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**Our Ref:** TJ/MSCONSULT12-Alc Con Bill – Shifting the Culture

**Dr Richard Simpson MSP**

Room MG-21  
Scottish Parliament  
Edinburgh  
EH99 1SP

Date: 27<sup>th</sup> June 2012

Dear Dr Simpson

**ALCOHOL CONSULTATION BILL – SHIFTING THE CULTURE**

Please find attached on behalf of the Chief Officers of the 8 Community Justice Authorities (CJAs), a joint response to the questions set out in your Member's Bill.

Scotland's eight CJAs were established by the Management of Offenders etc (Scotland) Act 2005. The CJAs are tasked with working in partnership to reduce re-offending and contribute towards a safer and stronger Scotland. As devolved public bodies with strategic planning, monitoring and reporting functions, CJAs' functions (as outlined in the legislation) include the following:

- To prepare, in consultation with its partner bodies and Scottish Ministers, an area plan for reducing re-offending.
- To submit this plan to Ministers; and to monitor and report annually on compliance.
- To promote good practice in the management of offenders.
- To act as the accountable body for the management of the Criminal Justice Social Work (Section 27) grant.

CJAs acknowledge the need for alignment of political will to address alcohol misuse within our communities and appreciate the opportunity to contribute to the dialogue on how we address the negative culture and consequences surrounding alcohol in Scotland.

We would welcome more detail on the fit between the proposals outlined in the consultation and existing statutes, guidance and developments such as minimum pricing.

We further welcome the focus on a 'whole population approach' as the foundation for national strategy and delivery which underpins the consultation.

If you require any further information from the CJAs please let me know.

A handwritten signature in cursive script that reads 'Margaret Smith'.

**MARGARET SMITH**  
**Central Support Manager**

## Part One: Health

Tightening Quantity Discount Ban in Alcohol etc. (Scotland) Act 2010	Questions	Response
<p>Under the proposed Bill, it would no longer be possible to sell different-sized multipacks of a particular alcoholic product at differential prices-per-item. In other words, even if a store only sells 4-packs and 12-packs of a particular beer (in 500ml cans), and does not also sell the cans individually, the 12-pack would have to be sold for at least three times the price of the 4-pack.</p> <p>We believe this will close a significant loophole in the current law.</p>	<p><b>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?</b></p>	<p>We note the introduction of minimum unit price and in reflecting on available evidence, believe existing limitations on promotional activity should address this issue (at least partially).</p> <p>The case for this proposal is made for the logical extension of the commitment to address quantity discounting.</p>
<p><b>Public Health Interest and Child Protection</b></p> <p>Adding “the promotion of public health” and “the protection of children from harm” to licensing objectives was one of the principal recommendations of the Nicholson Report and was brought into effect in the Licensing (Scotland) Act 2005.</p> <p>This proposal would require the Scottish Government to issue detailed guidance on the application of these two licensing objectives and to report to the Parliament. This report would require demonstrating how these objectives were being applied in each Board and any difficulties or barriers to tackling over-provision of alcohol.</p>	<p><b>Q2) Do you believe that Ministers should be required to issue guidance on these two licensing objectives?</b></p> <p><b>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?</b></p>	<p><b>Response</b></p> <p>We note that guidance does exist, including Alcohol Focus Scotland guidance – <i>Licensing for Public Health</i>.</p> <p>Boards have been running with existing legislation for sufficient time to elicit “on the ground” experience, and this could be collated and shared. How this sharing could be achieved is touched upon in Question 12 below.</p>
<p><b>Restrictions on Alcohol Marketing</b></p> <p>The objective here is to restrict the advertising of alcoholic drinks, particularly in contexts where they are likely to be seen by children. The Bill cannot restrict advertising on radio or television (as broadcasting is a reserved matter). However, we believe that there should be a complete ban on all advertising of alcoholic drinks in public places (e.g. on billboards, hoardings, bus-shelters, buses and other vehicles), as all such forms of advertising will routinely be viewed by children as well as adults. The ban would not extend to places where the public is only permitted on payment (such as a football ground or other sports venue).</p> <p>In addition, we propose to ban the advertising of alcoholic drinks through the medium of filmed advertisements shown during cinema presentations to which children are admitted. In practice, this would mean that drinks advertisements could be shown on-screen only in connection with 18-certificate films</p>	<p><b>Q4) Do you believe that the proposed restrictions on advertising are proportionate or necessary?</b></p> <p><b>Q5) Are there further measures you feel should be introduced?</b></p>	<p><b>Response</b></p> <p>There is an evidence base which suggests that regular exposure to alcohol messages normalises the use of alcohol, and may, for young people, run at odds with a message that alcohol is anything but a “normal” commodity.</p> <p>Consideration could be given, similar to tobacco, to restrict visibility to alcohol within off-license premises – restricted aisles and/or restricted sales tills.</p> <p>Consideration should also be given to existing powers and influence held by Licensing Boards at a local level.</p>

