

REPORT TO: Executive Board
DATE: 8 April 2010
REPORTING OFFICER: Chief Executive
SUBJECT: Byelaw on Minimum Price of Alcohol
WARDS: Borough-wide

1.0 PURPOSE OF THE REPORT

1.1 To consider a request made to the Council to introduce a byelaw on the minimum price of alcohol.

2.0 RECOMMENDATION: That

- (1) the Executive Board support the introduction of a byelaw on the minimum price of alcohol;**
- (2) subject to the approval of Full Council the Chief Executive be authorised to take all necessary steps to introduce a byelaw on the minimum price of alcohol; and**
- (3) the Chief Executive be authorised to support the efforts of other local authorities and organisations in achieving a minimum price for the sale of alcohol.**

3.0 SUPPORTING INFORMATION

- 3.1 There is currently no national legislation which imposes a minimum unit price for alcohol or makes it possible for local authorities to impose a minimum price.
- 3.2 The Council has been contacted by the campaigning organisation 'Our Life' with a view to introducing a byelaw to impose a minimum unit price of 50p per unit for the sale of alcohol. Other local authorities in the North West are also being approached. The attached paper provides the case for minimum pricing.
- 3.3 Byelaw-making powers exist in a number of statutes but this proposal relates to the 'good rule and government' powers in section 235 Local Government Act 1972. The proposal is to develop a model byelaw which would be approved by the Secretary of State and which could then be adopted by local authorities knowing that they would be confirmed by the Secretary of State.
- 3.4 The Board is advised that there is a risk such a byelaw is unlikely to be approved by the Secretary of State for the following reasons:

- 3.4.1 There are a number of tests that a byelaw must pass if it is to be valid and enforceable (let alone if it is to stand a chance of being confirmed by the Secretary of State). The relevant test for present purposes is that a byelaw must not be repugnant to the general law. A byelaw is not repugnant to the general law merely because it creates a new offence and says that something shall be unlawful which the statute or common law does not expressly say is lawful. It is repugnant if it makes unlawful that which the general law says is lawful, or, on the other hand, if it purports to do something inconsistent with the general law.
- 3.4.2 There is no mention in the proposal of maintaining the value of the unit cost in real terms (i.e. inflation-proofing). This is not a concept that is dealt with in byelaws but is relatively simple to achieve in statutory instruments.
- 3.5 However, as Our Life point out, “regardless of whether Section 235 is used and the proposed byelaw is approved, it would represent an appropriate and direct means of voicing the minimum unit price objective.” In other words, the byelaw proposals may be seen as a wider campaigning device, ultimately resulting in national legislation. This was the case in respect of the anti-smoking legislation introduced a couple of years ago

4.0 POLICY IMPLICATIONS

- 4.1 Under the Council’s Constitution making and amending byelaws is a function reserved to full Council. But this proposal falls short of actually making a byelaw and can be dealt with by the Executive Board.
- 4.2 The issue for the Board to consider is whether it should get involved with a campaign for changing the general law.
- 4.2 The proposal does not cut across the jurisdiction of the Regulatory Committee.

5.0 OTHER IMPLICATIONS

- 5.1 The budget implications are unclear. No request for contribution towards the costs of the campaign have been received.

6.0 IMPLICATIONS FOR THE COUNCIL’S PRIORITIES

6.1 Children and Young People in Halton

The proposal would contribute towards the Council’s objectives.

6.2 Employment, Learning and Skills in Halton

N/a

6.3 A Healthy Halton

The proposal would contribute significantly towards the Council's Objectives.

6.4 A Safer Halton

The proposal would contribute significantly towards the Council's Objectives.

6.5 Halton's Urban Renewal

N/a

7.0 RISK ANALYSIS

No special risks have been identified.

8.0 EQUALITY AND DIVERSITY ISSUES

N/a

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

None under the meaning of the Act.