

Dear Sir,

I refer to your consultation document "Shifting the Culture" dated March 2012. I am Depute Clerk to Renfrewshire Licensing Board and am responding on behalf of the Clerk to the Board, the contents of the consultation having been agreed with the Convener of the Board.

With reference to the points made in your consultation document-

1. Tightening Quantity Discounts Ban in Alcohol etc. (Scotland) Act 2010

We consider that this would be a logical extension to the existing provisions but similarly agree that there would not be a case for going further at the present time.

2./3. Public Health Interest and Child Protection

We note the proposal for statutory guidance on the practical application of the fourth and fifth licensing objectives under the 2005 Act. In principle, we would welcome guidance on these licensing objectives from the Scottish Government as they are still viewed as novel, but provided that guidance is clear, consistent with the terms of the legislation itself and does not merely reiterate the terms of that legislation. These difficulties have arisen with previous statutory guidance issued. In particular, the guidance issued under section 142 of the 2005 Act with particular reference to excluded premises put an interpretation on the terms of that section (which the courts ultimately found to be unwarranted), as a result of which there was protracted and expensive litigation. Accordingly, while guidance might be useful, it would be counterproductive if not entirely clear and consistent with the terms of the legislation. Further, the licensing objectives are not accurately quoted in the consultation document, particularly the health objective, as its terms are "protecting and improving public health", rather than the "promotion" of public health.

Should Guidance be issued, we agree that Ministers should report on its implementation, no more frequently than once per Parliamentary session. The contents of that report would depend upon the terms of the Guidance.

4./5. Restrictions on Alcohol Marketing

We wonder whether a "complete ban" on "all advertising of alcoholic drinks" is necessary or whether any restriction should apply only to alcoholic products which may be attractive to children and young persons given the perceived harm.

We have no suggestion to make at this time as to any restrictions beyond the promotion of the alcoholic product itself.

6. Caffeine Limit in Pre-mixed Alcohol Products

The Board are concerned regarding such products and their effect particularly on children and/or young persons and to that extent would support measures to control the strength of the caffeine in these products, provided that such measures can be introduced lawfully.

We do accept however that it may not be proportionate- nor practical- to prevent the sales of products such as shots and caffeinated mixers in on-sales (or indeed other) premises.

7./8. Alcohol Education

The Board continue to be supportive of programmes to make young people aware of the risks of excessive alcohol consumption. We consider it would be useful if information as to the effectiveness of any policies could be reported periodically to the Parliament.

9. Alcohol Discrimination against Under-21 Year Olds in Off-Sales

Given that persons aged 18-21 are not prevented by the law from consuming alcohol, and given that such persons will still be able to obtain alcohol with the assistance of friends, we would question the extent of the effect of any restriction on sales to under-21s. We note your comment on the effect of such a restriction upon young people who drink responsibly. We have no further comment we can make at this time other than that the Board has not to date found it necessary to impose such a restriction upon a licence holder selling alcohol to an adult age group.

10./11. Community Involvement

We have some concern as to whether requiring periodic renewal applications would be necessary. At present, premises licences are granted in perpetuity, but there are mechanisms under the Act for review of premises perceived, either by police, Licensing Standards Officers or other persons, as problematic. The Board then has a discretion to take any of the steps under section 39 if justified by the objectives. This allows wider scope for revocation, suspension or even variation of a licence than under previous suspension provisions. The new licensing system is funded by payment of annual licensing fees. The existing fees were introduced to fund the existing licensing system and do not cover renewal, which would presumably require another fee from the licensed trade, who maintain that they have already invested heavily in the new system which involved them obtaining a licence in perpetuity. Advertising in the local press would entail an additional expense, if required. At present, major variation applications in our Board's area are advertised on the internet. This gives an opportunity for persons to object and in the absence of further evidence

that incurring the expense of placing these in a newspaper as well would bring a benefit to the public, having regard to the attention found to be given to public notices in newspapers during consultations on the previously proposed PINS Portal, we cannot be convinced as to the benefit to be brought by this proposal.

The administrative and financial burden which may arise from additional renewal applications may not produce a corresponding benefit with regard to the licensing objectives.

12. National Licensing Forum

In the absence of further information about what would be achieved by the re-establishment of this group, we have no comment to make at this time.

13. Alcohol Bottle Tagging

The Board are supportive of proposals designed to reduce and deal with inappropriate alcohol sales. Licence conditions would require to be sufficiently clear to enable a compulsory system to work effectively.

14. Alcohol Fine Diversion

We have nothing to add in relation to this proposal.

15. Alcohol Arrest Referral

We have nothing to add in relation to this proposal.

16. Drinking Banning Orders

We have nothing to add in relation to this proposal other than that there are already some similar powers in this regard open to a court in the event of conviction by virtue of section 94 of the 2005 Act.

17. Alcohol Treatment and Testing Orders

We have nothing to add, other than that we are supportive of provisions likely to mitigate the effects of alcohol misuse and consequent offending.

18. Alcohol Offences Information Sharing

We have nothing to add in this regard other than a general concern about sensitive information being given out to third parties in the absence of a formal finding of guilt by a court.

With regard to your general questions 1-4, we would only add that the Board are sympathetic to proposals designed to reduce the effects of excessive alcohol consumption. In relation to the impact of your proposals on this organisation, the proposed quantity discounts provision would be an enforcement issue for the Licensing Standards Officer. The provisions about

community involvement, as framed, would result in resources being diverted from the existing workload of the Licensing section to deal with large numbers of renewal applications without obvious benefit. Otherwise we have nothing further to add at this time.

Regards,

Peter Hessett
Depute Clerk to the Licensing Board