

An evaluation of the implementation  
of, and compliance with, the  
objectives of the Licensing  
(Scotland) Act 2005

Second Interim Report Summary

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## Abbreviations and glossary

**Alcohol Drug Partnerships (ADPs):** Alcohol Drug Partnerships are multi-agency groups with responsibility for developing co-ordinated approaches to drug and alcohol related work at local level.

**Alcohol etc. (Scotland) Act 2010:** This Act, which came into full effect in October 2011 introduced, in relation to off-sales, a ban on quantity discounts and restrictions on the location of alcoholic drinks promotions. The Act also requires licensed premises to have an age verification policy setting out the steps to be taken to establish the proof of age of anyone who looks like they are aged under 25 (Challenge 25). The legislation also requires licensing boards to consult with relevant health boards when preparing their licensing policy statements, and to inform health boards of applications for new premises licences.

**Licensing Board:** There is at least one licensing board in each local authority area. The main function of the board is to regulate premises that sell alcohol to the public.

**Local Licensing Forum:** Licensing Forums were established in the Licensing (Scotland) Act 2005, and each local authority area has at least one forum. The role of the forums is to keep under review the operation of the Act by the licensing board in their area.

**LSO:** Licensing Standards Officer. The LSO role was established in the Licensing (Scotland) Act 2005, and each local council has at least one LSO in post. The role of the LSO includes providing information and guidance with regard to the Licensing Act, supervising compliance and providing mediation to help resolve disputes.

**Licence Holder:** The Licensing (Scotland) Act 2005 made it a requirement that anyone wishing to sell alcohol on his/her premises has to hold a premises licence. The Act also introduced a new personal licence. Each premises licence must name the 'premises manager'. The premises manager will have to hold a personal licence. A personal licence permits that person to supervise and authorise the sales of alcohol on the premises.

**Licensing (Scotland) Act 2005:** This Act, which came into full effect on 1 September 2009, overhauled existing licensing arrangements and introduced a range of significant new measures to protect communities from alcohol-related harm. It established five licensing objectives, including, for the first time, 'protecting and improving public health.'

**Test purchasing:** Suitable 16 year old volunteers are recruited by the police to attempt to purchase alcohol from licensed premises (with undercover police

supervision). Premises which fail the test purchase can be referred to the procurator fiscal and licensing board.

## 1. Introduction

In 2010, as one of the studies being undertaken as part of the Monitoring and Evaluating Scotland's Alcohol Strategy work programme<sup>1</sup>, NHS Health Scotland commissioned a three year evaluation of the implementation of, and compliance with, the objectives of the Licensing (Scotland) Act 2005<sup>2</sup> (referred to subsequently as 'the Licensing Act'). The first stage involved telephone interviews with Licensing Standards Officers (LSOs) and licensing board representatives from across Scotland. A briefing paper summarising the findings from the first stage was published in June 2011<sup>3</sup>.

The following presents a summary of some of the key findings emerging from the second stage of the evaluation. This comprised of case studies in five local authority areas in Scotland and involved interviews and focus groups with members of local licensing forums and focus groups with licensing board members, together with an analysis of board policy statements. The focus groups and interviews were conducted over the period June to September 2011.

The case study areas were selected on the basis of the first stage telephone interviews and included local authorities where the Licensing Act was perceived by those interviewed to have had a positive or very positive or large impact on the area, and those where the impact of the Act was perceived to have been negligible or quite negative. The selection also included city, small town and rural areas.

The aims of this stage of the evaluation were to obtain a more in-depth understanding of how the Licensing Act was being interpreted and implemented at local level, the perceived barriers and facilitators to implementation and views on the impacts of the legislation.

