



Dr Richard Simpson MSP  
Room MG-21  
Scottish Parliament  
Edinburgh  
EH99 1SP

26/07/12

Dear Dr Simpson,

**SHIFTING THE CULTURE CONSULTATION RESPONSE**

Please find a response from the Association of Scottish Police Superintendents (ASPS) in relation to your consultation paper on a proposal to bring forward measures to help change culture in relation to alcohol in Scotland.

ASPS represent the senior police operational leaders in Scotland who deliver police services to our communities. A key aspect of our members work is preventing the harm caused by the excessive consumption of alcohol and responding to the criminal and anti-social behaviour which often accompanies alcohol abuse. In preparing this response members of ASPS were invited to provide comment and this was drawn upon in preparing this response.

Please accept my apologies for the lateness of our submission but we have been engaged in a number of other time critical activities with limited resources available. Please find our response below.

Yours sincerely

David O'Connor  
President

## RESPONSE

### **Tightening Quantity Discount Ban in Alcohol etc. (Scotland) Act 2010:**

***Q1) Do you think the further restriction on quantity discounting proposed would be beneficial? What disadvantages might there be? Do you think there is a case for going further?***

Presenting alcohol for sale using quantity discounting marketing tactics remains a cause for concern. The harm that the abuse of alcohol can contribute to is generally accepted and the drinks industry has taken some steps to encourage sensible drinking. However, marketing alcohol as the same as any other product is inherently dangerous due to the link between harm from alcohol abuse and negative consequences for society. In constructing people's attitudes to alcohol marketing will play a significant part. People can be prompted to secure a "bargain" and treat alcohol as something "cheap" and "easily accessible" and increase consumption whilst thoughts of its harmful effects are pushed into the background. Attitudes to alcohol are developed over time. If alcohol is presented as a commodity just like any other, it will inevitably be treated as such. If a change in culture is to be brought about the part that marketing plays must feature strongly in any strategy.

In terms of disadvantages wherever there is a demand for controlled products there is increased risk of criminal enterprise to exploit such demand. A Scotland only approach also means that alcohol can be purchased elsewhere and brought into Scotland and these controls circumvented.

In terms of a case for going further the Scottish Parliament should have the flexibility to take appropriate action in the interest of the people of Scotland but any measures that are proposed must be rigorously assessed for their potential for effectiveness and consideration of any unintended consequences that might arise. Individual attitudes to alcohol are influenced by a wide range of factors but how alcohol is marketed and presented to consumers plays a key part in the overall picture of consumption.

### **Public Health Interest and Child Protection:**

***Q2) Do you believe that Ministers should be required to issue guidance on these two licensing objectives?***

SHAAP highlighted considerable variance in Boards' understanding and interpretation of the licensing objectives and in particular the public health one. Improved understanding through Ministerial guidance should enable Boards to be more informed and sophisticated in tailoring policies promoting public health with a move away from considering operating conditions of individual premises to the bigger picture across the Board area. Such guidance would also facilitate consistency of approach across board areas.

***Q3) Do you believe that Ministers should be required to report to the Parliament once per session, and what should such a report be required to cover?***

Ministers should be required to report to parliament once per session. This would enable parliament to monitor the implementation of the licensing objectives, which are still a relatively new concept. The report should include an overview of the direction of board policies, identify areas of best practice and inform the evolution of the 2005 Act.

### **Restrictions on Alcohol Marketing:**

***Q4) Do you believe that the proposed restrictions on advertising are proportionate or necessary?***

The influence that marketing of any product can have is well recognised. Significant investments are made in brand recognition for any product – not just alcohol. Any change in cultural attitudes towards abuse of alcohol can only be affective if an approach to how alcohol is advertised is also considered.

Police officers witness first hand and often at the point of crisis the harm and suffering associated with the abuse of alcohol. They also witness the ongoing harm that occurs within families and within society over many years as a result of alcohol abuse.

In this context the proposed restrictions on advertising are both proportionate and necessary to start a change in cultural attitudes towards alcohol abuse.

***Q5) Are there further measures you feel should be introduced?***

**Caffeine Limit in Pre-mixed Alcohol Products:**

***Q6) Do you believe that there should be restrictions on caffeinated alcohol products? If so do you believe the proposed caffeine limit of 150mg/litre on pre-mixed products is appropriate?***

Yes.