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Caffeine Limit in Pre-mixed Alcohol Products	Questions	Response
<p>Our proposal is to restrict the strength of caffeine in pre-mixed alcoholic products to 150mg per litre, based on the Danish limit, with the aim of encouraging reformulation of such products and prevent the proliferation of new ones. This would only apply restrictions to the retail of such products and would not be a total ban. For example, we do not believe it would be practical or proportionate to attempt to ban the sale of caffeinated drinks and alcoholic drinks together in licensed premises (for mixing by the customer).</p>	<p><b>Q6) Do you believe that there should be restrictions on pre-mixed caffeinated alcohol products? If so do you believe the proposed caffeine limit of 150mg/litre on pre-mixed products is appropriate?</b></p>	<p>An evidence base exists to support limitations on caffeine contained within pre-mixed alcoholic products.</p>
Alcohol Education	Questions	Response
<p>Dr Simpson ended the “just say no” approach in favour of one where pupils were to be properly informed of risks such as through the “Know the Score” campaign. Every school was to have a drugs and alcohol education programme.</p> <p>Public educational programmes are not highly rated for effect by the World Health Organisation (WHO). However, there is some international evidence that targeted interventions can be successful when combined with other measures, particularly if they have clearly defined outcomes and are aimed at changing attitudes as well as providing factual information.</p> <p>Successful programmes, particularly those aimed at parents, were reported to the Health and Sport Committee during its visit to Finland and France as part of its scrutiny of the Alcohol etc. (Scotland) Bill 2010.</p> <p>Under our proposals, the Scottish Government would be required to publish, near the beginning of each session of the Parliament, a statement of its policy on alcohol education and public information. There could also be a requirement about what the statement would have to include – for example, an outline of the measures proposed for educating children and young people about the risks associated with excessive alcohol consumption.</p>	<p><b>Q7) Is there a role for further alcohol education and public information campaigns in changing alcohol culture?</b></p>	<p>The evidence supports education and public information in the development of a sounder knowledge base among young people. This knowledge base is an <i>essential</i> component of behaviour and culture change, but it is not a <i>sufficient</i> component in isolation.</p> <p>We also note (from evidence provided by March 2009 Audit Scotland Report – <i>Drug and Alcohol Services in Scotland</i>) spend on services is skewed towards treatment (68% of total spend, as opposed to 6% total spend on all “preventative activities”, of which education is one part).</p> <p>We recognise that the impact of approaches vary, but evidence suggest the best approaches are holistic, and look to building resilience for young people and communities.</p> <p>We need a sophisticated approach to social marketing that targets different groups in different places across Scotland, based on evidence emerging from integrated intelligence between police and health in particular. Social marketing should be rolled out at national and sub national level, based on collaboration across council/health/justice areas. This approach has been pioneered by BALANCE.org in the North East of England.</p>