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<sup>1</sup> Further information on the Monitoring and Evaluating Alcohol Strategy programme of work can be found on the NHS Health Scotland website: <http://www.healthscotland.com/scotlands-health/evaluation/planning/MESAS.aspx>

<sup>2</sup> Further information on the aims and objectives of the evaluation can be found on the NHS Health Scotland website: <http://www.healthscotland.com/documents/4044.aspx>

<sup>3</sup> MacGregor, A., Sharp, C., Mabelis, J., and Corbett, J. (2011), *An evaluation of the implementation of, and compliance with, the objectives of the Licensing (Scotland) Act 2005: First Interim Report Summary*, NHS Health Scotland: Edinburgh. (<http://www.healthscotland.com/documents/5253.aspx>)



## **2. Key findings from focus groups with licensing board members**

### **2.1 Activities**

#### **2.1.1 Licensing board policy statements**

The Licensing Act requires boards to prepare and publish a statement of licensing policy every three years, keeping it under review during this period and making revisions where appropriate. The policy statements should seek to promote the five licensing objectives set out in the Act<sup>4</sup>, and provide ‘guidance and clarity’ about the bases on which the boards make their decisions.

In developing their policies the Act requires the boards to consult with the local licensing forums, or representatives of specific groups or agencies if these are not represented on the local forum.

At the time of the focus groups the case study boards had recently published their 2010 policy statements. Participants described how, in developing these, they had held a number of ‘informal’ board meetings as well as consultations and meetings before producing a draft statement for comment. Those invited to comment on the drafts included the local licensing forums, licensed trade organisations and community councils.

Board members commented that although their policy statements still felt like a ‘work in progress’ they were encouraged by the fact that few legal challenges had been mounted, suggesting to participants that their policies were accepted and working well.

Reflecting this sense of policy statements as an on-going or dynamic piece of work, boards indicated areas where they either had, or anticipated making changes to their policies. This could be in response to ‘external pressure’ e.g. from the local licensing forum to place more emphasis on the public health objective, or as a result of on-going activity around overprovision assessments.

#### **2.1.2 Assessing overprovision**

As part of their policy statements, boards have a duty to assess the extent to which there may be an overprovision of licensed premises in any locality within their area. In undertaking their overprovision assessments, boards can take into account not just the number and capacity<sup>5</sup> of licensed premises in localities, but also licensed premises of a particular description.

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<sup>4</sup> The five licensing objectives are: preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and protecting children from harm.

<sup>5</sup> The proposed methodology for calculating capacity is set out in the Licensing Act guidance. For off-sales this is based on metres of frontage used to display alcohol; for on-sales it is based on building regulations and determined by local authority building standards officers. (Scottish

Case study board representatives described how, in developing their overprovisions assessments they had consulted with the police, local licensing forums and public. Boards had also studied local data on alcohol-related crimes, alcohol-related health harms and numbers of outlets. Several boards had commissioned researchers to undertake the analysis. In one of these boards the local Alcohol Drug Partnership (ADP) had undertaken an analysis of alcohol-related health and offence data on behalf of the board and the forum.

However, some case study board respondents suggested that they were still struggling to define and measure capacity and overprovision. One board, for example, described the difficulty of balancing *capacity* (for example, shelf space) and the *number* of premises.

Although the Licensing Act guidance advises boards to take into account the style of operation of premises (as outlined in the operating plans submitted with licence applications) and 'particular descriptions' of premises (recognising that different types of premise may have different impacts), one board felt there was a need to reintroduce the different licence types<sup>6</sup>, arguing that the 'generic licence' made it more difficult to assess overprovision in a locality.

'Under the old Act, it was very simple. It was shops. You had seven shops, somebody wanted another one, we would have a moratorium in an area for instance, we had that power. The nearest we've got to that is overprovision...So, 'overprovision', is it shelf space? Is it shops?..[large supermarket] is..How many shops would you say that is?'

The issue, however, was not solely about the sources of data or methodology for calculating density or provision, but of interpreting the data, specifically how to balance, or even trade-off the different types of 'harms', particularly between the health impacts of 'overprovision' and the economic impacts of reduced provision. One board representative, for example, suggested that overprovision was not a concern locally because the board and 'other key agencies' regarded licence applications as business opportunities, particularly in the context of a perceived loss of licences resulting from the economic downturn. Another respondent cited the difficulty of refusing certain types of licence where there was an 'economic case' for development. In one area, respondents in fact described the interventions of those they described as 'health professionals' as unhelpful, particularly if they were seen as favouring a blanket ban on all new licences in specific areas.

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Government (2007) *Licensing (Scotland) Act 2005: Guidance for Licensing Boards and Local Authorities*, Scottish Government: Edinburgh  
(<http://www.scotland.gov.uk/Publications/2007/04/13093458/0>).