**Alcohol Education:**

***Q7) Is there a role for further alcohol education and public information campaigns in changing alcohol culture?***

To address the damage that alcohol dependence causes a society and to prevent misuse amongst young people effective intervention at an early age is essential. Targeted messages will provide awareness but will also help to highlight a problem from which help can be offered from associated services.

Education plays an important role in helping to ensure that young people are equipped with information they need to make informed, healthy decisions and to keep themselves safe. Schools have a statutory duty for the wellbeing of their pupils and the Curriculum of Excellence (CfE) supports this through the Health and Wellbeing strand.

It is anticipated that any messages in connection with reducing the number of young people misusing alcohol and drugs, and improving life chances may in turn reduce the likelihood of individuals developing problematic use in the future. In line with the CfE and the ethos that all children and young people have different experiences these inputs should not be confined to delivery by the police but through associated community partners. This approach would maximise the contribution of the wider community but in addition will be able to draw upon specialist expertise.

Considering the harm caused through alcohol abuse greater investment and effort is required in terms of education and public information.

***Q8) Would it be beneficial for Ministers to be made directly accountable to the Parliament for their policy in this area, as proposed?***

The role of Ministers is a vital one in terms of governance, by their very position they play a key role in policy making. To emphasize the importance of the subject each level of accountability would enhance a duty to inform and explain to the public to which we are all accountable.

**Alcohol Discrimination Against Under-21 Year Olds in Off-Sales:**

***Q9) Do you support a ban on Licensing Boards requiring off-licenses to restrict sales on age-grounds alone, or are there circumstances where this could be justifiable?***

Patterns of behaviour are variable and providing local Licensing Boards with flexibility in imposing controls to meet local circumstances is appropriate. The circumstances that prevail in any given location can be complex and we would be reluctant to see Licensing Boards prevented from having the power, if they feel it is in the best interests of the public in a given area, to impose such controls.

#### **Community Involvement in Licensing Decisions:**

**Q10) Do you believe that community neighbours should be consulted and their views taken into account when licences are being renewed or extended or when special licences are being issued?**

The existing provision under the 2005 Act that “any” person can apply to the board to review a premises licence is sufficient.

**Q11) Do you believe that the New Zealand model is an appropriate one to emulate, if not what changes should be made?**

#### **National Licensing Forum:**

**Q12) Do you believe that there is a role for a National Licensing Forum in addition to the existing local forums?**

The abuse of alcohol is a very serious problem in society and contributes to significant long term harm and therefore it is appropriate that investment in national capability and capacity is considered.

**If so:**

**- Should it be funded through licensing fees or central Scottish Government funding?**

Combination of Licence Fee and Central Government funding.

**- What would its membership be, and who would appoint them?**

Representation should include the Licensing Trade, Police, Ambulance, Health, Licensing Boards, Groups representing the interests of Domestic Abuse and Child Protection.

**- To whom would it be accountable?**

The Minister made accountable to Parliament for this policy area.

**- What would its functions be?**

Reduce the harm caused by abuse of alcohol. Share information and perspectives. Produce evidence based guidance for Licensing Boards and public service providers, commission and approve co-ordinated joint training, monitor trends, identify emerging threats and issues, produce reports for the Minister responsible for this policy area on delivering desired outcomes.

#### **Alcohol Bottle Tagging:**

**Q13) Is there sufficient evidence to justify legislation allowing Licensing Boards to make participation in a bottle tagging scheme a licence condition, or are current voluntary arrangements adequate?**

Yes. It is another control that Licensing Boards can apply that can help with prevention and enforcement. It provides retailers the opportunity to contribute to prevention and enforcement.

Measures such as bottle tagging will help to target problem adults who agree to buy cheap alcohol for under 18's. The scheme if supervised correctly has a wide range of outcomes and can also help to tackle repeated under-age selling.

The pilot also helped to identify other areas such as highlighting those specific shops that would seem to have a high turnover of bottles which are found in the possession of minors or bottles which are found within "drinking dens".

If legislated, consideration would have to be given over adequate supervision and monitoring and could mean that relevant partners such as the Licensing Standards officers could be given the responsibility for scrutinizing the process.

### **Alcohol Fine Diversion:**

***Q14) Should Fine Diversion be made available, on a statutory basis, throughout Scotland, if the further pilot is successful?***

Any pilot which is successful, in this case both north and south of the border should be given consideration in terms of wider roll out. This clearly is an initiative which carries the potential of working within a variety of jurisdictions. A meaningful evaluation should be taken into consideration for any lessons to be learned.

