

Alcohol Focus Scotland Response regarding the Licensing Board's Draft Licensing Policy Statement



Alcohol Focus Scotland is pleased to have the opportunity to offer comments on the Licensing Board's Licensing Policy Statement. We recognise the statement is an important overarching document which clearly sets out the Board's overall approach to licensing issues. It also presents an opportunity for the Board to indicate the process and type of evidence that will be collected and considered.

As Scotland's national alcohol charity, we have focussed our comments on the "protecting and improving public health" licensing objective. However, as actions taken under the other four objectives can also impact on public health, we have commented on these as appropriate.

We are aware that the public health objective has proved to be a challenge for many Licensing Boards. It is the view of Alcohol Focus Scotland that more work could usefully be done to collect appropriate evidence for this objective and also to find ways to link in with the bodies already collecting such data. We recognise there are also issues in interpreting this data and relating it to localities and our organisation is keen to work with Licensing Boards to provide further assistance in this area. The Scottish Government has indicated that it will revise the guidance accompanying the Licensing Act and this presents an important opportunity to increase the efficacy of the public health objective. Alcohol Focus Scotland will engage with the Scottish Government on the process of rewriting the guidance and will also seek to develop further information and support for Licensing Boards as required.

1. Background

The purpose of liquor licensing has always been to protect the public and shape social behaviour.

"The roots of the licensing legislation lie in the desire of governments to impose a social control on the drinking habits of the population..."¹

This aim is now included within the stated objectives of the Licensing (Scotland) Act 2005. When liquor licensing fails in meeting these objectives, it risks becoming nothing more than a bureaucratic process.

Health concerns underpinned the development of the Licensing (Scotland) Act 2005. When the Nicholson Committee was set-up to review the 1976 Licensing Act, its remit was:

"To review all aspects of liquor licensing law and practice in Scotland, with particular reference to the implications for health and public order; to recommend changes in the public interest; and to report accordingly".²

The policy memorandum accompanying the Licensing (Scotland) Bill states that one of the Bill's aims is "to promote an environment for social drinking that was safe and welcoming for all"³. Alcohol Focus Scotland recognises the work Licensing Boards throughout the country have done to progress this, particularly in the on-trade. We would encourage Licensing Boards to continue this good work but we would also like to suggest that Boards broaden their focus to consider the increasing impact of off-sales on public health.

The 2005 Act is strongly on-trade focussed and reflects the alcohol policy at that time which focussed predominantly on binge drinking and harmful drinking by children and young people. However, over

the last few years, the Scottish Government's alcohol policy has moved away from focussing on specific sections of the population to consider the levels of alcohol-related harm across the whole population as can be evidenced in the alcohol policy document "*Changing Scotland's Relationship with Alcohol: A Framework for Action*" (2009).

"Alcohol misuse is no longer a marginal problem with up to 50% of men and up to 30% of women across Scotland exceeding recommended weekly guidelines. That's why we are aiming, consciously, to adopt a total population approach....Our approach is targeted at everyone including 'ordinary people' who may never get drunk but are nevertheless harming themselves by regularly drinking more than the recommended guidelines. If we can reduce the overall amount that we drink in Scotland...then we will all reap the benefits."

In addition to a change in the policy focus, there has been a significant shift in alcohol consumption patterns. NHS Health Scotland's analysis of alcohol sales data (2005-2009)⁴ reveals that 68% of alcohol is purchased through off-sales.

The shift in drinking behaviour requires policy action which reflects these changes and the Alcohol Etc. Bill includes a range of measures specifically designed to address some of the irresponsible practices in off sales including implementation of minimum unit pricing. The policy memorandum accompanying the Bill makes it clear that the purpose of the measures is to reduce overall alcohol consumption in the population in an effort to reduce the harm caused by alcohol. Licensing Boards will similarly want to widen their focus to address the problems associated with off sales, in particular the volume of alcohol sold and the irresponsible practices of the large supermarkets.

Alcohol Focus Scotland recognises that Licensing Boards have to consider economic and business needs in their area. However, Boards must also be concerned with the health and well-being of the people they serve. Boards must think carefully about whether or not granting new licences or longer licensed hours will compromise public health.