<sup>6</sup> The Licensing Act introduced a single premises licence to replace the seven fixed categories of licence contained in the Licensing (Scotland) Act 1976.

In other case study board areas, however, health concerns seemed to have been given a higher priority. In one board, for example, the overprovision assessment had been driven by a concern with the high number of alcohol-related health problems<sup>7</sup>.

The difficulty of weighing up the different considerations is perhaps also implicit in the comment made by one board, which, when describing the problem of determining what criteria to use to assess overprovision, cited the example of areas which might have a 'surplus' of 'well run' outlets compared with an area with a lower number of outlets but creating more difficulties within the community.

Where boards have identified localities that they have assessed as being overprovided in terms of the number and/or types of premises, they can refuse new licence applications. Three of the five case study boards indicated that the assessments of overprovision had informed their decision-making and had refused licence applications on the grounds of overprovision in these localities. Consideration would, however, be given to the type of premise applying for a licence in these areas, particularly if, as noted above, there was an 'economic case' and the application was for a hotel or restaurant.

Overprovision was not considered to be an issue in the remaining two case study areas which cited the economic downturn as a factor behind the reduction in the numbers of licensed premises. In these areas the perceived issue was one of *lost capacity* rather than 'overprovision', particularly when the types of outlet which had closed were those that were not felt to be generating alcohol related problems such as small hotels, rural shops and heritage sites. The perceived shift to off-sales was also felt to have resulted in the loss of the more traditional style pubs.

### 2.1.3 The public right to object

The Licensing Act makes it possible for anyone to object or make representations to a licensing board about any application for a premises licence<sup>8</sup>. To support this, case study board members described using websites to provide information and guidance to the public on making objections, as well as providing advice to community councils on the procedures. New licence applications were also advertised in the press and statutory notices pinned to the doors of premises making applications.

Board members did, however, draw attention to some of the difficulties of facilitating the public right to object. First, public awareness was still felt to be

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<sup>7</sup> Under the Alcohol etc. (Scotland) Act 2010 boards are required to consult with the relevant health board when preparing their policy statements, particularly in relation to their overprovision assessments. Boards must also inform the health board of applications for new premises licences.

<sup>8</sup> Under the Licensing (Scotland) Act 1976 only certain categories of people could object, such as a neighbour, community council or a church.

limited. Second, where objections were raised it was felt that these tended to be made by the same individual or groups of individuals. Third, board members were aware of the power imbalances that may discourage members of the public from either submitting their objections in writing or repeating their objections at a board meeting where they may face opposition from a lawyer representing the licence holder.

Community Councils were seen as having a role in redressing the power imbalances and raising concerns on behalf of a local community. It was also suggested that LSOs were acting as a channel for local objections.

Perhaps as a result of the lack of awareness case study boards had received few objections from the public. Where objections were received this could, however, result in additional conditions being added to a licence.

## **2.2 Impacts**

### **2.2.1 Meeting the Licensing Act objectives**

In each of the case study areas licensing board members participating in the focus groups were asked which of the five licensing objectives they felt that they had been most and least successful in addressing.

One board, which argued that it was not possible to separate out the individual objectives, felt that it was successfully addressing all of them. The other four case study areas felt that they had been most successful in addressing the 'preventing crime and disorder' objective. One board also felt that they were tackling the 'protecting children from harm' objective well locally, while another cited success in relation to 'preventing public nuisance'. Only one of these four boards felt it had been successful in addressing the 'protecting and improving public health' objective.

Boards acknowledged that the successful realisation of these objectives could only be achieved through joint working with a range of professional groups, agencies and individuals. These included, as 'professional advisors' to the board, LSOs, environmental services, building and trading standards officers, police, fire service, and more broadly, the licensed trade and lawyers representing the trade, community councils, the public, ADPs and health and social work agencies.

In addition to joint working, board representatives also cited the local knowledge and expertise of board members, and the legal expertise of the board clerks, as contributing to their success in achieving the Act's objectives.

Perceived barriers were both 'strategic' and 'operational' and often reflected competing imperatives or interpretations.