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	<p><b>Q8) <i>Would it be beneficial for Ministers to be made directly accountable to the Parliament for their policy in this area, as proposed?</i></b></p>	<p>Ministerial accountability should be through a consistent measurement of alcohol related harm through the performance framework with Alcohol and Drug Partnerships</p>
<p><b>Alcohol Discrimination Against Under-21 Year Olds in Off-Sales</b></p>	<p><b>Questions</b></p>	<p><b>Response</b></p>
<p>Labour successfully amended the 2010 Act to prevent Licensing Boards, discriminating against those aged between 18 and 21 when imposing or varying licence conditions.</p> <p>Since Labour’s amendment was passed, the Scottish Government has provided Licensing Boards with guidance outlining that such conditions can still be applied on a case-by-case basis (i.e. to individual premises licences). We therefore propose to extend the current restriction (which applies only at the general level of a Licensing Board’s policy statement) so that it would also prevent a Licensing Board from requiring any off-licence, as a condition of its premises licence, to sell only to a restricted adult age- group. This would not, of course, prevent off-licences themselves adopting a policy of selling only to over-21s and being licensed accordingly. We believe that test purchasing, challenge 25 and powers for Local Authorities to ban drinking in public places and to disperse those who continue to do so is a sufficient set of powers to tackle underage drinking</p>	<p><b>Q9) <i>Do you support a ban on Licensing Boards requiring off-licences to restrict sales on age-grounds alone, or are there circumstances where this could be justifiable?</i></b></p>	<p>We caution against options which limit local intelligence and disempower Licensing Boards from taking measured, evidence based responses to localised matters.</p> <p>We do support a ban restricting sales where there is intelligence to support that decision by Licensing Boards, for example, public space violence and disorder. We would encourage A and E Departments to collect and collate information on the locus of violence (in relation to casualty information) and share that information with Licensing Boards to help Boards deploy tools and powers effectively.</p>
<p><b>Community Involvement in Licensing Decisions</b></p>	<p><b>Questions</b></p>	<p><b>Response</b></p>
<p>Under our proposal, a similar requirement to that in New Zealand would be introduced in Scotland which would require every premises licence to be subject to an initial time-limit after which it would require to be renewed. (At present, there is no such time-limit, and a premises licence continues in effect indefinitely unless one of a number of trigger events occurs, such as the death of the licence-holder or the revocation of the licence.)</p> <p>Renewal applications (unlike initial applications) would then be made subject to a requirement to advertise the application locally (for example, in a local newspaper and/or by notice attached to the premises), so that local people would be aware of it and of their right to object within a specified period. Any objections would require be considered and taking into account by the Licensing Board. Renewal could be semi-automatic if there were no objections.</p> <p>Similar requirements (to advertise locally and consider objections) could also be applied in the case of other applications (for example, to vary licences). We would</p>	<p><b>Q10) <i>Do you believe community neighbours should be consulted and views taken into account when licences are being renewed or extended or when special licences are being issued?</i></b></p> <p><b>Q11) <i>Do you believe that the New Zealand model is an appropriate one to emulate, if not what,</i></b></p>	<p>We acknowledge that the current system engages community representatives through Licensing Forums, and by extension, the duty to consult with Health Boards adds to the range of input available to inform Licensing Boards. The proposal here is an extension of the same principles already established, and could be further developed. Any developments would not however start from an absence of a community voice, and the role of Licensing Forums should be considered.</p> <p>Failure to engage effectively will impact on public confidence in the justice system and in public services more generally. Conduits for community</p>

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<p>also welcome suggestions about how we could give local people a meaningful opportunity to be consulted and have their views considered without necessarily requiring all premises licences to be renewed every few years</p>	<p><b>changes should be made?</b></p>	<p>voices need to be effective and social networking and other methods of engagement should be pioneered. An integrated approach to intelligence between health and police in particular around violence and anti social behaviour would enable Licensing Boards to engage with communities from a position of strength. Failure to present and road-test intelligence gathered by health and police with communities will illustrate a fragmented approach across the system.</p>
<p><b>National Licensing Forum</b></p>	<p><b>Questions</b></p>	<p><b>Response</b></p>
<p>This national body was disbanded in 2009, having been thought to have served its purpose. Alcohol Focus Scotland receives funding from the Scottish Government to carry out some of the former body’s functions including to provide support to local licensing forums. However we believe that there is merit in re-establishing a national licensing body to commission co-ordinated training, advice and monitoring based on best practice, and the provision of information and data to the Government’s advisory body on alcohol, the Parliament and local authorities.</p> <p>We believe a national forum should be set within a legislative framework. It should report annually to the Scottish Parliament. We welcome views on how the costs of the new body should be met (for example, through a share of licence fee revenue).</p>	<p><b>Q12) Do you believe that there is a role for a statutory National Licensing Forum in addition to the existing local forums? If so:</b></p> <ul style="list-style-type: none"> <li>- <b>Should it be funded through licensing fees or central Scottish Government funding?</b></li> <li>- <b>What would its membership be, and who would appoint them?</b></li> <li>- <b>To whom would it be accountable?</b></li> <li>- <b>What would its functions be?</b></li> </ul>	<p>Prior to re-establishing a National Licensing Forum, we would encourage a review of the outcomes under current arrangements, where Alcohol Focus Scotland are in a position to contribute from a sound knowledge base to Licensing Forums.</p> <p>There will always be a role for strategic national arrangements within existing national governmental capacity and resources to:</p> <ul style="list-style-type: none"> <li>• Provide high level leadership of the alcohol agenda;</li> <li>• Drive the integration of national strategic planning between local government, health, crime and economic policy in particular;</li> <li>• Ensure accountability for alcohol delivery in Scotland, including reducing alcohol related harms.</li> </ul> <p>However, there needs to be a niche for a semi independent body such as Alcohol Focus (Scotland) to support capacity building for Licensing Boards and professionals on the ground, develop local alcohol profiles across the range of policy impacts, coordinate efforts around social marketing and communications around alcohol which is particularly challenging</p>