It is worth noting that Lothian and Borders Police are currently undertaking work which has been developed through their Alcohol Blueprint. This plan aims to effect attitudinal change, influence the wider criminal justice system and provide an evidence-based approach to alcohol interventions.

Part of the Blueprint carries a component concerned in Legislative Management, it aims to ***"Make use of all legislative powers available to courts and relevant partners."*** By analysing different types of problem alcohol consumption in the Force area it will also examine the effectiveness of existing interventions. The Alcohol Diversion Scheme is also currently under consideration by the Force

### **Alcohol Arrest Referral:**

***Q15) Do you believe that Arrest Referral schemes for Alcohol (as well as Drugs) should be a statutory requirement within each Community Justice Authority area?***

Yes. While a person is in a controlled environment such as under arrest they are at least available for intervention opportunities which they may not otherwise be willing to consider or make themselves available. This is an opportunity for a prevention activity which should be mandated and funded.

### **Drinking Banning Orders:**

***Q16) Should drinking banning orders be introduced in Scotland? If so should they be piloted in one Sheriffdom?***

The courts are already empowered under the Section 94 2005 Act to impose an exclusion order on any person convicted of a violent offence on or in the immediate vicinity of licensed premises. The holder of the premise licence in respect of the premises concerned can apply to the sheriff for an order prohibiting the person entering the premises. Breach of this exclusion carries a fine and or 1 months imprisonment.

The approach in England and Wales allows a range of conditions to be applied in addition to banning the subject from licensed premises. It also allows application to the court for a banning

order to be made if the person has engaged in criminal or disorderly conduct while under the influence of alcohol and the order is necessary to protect other persons from further conduct of that kind while under the influence of alcohol. It also enables an order to be applied on conviction in criminal proceedings. There is also capability for interim orders to be granted by the court. There are other elements that differ from the approach taken in Scotland.

There is certainly scope to look in detail at what preventative powers can proportionately be made available to police prevent an individual who through their abuse of alcohol cause harm to themselves and others and subsequently consume an excessive amount of public services.

Piloting measures in one Sheriffdom is an appropriate way forward.

### **Alcohol and Drug Treatment and Testing Orders (ADDTO)**

**Q17) Do you believe extending DTTOs to become ADDTOs would add value to the existing range of disposal?**

Yes.

**What differences of context between drugs and alcohol would need to be taken into account?**

### **Alcohol Offences Information Sharing**

**Q18) Do you believe that notifying a GP about a patient's conviction for an alcohol-related offence would be beneficial?**

Yes.

**Should it apply only in cases of conviction, or in other circumstances as well?**

Prevention and delivering positive outcomes are key objectives for public services in Scotland. Providing a specific legal gateway to enable and encourage sharing conviction or other relevant information would be beneficial in removing any doubt that such sharing of information is proportionate, necessary and lawful in terms of compliance with the Data Protection Act 1998.

### **General Questions**

**Q1) Do you support the general aim of the proposed Bill? (as outlined above). Please indicate "yes/no/undecided" and explain the reasons for your response.**

In principle, yes.

ASPS are supportive of continuing the debate on how the abuse of alcohol and the consequences for public safety can be positively influenced. Measures that are linked to delivering outcomes and where there is a coordinated and cohesive approach across public authorities are more likely to work than not. However, the absence of available and convincing evidence of what works remains a cause for concern.

Public bodies and services need a policy and legal framework which supports their efforts in delivering on their statutory duties. Enforcement alone will not address the underlying causes of alcohol abuse or successfully treat its symptoms. A broad approach is needed that addresses the wide range of factors that apply to this deeply embedded cultural problem for Scotland.

**Q2) Are there further legislative (or non-legislative) changes that you would recommend, beyond those outlined in this consultation, in order to further its general aims of tackling Scotland's culture of excessive alcohol consumption?**

Possession in a public place of alcohol by a person who is subject to an exclusion order or banning order could be prohibited in the order, with power for police to seize and dispose of any alcohol

seized and with the discretion to either report as a breach of any such order or not left to the Constable.

**Q3) What is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?**

Any legislation that increases police powers, creates offences enforceable by police, imposes any duty, increases workload or access to persons in custody etc. inevitably increases demands on police. This Bill , if implemented may require additional resources or prioritising how resources are used.

**Q4) Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?**