At a strategic level, respondents referred to the particular difficulties of defining and measuring the 'protecting and improving public health' objective. Although board respondents included health agencies among the groups helping to achieve the Act's objectives, in some instances, existing links with health were felt to be poor or not as productive as they could be. As noted above, in relation to overprovision assessments, for example, the different bodies may bring with them competing or different perspectives on the nature of the 'problem'.

At an 'operational level', in one case study area, local sheriffs' decisions in relation to cases relating to individual premises were felt to run counter to what the board felt they were trying to achieve. In particular, the board felt that the time delays before cases were heard on appeal and the perceived emphasis placed by the courts on the licence holder's behaviour and practice in the intervening period, rather than the impact on local communities, undermined the realisation of the licensing objectives.

The realisation of the licensing objectives was also felt to be undermined by the potential for large supermarket chains to mount a legal challenge if a board decided to reject an application for a new outlet in a locality considered overprovided.

### 2.2.2 Addressing irresponsible promotions

The Licensing Act prohibits irresponsible drinks promotions<sup>9</sup> as a mandatory condition of premises licences. To preclude 'happy hours' the Act also makes it a requirement that the prices of alcohol have to be fixed for at least 72 hours<sup>10</sup>. Some of these irresponsible drinks promotions apply to off-sales, particularly promotions aimed at young people, but the main focus is on the on-sales sector with a view to discouraging 'binge' drinking or the consumption of large quantities of alcohol in a short time period. The Alcohol etc. (Scotland) Act 2010 (the 'Alcohol Act') subsequently introduced a ban on quantity discounts in off-sales and restricted the location of drinks promotions in off-sale premises. Data

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<sup>9</sup> In both on- and off-sales, a drinks promotion is considered irresponsible if: it relates specifically to an alcoholic drink likely to appeal to people aged under 18 years; involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks); is based on the strength of any alcohol; rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly; offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises. In addition, in relation to on-sales only, a drinks promotion is irresponsible if it involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink; involves the supply of unlimited amounts of alcohol for a fixed charge (including any charges for entry to the premises); and encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume.

<sup>10</sup> Under the Alcohol etc. (Scotland) Act 2010, this was amended so that for alcohol sold for consumption off the premises the 72-hour restriction only applies in relation to the price of the particular product in relation to which the price has previously been varied, as opposed to all alcoholic products sold. As this implies, this only relates to off-sales.

collection for this stage of the evaluation pre-dated the implementation of the Alcohol Act which came into effect in October 2011.

The perception among board respondents was that although instances of irresponsible promotions still occurred in on-sales this was now less of a problem with few cases reaching the board. The continued sale of discounted alcohol in off-sales, however, remained a concern for some of the case study boards. Although respondents hoped that the Alcohol Act would help to reduce quantity discounting by supermarkets this was tempered by the view that this might not be sufficient to stop them from selling low priced alcohol.

Factors which boards felt supported compliance with the ban on irresponsible promotions included the work of the LSOs who, through their direct contact with the licensed trade, were able to stop such promotions at a very early stage. Boards were also alerted to possible breaches by the police, 'general public', as well as by members of the licensed trade. The possibility of sanctions being applied by a board was also perceived to act as a deterrent, and if cases did reach a board it was suggested that these could be resolved primarily by issuing a warning letter.

For some of those interviewed, however, the way the legislation defined 'irresponsible promotions' hampered enforcement of the ban - allowing too much scope for variable interpretation and for premises to 'work their way round them'. It was also suggested that the mandatory requirement for alcohol prices to be fixed for at least 72-hours had 'backfired': it was suggested that some outlets were reducing costs for days earlier in the week, before increasing prices over the weekend period.

### 2.2.3 Improving the serving environment

Generally boards felt that the Licensing Act had helped to raise licensed trade standards.

The mandatory training requirement for personal licence holders<sup>11</sup> and all staff who serve alcohol<sup>12</sup> was felt to have increased awareness of the requirements of the legislation. Some board respondents did, however, suggest that in some sectors such as the heritage industry or tourist shops it should not be necessary for personal licence holders to undergo the full training or to have to train their staff.

Implementation of, and compliance with, training requirements was supported by the role of LSOs in monitoring staff training, through checking training records, for example, and through boards being able to issue warning notices or endorse or revoke licences in cases of non-compliance.

