a no go area. There will also be issues of managing expectation among local communities as potentially all residents living in areas with a high density of licensed premises want an ADZ although the implications attached to living in an area considered "out of control" may temper this as it could have negative consequences in terms of the wider image of the area .	Disagree. This would require amending the original ADZ policy as agreed by Ministers and Parliament.

3.5 LGA comments

Comment	Response
LGA agrees with the detailed comments provided by LACORS	See above
The LGA maintains that ADZs will prove to be a costly, complicated and an unwieldy tool for local authorities, particularly the costs involved in preparing and implementing an ADZ and the additional burdens involved in attempting to recover these costs	We believe that the process of preparing and implementing an ADZ strikes the right balance between minimising bureaucracy and ensuring that there are sufficient checks and balances.
Turning to the guidance itself; the LGA strongly supports the LACoRS comment regarding clarity of responsibilities for decision making processes. Given the possibility of challenges to the imposition of an ADZ, It is crucial that the guidance is clear on whether local authorities have the discretion to delegate the decision to a decision-making body of their choosing or whether the Government, via the guidance, specifically states which decision-making body in a local authority should make the decision. The LGA preference would be for the local authority to determine the level at which the decision is made but the guidance must reflect that.	See above

3.6 British Retail Consortium comments

Comment	Response
<p>Whilst we recognise there is now further emphasis on the last resort nature of ADZs, we also think that reference should be made to this on the flow diagram starting on page 4. We thought that this diagram should make the point of the last resort nature and that all other avenues have already been tried.</p>	<p>The Guidance says, “Important note: ADZs are a measure of last resort. Therefore the process set out above should only be commenced by local authorities when all other tools available to that authority, and to the police, for reducing high levels of alcohol related nuisance or disorder have proven insufficient to address the problems.” Page 6</p>
<p>On page 9, we have concerns about the ‘indirect evidence’ section, especially the link between data on attendance in A&E and the reasons for these admissions. By stating ‘this data could suggest that...’ This could lead to officials making unjustified links between the two, which is not appropriate justification for moving to the ADZ process. We believe evidence should be more focussed on the facts than tenuous links. Indeed, with particular reference to the off trade, two out of the three types of indirect evidence are not related to the way in which alcohol is sold in our premises.</p>	<p>The Guidance says, “Indirect evidence may support direct evidence in justifying a proposal to designate a locality, but it will not be sufficient by itself.” Page 10</p>
<p>We did not think the reference to possible widening of the area at consultation stage (p. 11) was a helpful point to make – surely any extension of the zone would not just need the consultation stage to be repeated but for everything to start again – evidence would need to be gathered on the additional licensed premises, other measures would need to be tried etc...rather than just moving immediately to the consultation stage.</p>	<p>The Guidance says, “If, following the consultation the area is widened to include other licence holders, the process of proposing to designate a locality will have to be re-started.” Page 12</p>
<p>Indeed, we also thought that reference should be made to the action plan stage at this stage too – paragraph 2 on page 11 goes straight into providing information on the compulsory charging level without saying anything about possible voluntary contributions, or anything about the action plan that may be developed. We thought all license holders should be told the full process at this stage.</p>	<p>The Guidance says, “‘It is good practice, as part of the consultation, for local authorities to inform license holders on what measures are being considered for inclusion in a voluntary Action Plan, should that local authority decide to progress the proposal to designate an ADZ. The local authority may also indicate what voluntary</p>

	<p>financial contributions may be requested from license holders if this information is available.”</p> <p>Page 12</p>
<p>on page 15, under ‘sufficient progress’ we think it should be made clear that this demonstration includes ‘appropriate ‘contributions. For example, if a premises already has CCTV, they should not be penalised for not installing CCTV at the action plan stage, as clearly that action plan point is not applicable to them. Voluntary contributions should be related to the additional services as appropriate to their business and the type of premises and what they already have in terms of these measures needs to be acknowledged.</p>	<p>Disagree. This would require amending the original ADZ policy as agreed by Ministers and Parliament.</p>
<p>As highlighted by the WSTA [Wine and Spirit Trade Association] and BBPA [British Beer and Pub Asscciation], page 17 should make it clear that the charge will reduce after the first 3 months once the administrative costs have been recovered.</p>	<p>The Guidance says, “‘It is expected that these costs will be recovered over the first three months of ADZ charges (before the first ADZ review), and that as a consequence the level of charges will be reduced after this period.”</p> <p>Page 20</p>
<p>Page 18. We are still unhappy with rateable value being used as part of the charging formula, for reasons already expressed.</p>	<p>Disagree. This would require amending the original policy as agreed by Ministers and Parliament.</p>
<p>Page 19. Again, we assert that off trade premises should automatically be in the lowest band. Realistically, the level of additional services the off trade will benefit from will be significantly less than the on trade and this should be reflected in the way the charge is apportioned. This is also a relevant point to make when reading page 20, para 2.</p>	<p>Disagree. This would require amending the original policy as agreed by Ministers and Parliament.</p>
<p>Page 20 – We remain disappointed that no reference has been made to a discount for stores that remain open but choose not to sell alcohol. Many convenience stores provide an essential service to their community and would not want to shut as that would deprive the public of that service, however, they may choose to not sell alcohol. This should be recognised by a discount in the charge.</p>	<p>Regulation 13 specifies the circumstances under which discounts may be given.</p>
<p>Page 22. We would welcome clarity on para 4 with reference to the ‘proportion of alcohol related sales’ – how will the proportion be measured? Is this by financial value or volume or items etc...the particular way of measuring this would be key in terms of data measurement and collection. Also,</p>	<p>The Guidance says, “‘In such cases, local authorities should request information about the volume of alcohol and non-alcohol transactions in the three</p>

'alcohol-related' should be clarified as, currently, this could be interpreted quite widely...would corkscrews or glasses count for example? A minor point but the word 'related' does through up some questions.

months preceding the proposal to designate an ADZ.”
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