2. Overprovision

Any overprovision assessment should take into consideration the effects of all of the different types of licensed premises in an area. It is up to the Board to decide which size of area to consider the effects across – whether this is in small localities such a street or neighbourhood, or larger areas such as a district or region.

We recognise the good work that most Boards have undertaken work with the police to consider the impact of crime, public nuisance and public safety, particularly in relation to on-licence premises. We suggest that a different approach needs to be taken with regards to off-sales, as people often travel significant distances to purchase cheap alcohol, especially to larger supermarkets. Research carried out in West Dunbartonshire indicated that people will travel up to 2 miles to purchase alcohol from a large supermarket. Clearly, the impact of large supermarket purchases will affect a much wider radius than Licensing Boards have traditionally considered.

It is also the case that people are mobile so may do their drinking in more than one premises, in addition to purchasing alcohol for consumption at home or in other places. This presents considerable difficulties for Boards who may be seeking to link problem issues to individual premises. Alcohol Focus Scotland recommends that Licensing Boards take a wider approach in considering overprovision and consider data across larger localities. We also strongly recommend that the Licensing Board investigate the full range of useful data available and work with Health Boards, Police and Environmental Services and others to identify what information would be useful and could reasonably be collected for future consideration.

3. The 5 Objectives and Sources of Useful Data

Having looked at the breadth of data that Licensing Boards across Scotland are considering in order to inform their licensing policy statements, we suggest the following types of data be examined:

3.1 Preventing crime and disorder

Commonly available statistics are:

- Breach of the Peace incidences
- Common Assault incidences
- Consumption of alcohol in designated places incidences
- Drunk and Incapable incidences
- Vandalism/ Fire raising etc incidences

In the licensing process, only incidents within a certain radius of licensed premises are considered, often this is in the region of 50m. Given that alcohol purchased in off-sales or supermarkets is frequently transported a much greater distance before it is consumed, we recommend that this radius is made much wider for off-sales premises. In addition we recommend that more attention is paid to the alcohol-related offences that take place in public spaces and in the home. This will help to provide evidence of the link between off-sales and crime and disorder.

3.2 Securing public safety

Public safety includes crime and also the fear of crime. Alcohol Focus Scotland suggests that information from community surveys, such as "The Ripple Effect"⁵ should be considered. This will give a reasonable indication of the fear of crime in relation to alcohol. Calls to the police about alcohol-related incidents should also be included.

Many Licensing Boards recognise the impact that environment has on behaviour and a number of suggestions are made about the importance of the layout of on-licence premises, eg the seating arrangements and tables. Alcohol Focus Scotland supports this approach. There is a considerable body of research, including a study conducted in Glasgow⁶ that shows that the drinking environment affects behaviour and the amount of alcohol consumed. The layout and standards in off-licensed premises also impacts on the behaviour of customers. This is particularly important when you consider that staff working in off-sales have a heightened risk of becoming victims of aggression and violence often linked to refusal of service or prevention of shoplifting. For off-sales, we suggest that the following could be added to the Licensing Policy Statement's examples of good practice:

- Controlling access to alcohol to prevent underagers and drunks attempting to buy them. This also reduces shoplifting and impulse purchasing. Bottles and cans can be used as weapons so controlling access to them will reduce this possibility.
- Precautions should be taken to ensure the safety of staff, especially lone workers and those working late at night. This could include panic buttons.
- Ensuring that prices are clear to customers in order to avoid potential sources of dispute.
- High standards, both in the physical standard of the premises (cleanliness, attractiveness etc.) and in the standard of the service demonstrate that good management is being applied and that reasonable standards of behaviour are expected. This helps to deter underage persons, agents, and those intending to shoplift etc. The exterior and interior should be clean, uncluttered and well-lit.

- Use of a refusals book or incident book to log everyone who has been refused service and to ensure all staff know of any problems that have been experienced.
- Use of external security lights to ensure that the area around the shop is well lit to discourage nuisance people from congregating outside.
- Refusing to sell to under 21s. In general, youth groups congregate near to their source of alcohol. Raising the purchase age required for alcohol will prevent group members aged 18 to 20 years old acting as agents for the younger group members.