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<sup>11</sup> This must be an accredited Personal Licence Holder qualification.

<sup>12</sup> Training has to be for a minimum of two hours, covering a set syllabus and provided either by a personal licence holder or an approved trainer.

Continuing poor practice, such as serving alcohol to someone who was underage, or who was drunk, was, though, also identified. Some respondents questioned the quality of training provided to staff by some personal licence holders, and the support available to staff once trained if, for example, they were unable to speak English.

### **2.3 Facilitating factors and barriers to the role of the boards**

Factors felt to support the role of the boards included, at a 'strategic' level the shift from a reactive role, processing applications, to a more dynamic function, enabling boards to develop policies based on local needs.

'Operationally' boards welcomed the extended range of powers<sup>13</sup> and sanctions available to them, enabling them to suspend or revoke licences with immediate effect.

In addition, the role of the LSOs, as well as the police and other statutory agencies, in ensuring compliance at licensed premise level was seen as supporting the work of the board.

Despite the extended powers, several case study boards felt that they wanted more scope to be able to impose conditions locally to enable them to reduce or vary licensing hours. This could be either to further restrict opening hours by stopping off-sales of alcohol after 8.00 pm (rather than as currently at 10.00 pm), or to enable some types of premises to be able to sell alcohol before 10.00 am.

Boards felt particularly powerless in addressing the sales of cheap alcohol from supermarkets.

The potential for board decisions to be overturned on appeal to the Sheriffs' court was also felt to undermine the role of the Board.

## **3. Key findings from focus groups and interviews with local licensing forum members in five case study areas**

Following a proposal contained in the Nicolson report<sup>14</sup>, the Licensing Act requires every council to establish a local licensing forum. The role of the forum is to keep the operation of the licensing system in their area under review. The forum does not review or offer advice in relation to individual licence applications or cases that come before the board. The board has a duty to 'have regard' to the forum's views and must offer reasons where it takes decisions against the advice of the forum. Forum and board are required to meet at least once a year.

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<sup>13</sup> These were extended by the Alcohol Act which enables boards to impose variations in premises licence conditions on licences of a particular type, in a particular locality or across their area.

<sup>14</sup> The Nicholson Committee (2003), *Review of Liquor Licensing Law in Scotland*, Scottish Executive: Edinburgh (<http://www.scotland.gov.uk/Publications/2003/08/17590/22947>)

The five 'constituencies of interest' the Licensing Act anticipates being represented on the forum are: holders of premises and personal licences; the chief constable for the police area in which the forum is situated; representatives from health, education or social work; young people; and people resident within the forum's area<sup>15</sup>. The Act also requires a local LSO to be a member of the forum.

The Licensing Act guidance<sup>16</sup> underlines the need for the forum to be seen as 'independent and expert' and able to develop an identity separate from the board or other interest groups.

In two of the case study areas the forum had been set up prior to the legislation coming into effect, in the other areas, the role was in many respects still evolving. The following focuses on five issues: forum membership, internal working relationships and role; working with boards; addressing alcohol availability locally; the perceived impacts of forums; and barriers and facilitators to the role of the forums.

### **3.1 Forum membership, internal working relationships and role**

#### **3.1.1 Membership and working relationships**

Members of the case study forums reflected the constituencies of interest identified in the legislation, including representatives from the licensed trade, the police, community councils, public health and LSOs as well as the 'local council'. Other bodies represented included addiction services, environmental health, the legal profession, and business bodies, including representatives of the 'night time economy'. All of the forums had experienced difficulties recruiting young people. Two of the forums felt they did not yet have sufficient community representation.

The issue of independence was touched upon indirectly by representatives of one forum among whom there were differences of opinion about whether the right balance had been struck between the level of licensed trade involvement and that of community and health representatives.

In general, forum respondents felt that members from the different bodies represented had developed working relationships and a means for reaching a consensus. A consensus may not, however, always be achievable: one forum, for example, alluded to fundamental differences between those representing a 'health agenda' and those representing business interests. It was suggested that this had resulted in some issues effectively becoming 'off limits' for discussion.

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<sup>15</sup> The Alcohol Act introduced a requirement for at least one member of the forum to be nominated by the health board for the forum's area.