Part two: Justice

Alcohol Bottle Tagging	Questions	Response
<p>As a joint initiative between Dundee City Council and Tayside Police, this scheme involved licensees using an ultraviolet pen to mark the bottles they sold with a code specific to their premises. Tayside police officers, community wardens and licensing standards officers were issued with UV key fobs to enable them to read the codes on any bottles confiscated from youths. That then allowed the bottles to be traced back to the store where the alcohol had originally been purchased. This was a voluntary scheme which included the co-operation of the majority of the area's off-sales premises. A review of the pilot concluded that it had been successful and it was recommended that it should be rolled out to the rest of Dundee. The Dundee wide scheme was only voluntary and only certain drinks were marked. These are the drinks considered to be most popular with underage drinkers, i.e. tonic wines, cider, alcopops and fizzy wine.</p> <p>We believe there may be a case for further amending the 2005 Act so that requiring participation in bottle tagging schemes is automatically a basis on which Licensing Boards may vary licence conditions. It should be possible for the Board, having consulted the police, to require participation in this way either by varying licence conditions for individual premises, all premises of a particular type or in a particular area.</p>	<p><b>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?</b></p>	<p>In alignment with views expressed under Q 9, welcome options which empower Boards to use local intelligence and take measured, evidence based responses to localised matters, and in principle support bottle tagging as a useful response in some communities.</p> <p>Also note from other schemes which have operated, the opportunity to develop voluntary (partnership) approaches to bottle tagging bring other benefits in aligning the role of the licensees with wider partnership.</p>
Alcohol Fine Diversion.	Questions	Response
<p>Alcohol fine diversion is an early intervention aimed at addressing binge drinking and associated anti-social behaviour. Offenders who would otherwise be liable for a fixed penalty fine and whose offending behaviour appears to be related to alcohol consumption are offered the alternative of participating in a programme about the dangers and consequences of alcohol misuse. The target audience is not the hardened criminal or the chronic alcohol misuser; it is the binge drinker.</p> <p>The proposal is that this scheme should be further piloted, to ascertain if it is equally cost effective in an urban area, underpinned by legislation and then rolled out to every area.</p>	<p><b>Q14) Should Fine Diversion be made available, on a statutory basis, throughout Scotland, if the further pilot is successful?</b></p>	<p>Empowering local actions, which allow lower tariff sanctions with a proven evidence base are supported. And while supportive of the use of fines, we note the impact enforcement has on courts, on prison numbers and on the wider criminal justice system.</p>

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Alcohol Arrest Referral	Questions	Response
<p>This section of the Bill will require an Arrest Referral scheme to be operated by each Community Justice Authority within its area. As arrest referral schemes generally rely on the participation of a range of partner organisations (some in the voluntary sector), the Bill will not be prescriptive about the scope or nature of any scheme. However, the Bill will require the CJA, or any successor organisation, to make adequate provision for such schemes. It would be left to each individual arrested whether to participate in the scheme, recognising in particular that some will be much more easily able to do so than others (depending, for example, on where they live in relation to where programmes are delivered).</p>	<p><b><i>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?</i></b></p>	<p>We support Arrest Referral (AR) as an approach to intervene early in offenders' addictive behaviours. We believe the current diversity of AR Schemes across Scotland present a range of approaches, including Alcohol specific responses. Evidence supports the approach, but the issue of resourcing developments would need to be explored, including subsequent throughput to treatment services. We recognise the value of using Alcohol Brief Interventions (as piloted in West Dunbartonshire) as an approach worth consideration. It would be preferential for Arrest Referral to be part of a regulatory framework or performance framework rather than statutory - this will allow responses tailored to intelligence.</p>
Drinking Banning Orders	Questions	Response
<p>Using these Orders, a court would be able to impose a personal ban on drinking in specified places as a form of disposal in cases where a person is convicted of an alcohol related offence. Drinking banning orders (DBOs) are already available in England and Wales DBOs can be put in place, for no more than two years, to prevent an individual from entering premises licensed to sell alcohol (pubs, off-licences and private clubs). The court has discretion as to how the ban is applied in each case – for example, by specifying particular premises, or by identifying premises by category or by geographical area Home Office guidance suggests that DBOs may not be suitable for people who are vulnerable and suffering from drug or alcohol dependency, or mental health problems.</p> <p>Our proposal is to make provision for Drinking Banning Orders in Scotland on a very similar basis to the existing legislation in England and Wales</p>	<p><b><i>Q16) Should drinking banning orders be introduced in Scotland? If so should they be piloted in one Sheriffdom?</i></b></p>	<p>We support the use of interventions which focus on key drivers for an offender, but would invite development of the evidence base in relation to the use of DBO's.</p> <p>We also note concern about an up-tariff effect for those breaching a DBO.</p> <p>There is an argument that existing tools and powers should be better deployed rather than arguing for more. Proliferation in tools and powers can dilute their use and increase confusion amongst agencies.</p>
Alcohol and Drug Treatment and Testing Orders (ADTTO)	Questions	Response
<p>We now wish to introduce a measure to amend the current legislation on DTTOs to turn them into ADTTOs – Alcohol and Drug Treatment and Testing Orders.</p> <p>The Community Payback Orders introduced by the Criminal Justice and Licensing (Scotland) Act 2010 allow courts to impose drug treatment requirements and/or alcohol treatment requirements on offenders, requiring them to undertake appropriate treatment for their drug or alcohol dependency.<sup>93</sup> However the treatment is not specified and the sheriff does</p>	<p><b><i>Q17) Do you believe extending DTTOs to become ADTTOs would add value to the existing range of disposal? What differences of context between drugs and alcohol would need to be taken into account?</i></b></p>	<p>In terms of DTTOs being expanded to include issues relating to alcohol problems, we are already aware of limited examples where Sheriffs interpret 'drugs' to include alcohol. We would however wish to question the efficiency of DTTO's overall and would wish to ascertain their value and the evidence base before extending their coverage. We would also encourage a further review of current use of Alcohol Treatment within CPO's, and consider its use and impact.</p>