3.3 Preventing public nuisance

Public nuisance includes litter, noise and light pollution. Alcohol Focus Scotland accepts that off-sales premises do not have the same influence over the behaviour of their customers when consuming alcohol as on-licence premises. However, alcohol is not an ordinary commodity and all licensed premises must take some responsibility for the negative consequences of excessive drinking.

Many Boards include some excellent examples of 'public nuisance' relating to on-licence premises within their Licensing Policy Statements. Alcohol Focus Scotland would like to see further examples added that relate more specifically to off-licence premises and we suggest the following:

- Examining litter from outside drinking (eg. in parks). This can often be a considerable distance from the place of purchase. Statistics could be gathered from Litter Teams and Community Wardens about the amount of bottles, cans and plastic bags, etc in public places. This could give an indication of alcohol-related problems and which premises they are linked to.
- Taking into account instances of young people congregating nearby licensed premises, since this may be an indication of agent purchase activity eg. they may be asking members of the public to purchase alcohol for them.

3.4 Protecting and improving public health

Alcohol Focus Scotland acknowledges that "protecting and improving public health" requires a new way of thinking which is challenging. We are also aware that there has been some difficulty in collecting useful health statistics. We are committed to working with Licensing Boards and Health Boards on this issue over the next few years in order to identify any gaps and data collection methods. Some suggested sources of data are:

- The overall health problems in the area as evidenced in the documents produced by each of the Community Health and Care Partnerships and the Alcohol and Drug Partnerships.
- The results of community surveys.
- The number of alcohol related deaths.
- The number of people accessing services (both NHS and voluntary sector services) for alcohol issues.
- The number of arrests for selling alcohol to a drunk person.
- The number of ambulance calls related to alcohol.
- The number of hospital admissions related to alcohol.
- General acute inpatient and day case discharges with alcohol related diagnosis.
- Total alcohol related discharges, emergency admissions and emergency admissions by day of admission.

We suggest that the following may be examples of how public health could be promoted, particularly in off-sales settings:

- Health information prominently displayed beside alcohol products.

- Controlling access to alcohol.
- Limiting licensed hours.
- Displaying alcohol away from tills to discourage impulse alcohol purchases.
- No promotions that include alcohol, such as a 'meal for two with bottle of wine'.
- Alcoholic products and offers for alcohol should not be displayed in the window (with an exception for specialist off-sales).

The Board may also wish to consider the environment in off-sales premises. For example:

- Where premises offer groceries for sale, there could be a limit set on the amount of shelf space allowed. Grocery stores and supermarkets are often granted licences on the basis of the grocery services they provide, therefore limiting the space available for alcohol is reasonable.
- Limit the amount of alcohol that can be purchased in one sale.
- Large premises should ensure that alcohol is situated away from the door in order to deter theft, and also not placed at the tills prompting impulse purchases.

3.5 Protecting children from harm

There has been much work over the last few years to encourage on-licence premises to create family friendly environments which allow families to socialise safely together and this is to be applauded. Alcohol Focus Scotland would like to encourage Licensing Boards to progress further in this area. 'Protecting children from harm' must also include the impact of adults' drinking on children and young people. In on-licence premises, policies should be in place to prevent excess alcohol consumption by adults who are accompanied by children. It should also be recognised that reducing access to alcohol for adults will benefit children as estimates indicate that 65,000 children in Scotland live with a problem drinker⁷. Untold Damage, a recent report from Childline in Scotland and Scottish Health Action on Alcohol Problems⁸, shows that children calling the helpline are frequently worried by a parent's drinking and sometimes seriously affected by their parents' resulting behaviour.

In larger grocery stores, especially supermarkets where families do the weekly shopping, extra information should be included on the effects of parental drinking on children in appropriate places (eg. beside nappies, baby food, children's clothes and toys). This would help raise awareness amongst parents of the effects their drinking can have on their children and the need for at least one parent to remain fully competent when responsible for a child.