<sup>16</sup> Scottish Government (2007) op cit



### 3.1.2 Remit, role and scope of the forum

In relation to the remit and role of the forums two related issues emerged. On the one hand, in two of the case study forums members felt that the role and remit of the forums was unclear. Some respondents felt that, as a result, the forum lacked sufficient focus to be able to provide meaningful support to the boards.

On the other hand, the focus groups and interviews also suggest that it was not necessarily the role of the forum per se that was the issue but the perceived scope of the forums' work. Most members saw their role as being to review the licensing board's policy statement and feedback to the board. For some forum representatives this work was comparatively narrowly defined in terms of serving as an intermediary between the community and the licensing board, providing a 'balanced opinion', highlighting 'practical problems', 'attaching commonsense provisions', or acting as a check and balance on the board and its practices.

'I think the forum should be there to attach commonsense provisions to what looks like a very sterile Act, and therefore helping the community, helping the local business, or indeed to address any complaints the public has.'

Others, however, saw the forums as having a broader role encompassing wider public health and social issues.

'To keep the licensing system in the area under review. To identify and adopt best practice within the licensed trade, and to keep a watchful eye on Scotland's relationship with alcohol, and to see what initiatives we can work on that will help improve those statistics.'

Respondents' comments suggest that there could be differences in approach both between and within forums, with some of those interviewed questioning the attempts by colleagues to raise 'social problems' in the context of forum discussions.

'It's a licensing forum so social problems...I would question whether they would come into that. And some forums discuss social problems, the task of the forum is to oversee the implementation of the Act.'

## 3.2 Working with licensing boards

### 3.2.1 Working with licensing boards

In addition to the mandatory annual meeting, further direct contact between boards and forums appears to be comparatively limited.

The value of more frequent contacts was raised by a number of forum members: in two case study areas it was suggested that there should be more than one joint meeting with the licensing board per year. Others felt there should be scope

for board members to regularly attend forum meetings<sup>17</sup> to ensure that the views of the forum were raised with boards. The potential value of forum members sitting on boards was also suggested, but it was recognized that this option would not be feasible because board members are elected councillors.

Working relationships with boards seemed variable across the case study forums. Members of one forum, set up prior to the implementation of the legislation, described a positive working relationship between themselves and the board, which had 'helped achieve the results we have'. Other forums described what they perceived to be a lack of contact with, and support from, the boards.

### 3.2.2 Reviewing board policy statements

Forums described a process of reviewing board policy and feeding back on any emerging issues. The data the forums drew on in the review process included routinely collected police and health statistics on alcohol related incidents and alcohol related harms. One forum in particular had worked with the board and local ADP to collect and analyse data to inform the board's overprovision assessments. A number of forums did, however, describe difficulties in gathering and interpreting the available data in a way that they could make meaningful to a local area. In part this was a resource issue: one forum, for example, referred to the lack of a designated person to identify, obtain and report on the available data. In part, however, it reflected difficulties in disaggregating routinely collected data to forum level.

Although, as suggested above, forums saw themselves as 'go betweens' between the board and the community, the extent to which the case study forums involved the community in their reviews appears variable. One forum, for example, held a development day to obtain information on issues of key concern to the licensed trade and the public. Another, however, had fed back the forum members' views, but had not sought to obtain the views of the wider community.

### 3.2.3 Impact on licensing boards' policies

Representatives of the case study forums gave examples of areas of licensing board policy over which they felt they had had an influence. One forum, for example, felt it had had a key role in informing the local overprovision assessment. Others described specific changes that had been introduced in response to the advice from the forum in relation to, for example, policies on prohibited drinking areas and children's access to licensed premises after 9.00 pm for specific events.

Respondents also cited instances where they felt they had had little impact, whether this was to introduce more flexibility into licence conditions, in relation to Sunday morning drinking, for example, or, conversely, to introduce greater controls on alcohol availability to curb excessive drinking associated with big

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<sup>17</sup> The Licensing Act guidance does suggest that councils may wish to consider whether a member of the board should sit on the forum to provide a direct link to the board.

events. One forum representative, expressing concern about the levels of alcohol-related violence which they felt was impacting on the local A&E, would have liked to have been able to work more closely with the board to look at licensing hours, but they felt they 'had not been successful in being able to influence that'.