<p>not easily remain involved in management of the 'case'. Our proposal would build on the successful DTTOs to ensure that an equivalent regime would also apply to alcohol.</p> <p>The proposal partly arises from the work in Glasgow where supervised dispensing of Disulfiram by pharmacists has proved beneficial<sup>94</sup>. Disulfiram supports the client in abstinence since taking alcohol on top of the drug results in very unpleasant side effects. But adding alcohol to the DTTO also acknowledges that the continuing involvement of a sheriff in the on-going case management can be of critical importance in ensuring success levels greater than the one-off involvement which generally occurs with a community payback order.</p>		<p>Community Payback Orders were introduced to achieve (amongst other things) a simplifying of the criminal justice landscape and disposals available to courts – making options more understandable and straightforward. In this context, serious consideration should be given before the introduction of any new sentences.</p> <p>We are conscious of the current cost of DTTO's and the potential demand for an additional Alcohol cohort. Evidence suggests the number of offenders with significant alcohol problems is far above the number for whom drug misuse is the prominent issue.</p>
<p><b>Alcohol Offences Information Sharing</b></p> <p>One of the most significant failures of current legislation and practice is in the communication between different agencies. This is seen at a number of different levels of problem drinking. There is currently no requirement on any part of the criminal justice system to inform GPs when a patient is convicted of an offence involving alcohol. We propose a new requirement on any court which convicts a person for an offence in which (in the court's opinion) alcohol was a significant contributory factor, to notify the person's GP accordingly. We would consider extending this to other circumstances involving alcohol-related offending behaviour, but which do not involve a conviction – for example, the issuing of a fixed penalty notice or fiscal fine, a warning letter from the procurator fiscal, or just arrest and detention by the police (where the person is subsequently released without charge). In these situations, the police or other authority could also be obliged to report the circumstances to the person's GP. The requirement to report to a particular GP would only arise if the offender was prepared to provide his or her GP's details voluntarily; if this was not provided, the obligation would be to inform all GPs' surgeries in the area in which the offender is resident. There would be no obligation on the GP to take any particular action in response to this notification, but we believe it would at least ensure that the GP was alerted to a potential health problem that he or she might otherwise not be aware of, and that this would make it more likely that the offender would receive appropriate advice or treatment for their alcohol dependency.</p>	<p><b><i>Q18) Do you believe that notifying a GP about a patient's conviction for an alcohol-related offence would be beneficial? Should it apply only in cases of conviction or in other circumstances as well?</i></b></p>	<p><b>Response</b></p> <p>We recognise the critical the role of GP's in identifying and responding to alcohol problems within their practice through the use of Alcohol Screening and Brief Interventions, although we note this is still not universally utilised.</p> <p>We raise concerns over the potential for a wide range of individuals coming to justice partners' attention for "alcohol related offending". Without an evidence base, nor a clear direction of how such information would be used, and how it would better engage patients in care, it is not the view of CJA's to support this proposal without considerable development.</p> <p>We do recognise the need for improved information sharing, in particular between health and criminal justice services. In particular, we would encourage better recording of the involvement of alcohol (and drugs) in offending and the profile of those directly involved.</p>