Licensing Boards have taken a strong line on premises that have been found to sell alcohol to underage persons, which is also to be applauded. However, we know that underagers will also try to access alcohol through other means. Some further statistics that may be of use in identifying the size of the problem are:

- Number of Social Work cases involving alcohol consumption and young people.
- Number of domestic abuse cases involving alcohol.
- Number of successful and unsuccessful test purchases.
- Number of exclusions from school involving alcohol.
- Number of offences related to agent purchasing.

For More Information

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References

- 1 *The Licensing (Scotland) Act 1976*, Allen and Chapman. Fourth Edition
- 2 *Review of liquor licensing law in Scotland*, The Nicholson Committee, Scottish Executive 2003
- 3 *The Licensing (Scotland) Bill Policy Memorandum*, Scottish Executive, February 2005
- 4 *Analysis of alcohol sales data, 2005-2009*, Monitoring and Evaluating Scotland's Alcohol Strategy, NHS Health Scotland 2010
- 5 *The Ripple Effect*, commissioned by the Communities Sub-group of the Glasgow City Addictions Planning and Implementation Group and co-funded by the Communities Sub-group and the Greater Glasgow and Clyde Alcohol Action Team, 2008
- 6 *Factors associated with alcohol-related problems within licensed premises*, NHS Greater Glasgow, February 2005
- 7 *Changing Scotland's relationship with alcohol: a discussion paper on our strategic approach*, Scottish Government, 2008
- 8 *Untold Damage: children's accounts of living with harmful parental drinking*, Childline in Scotland and SHAAP, 2010

Date

Dear

I am writing to inform you of some of the work being carried out by Alcohol Focus Scotland at a national level to further progress the links between licensing and public health.

We are aware that since the implementation of the Licensing (Scotland) Act 2005, many Licensing Boards have indicated that they wish more guidance on what is meant by the objective, "protecting and improving public health" and how this can be applied in a practical manner. Equally we are that many health professionals are becoming involved in liquor licensing for the first time and are still working to understand both the potential and the limitations of licensing in terms of public health. One area that has taken a bold approach to these issues is West Dunbartonshire, however there are also some excellent examples of good practice from other Boards. It is our intention to include these on the licensing section of our website <http://www.alcohol-focus-scotland.org.uk/licensing>.

- We are aware that there is some debate over the level of statistical evidence and 'causal link' required to influence statements of licensing policy, and we can see this reflected in the various approaches to overprovision statements. We are working with a small group to produce a good practice guide on making over provision assessments which we will then make available to all Boards and Forums (hopefully before June).
- Again with the support of a small working group, we have made recommendations to the Scottish Government on changes that we think should be made to the Licensing Guidance to better support the public health objective and which also touches on these issues of data collection, causal link, etc.
- Alcohol Focus Scotland and SHAAP (Scottish Health Action on Alcohol Problems) have commissioned a QC to give a legal opinion on these issues and to what extent licensing and public health can work together.
- We are convening a 'high-level expert group' at the Royal College of Physicians in June to agree a robust scientific, academic and legal evidence base for assessment of overprovision and the public health objective.

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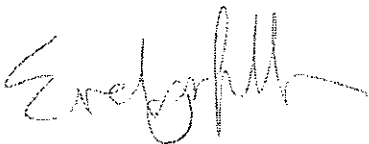
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It is our intention to work with Licensing Boards to produce accessible resources. I look forward to sharing the results of these with Licensing Boards, Local Licensing Forums and Alcohol and Drug Partnerships throughout Scotland to further inform their future work. In the meantime we are aware that there is work being done in different localities in Scotland, touching on some of these issues and we are keen to have open channels of communication to share good practice and offer support. We would appreciate if you have experiences or examples that you think would be of use to others, if you could email them to licensing@alcohol-focus-scotland.org.uk.

It is also our intention to discuss these issues in more detail at The National Licensing Conference, hosted by Alcohol Focus Scotland. It will be held on Thursday 15th of September at the Grand Central Hotel in Glasgow. Although it has not yet been announced, we have received confirmation from Sir Crispin Agnew that he will speak, and we will of course be inviting the Justice Minister after the election. The Conference theme will be 'From Principles to Practice'. A booking form can be downloaded from our website at <http://www.alcohol-focus-scotland.org.uk/national-licensing-conference>.

Yours sincerely



Dr Evelyn Gillan
Chief Executive