The working relationships and degree of communication were felt to be influential on the extent to which the forums could influence boards' decisions. One forum, which felt it had been able to inform the board's overprovision assessment, described how the board and forum had worked 'hand in glove'. Other forums suggested more distant and what were perceived to be less effective working relationships.

### **3.3 Meeting the licensing objectives: addressing availability**

#### **3.3.1 Achieving the licensing objectives**

From the perspective of forum members most progress locally had been made in relation to the 'preventing crime and disorder' and 'preventing public nuisance' objectives. At a planning level, joint and partnership working between different agencies and bodies, such as between the forum, community safety forum and anti-social behaviour task group were felt to have helped support the achievement of these objectives. At an operational level, forum members cited different measures in support of these objectives, such as initiatives to disperse people quickly from nightclubs, the introduction of plastic and toughened glass, and the implementation of test purchasing to address underage drinking.

Reflecting the perspectives of their board colleagues, four of the five forums felt that least progress had been made locally toward achieving the 'protecting and improving public health' objective. This objective was felt to be the least well understood and the most difficult to apply and measure.

In making decisions in relation to individual licence applications boards must determine each application on its own merits, even when the application is for a premise in an area assessed as overprovided. In this context, some forum members felt that, in comparison with the objectives concerned with crime and disorder, public safety and protecting children from harm, the 'global' nature of the public health objective, often based on population-based evidence, made it difficult for boards to establish a 'causal link' between individual outlets and the impacts on health:

'You've got to show a causal link, that's almost impossible to show a causal link because who are you going to blame? Is it off-sales that somebody has bought their drink at before they've went out, is it the pub they've went into locally, or is it the club in the city centre... that they've had their last drink in? It's actually very difficult to get that causal link and that's where all the NHS and the health information..are usually national or certainly regional and I think..that's where we need to go in terms of the public health agenda.'

One forum, in fact, described what they saw as the ‘discrepancy’ between individual licence applications, the practice in individual premises, board reviews of licenses and the wider public health objective. Even the forum that felt that it was making progress in relation to this objective suggested that its intangibility made it much harder to evidence.

In addition to the difficulties associated with interpreting, meeting and measuring the public health objective, it was also suggested that the continued availability of cheap alcohol via supermarkets undermined the realization of this objective.

### 3.3.2 Overprovision assessments

In one case study area, the overprovision assessment undertaken in partnership between the forum, board and ADP, had resulted in a number of localities being assessed as overprovided, based on the relatively high number of alcohol-related health problems. This was reflected in the board’s policy statement.

In a second case study area, forum members were in agreement with their board that because of the number of premises that had closed or not renewed their licences the area was not currently overprovided. Forum members did though express reservations about the possible increase in events to which people could bring their own alcohol.

In the remaining three case study areas the responses suggest differences of perspective within forums, and potentially between individual members of forums and boards. In one area, for example, while some forum members felt that the density of certain types of premises in some areas had increased public nuisance and crime, others were of the view that the economic downturn had reduced the number of premises such that overprovision was not an issue. In this area one forum member expressed disappointment that the board had not identified more localities as overprovided. In another case study area a health board representative on the forum had disagreed with the licensing board’s assessment that overprovision was not a problem.

In addition, as noted above a member from one forum referred to the difficulties of establishing a ‘causal link’ between an individual premise and the more ‘global’ alcohol-related harms.

In the light of the difficulties of assessing overprovision forum members argued for clearer guidelines and support in assessing overprovision.

### 3.3.3 Addressing irresponsible promotions

Like their board peers, forum representatives felt that, in general, irresponsible promotions had become less of a problem in the on-sales sector. This was attributed to the powers and restrictions introduced under the Licensing Act, and to the role of LSOs in ensuring compliance with the legislation.

Interviewed prior to the implementation of the Alcohol Act, forum members felt

that irresponsible promotions were a continuing problem in relation to the off-trade in general and supermarkets in particular.

One forum member while suggesting that overprovision was an issue in the area, nonetheless expressed some sympathy with what they saw as the economic pressures on the licensed trade. The need to make a profit in a competitive market was felt to almost force businesses to adopt irresponsible promotions, 'not because they want to do them, they're there [irresponsible promotions] because they have to do them'.

It was conjectured that when implemented the Alcohol Act might go some way toward further curbing irresponsible promotions. One forum also suggested that minimum unit pricing, if introduced, would also impact on irresponsible promotions.

### 3.3.4 Improving the serving environment

For some forum members the on-trade was seen as providing a more 'controlled environment' for drinking. A member of one forum, for example, suggested that marketing could be used to promote the use of pubs, clubs and restaurants because these provided safer drinking environments than obtaining cheap alcohol from supermarkets.

In terms of the more specific impact of staff and personal licence holder training on the serving environment, three main issues emerged:

- First, concerns about whether the length and content of the training, particularly the two hours training for premises staff, was sufficient to have an impact on practice;
- Second, the difficulties of being able to assess the impact of training; and,
- Third, because of the lower demand in rural areas concerns about not being able to maintain sufficient trainers, particularly to meet the likely demand from personal licence holders who will be required to re-do their training after five years in 2014.

### 3.4 Facilitators and barriers to the role of the forums

Internal factors that were felt by forums to impact on their effectiveness as a body included the quality of the working relationships between members and the mix of backgrounds and experience, and clarity about the role, remit and scope of the forum.

Forum members underlined the importance of understanding and respecting the various perspectives of the different individual members. They also referred to the value of having members who brought a range of expertise and knowledge in relation to, for example, the law, the licensed trade, health or local issues. Conversely, this very mix could result in tensions and 'competing voices'

between, for example, those members perceived as prioritizing a concern with health-related impacts and those emphasizing the importance of economic growth, or who felt that public health considerations were outwith or beyond the remit of alcohol licensing bodies.

For some members the lack of clarity about the role and remit of the forum was felt to impact on its effectiveness. It was suggested that guidance or training was needed to help clarify the role of the forums and the responsibilities of members. One forum, however, felt the issue was less the need for clarity, since this was set out in the Licensing Act, but more about how to evidence their effectiveness as a body: at present they felt they had no way of measuring whether they were carrying out their functions successfully.

The scope of the forum's role was raised by a number of participants. Several forum representatives, for example, expressed frustration that there were issues which were considered outwith the scope of the forum, such as specific local problems or issues 'we can talk about street crime but not actually talk about where the crime was, or how it developed'. These limitations were built into the very way the meetings in one forum were managed: the introduction of a constitution was felt to have limited scope for more open and wide-ranging discussion within the forum.

External factors perceived to impact on the forums' effectiveness included the level of support from, relationship with, and communication between the licensing board and the forum, and public awareness.

All five case study forums received administrative support from their local councils. Some also received legal advice. Forums did not, however, necessarily have their own budgets. One forum felt that a budget would be helpful in supporting members to attend workshops and conferences to support them in their role. Another forum had begun to discuss with the board the possibility of a separate budget.

While one of the case study forums indicated a positive close working relationship with the board, others suggested a more distant relationship with their respective boards, one marked by limited contact and communication between the two bodies. One forum for example, felt that the board could do more to seek input from, and feedback decisions to, the forum, in order that the forum could more effectively inform policy. Some members also alluded to the unequal power relations between forums and boards; for one forum the board was felt to maintain control by refusing to discuss certain issues or disregarding the forum's views.

In terms of links with their local communities, forums felt that there was very little public awareness of the existence or role of the forums. Although the details of the forums may be available on council websites it was suggested that finding this information could be difficult. One forum acknowledged that they could

perhaps do more to increase awareness in order for the forum to represent 'people' more effectively, but did not have a budget for this. This forum, as well as other case study forums had however engaged in activities to improve their public profile: through contacts with community councils, support for local Alcohol Awareness events, a 'beer map campaign' distributing the forum's contact details, and putting articles in the press.

#### **4. Next stages of the evaluation**

The third stage of the evaluation comprises follow up telephone interviews with LSOs and licensing board representatives. The findings from this stage will be included in the final report of the evaluation. This is due for publication in June 2013 and will also include an analysis of the findings from across the three stages of the evaluation and present conclusions on the extent to which the licensing legislation is being implemented as intended.