Alcohol Focus Scotland

Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill

Summary of Alcohol Focus Scotland’s view on the bill as a whole:

- Alcohol Focus Scotland (AFS) supports the overall aim of this bill, to bring about a reduction in alcohol-related harm in Scotland. Considerable progress to date in the implementation of Scotland’s alcohol strategy, however continued efforts are critical to ensure a sustained, long-term reduction in levels of alcohol consumption and harm.

- The provisions in this bill should be considered in the context of Scotland’s wider alcohol strategy to ensure overall coherence in the strategic approach. An effective alcohol strategy contains a wide range of interventions, but it is important to ensure that attention and resources are not diverted from the most effective and cost-effective measures for reducing alcohol harm, namely controls on the affordability, availability and marketing of alcohol, particularly at a time when public finances are stretched.

- AFS supports the provisions in this bill to tighten the quantity discount ban, restrict alcohol advertising, and extend notification and consultation in premises licence applications. We believe a lot more can be done to protect children from exposure to alcohol marketing in Scotland, and to make the licensing process more accessible and responsive to local people. Action in these areas needs to go beyond what is proposed in this bill.

- AFS is less certain of other provisions in the bill, particularly those relating to offences involving alcohol. In principle we are in favour of interventions to reduce alcohol-related offences, and of help and support being provided to individuals whose drinking is identified as a factor in their offending behaviour. However, the evidence base on the effectiveness and cost-effectiveness of the proposed measures is lacking. We support further assessment and evaluation of these measures before being legislated on and widely implemented.

AFS opinion on particular provisions of the bill

Part One: Licensing and public health

Chapter one: Alcohol licensing

1. Minimum price of packages containing more than one alcoholic product

AFS supports this measure. The price and increasing affordability of alcohol in recent decades has been one of the major drivers of increased alcohol consumption and harm, and tackling alcohol affordability is key to changing our relationship with alcohol in the long-term. UK supermarkets have a track
record of using promotional offers on alcohol to attract customers as a means of boosting their overall sales and profits,\(^1\) to the detriment of public health and wellbeing. The multi-buy discount ban introduced in Scotland in 2011 was aimed at preventing retailers from incentivising bulk-buying of alcohol. An early evaluation of the ban indicates that it is working, with the ban found to be associated with a decrease in total off-trade alcohol sales.\(^2\) Extending the current ban to multi-packs of alcohol, so that an eight-pack always sells for double the price of a four-pack, will ensure the ban works even more effectively.

AFS believes, however, that Scotland should go further than what is proposed in this bill and ban all price discounting, not just quantity discounting. Retailers use percentage discounting on single items of alcohol in the same way they use quantity discounts, to drive up sales. Alcohol is heavily discounted in the UK, much more so than other products, and the evidence we have on drinking behaviour suggests that people are more likely to buy brands of alcohol that are promoted or discounted in price.\(^3\)

Although a legal product, alcohol is a toxic, intoxicating and addictive substance. We believe it is inappropriate for retailers to use it as a promotional tool to increase footfall. The introduction of a restriction on price discounting of alcohol, so that discounted products could not constitute more than 5% of the total alcoholic drinks stock displayed at any one time, would ensure more responsible alcohol retailing.

2. **Alcoholic drinks containing caffeine**

AFS supports this measure. Although caffeinated alcoholic beverages only account for a small proportion of the total alcohol sales in Scotland, their consumption is associated with a disproportionately high level of hazardous and offending behaviour, with serious and costly consequences for the drinker and society. Research suggests that alcohol and caffeine can have additive or synergistic effects and that drinking alcohol and caffeine together is riskier than drinking alcohol alone. Limiting caffeine content in pre-packaged alcoholic beverages may serve to reduce this risk. If introduced, an evaluation of its impact will help build the evidence base on caffeinated alcohol, and determining the level of effectiveness of setting caffeine limits.

3. **Age discrimination off-sales**

AFS is not in favour of this provision. We find its inclusion in this bill puzzling as it’s not a measure that will advance public health or reduce alcohol harm. Rather it appears to be an attempt to fetter the decision-making ability of local licensing boards, which we think is unwarranted. Firstly, we’re not aware of

\(^1\) Competition Commission, Groceries Market Inquiry 2007.


any instance of a licensing board seeking to impose an age-related restriction on off-sales over and above that already prescribed by law, so we struggle to see the necessity of legislating on this point. Secondly, and more importantly from our perspective, we are not convinced by the rationale for the introduction of this provision; namely that excessive consumption of alcohol is not restricted to any particular age group and imposing an age-related restriction on off-sales purchases reinforces stereotypes around youth and ‘binge drinking’. There are in fact numerous examples of highly effective alcohol policies targeted at specific population groups and specific drinking contexts. An effective alcohol strategy will contain both population level interventions and targeted measures. Young people are identified as a group that is particularly vulnerable to the harmful effects of alcohol and it is appropriate to consider policies to protect them. In general we believe licensing boards should be empowered to act to regulate the availability of alcohol through the imposition of specific conditions on individual licensed premises when the evidence indicates the action will be effective in reducing alcohol harm in their local communities.

4. Container marking

AFS is unsure of this proposal. In principle we support efforts to prevent alcohol being sold to under 18s, however we’re uncertain of the effectiveness and cost-effectiveness of this measure. As noted in the policy memorandum, evidence suggests that children and young people in Scotland who drink alcohol obtain most of it from friends and family. According to SALSUS, only 8% of 15-year-olds surveyed report buying alcohol from a shop.\(^4\) A container marking scheme is therefore targeted at only a small proportion of the alcohol that under-18s consume, and moreover it cannot be assumed that marked containers confiscated from under-18s have been sold illegally. In this sense, container marking appears to offer less certainty as a measure to detect direct under-age sales than test purchasing. That said, we are not opposed to licensing boards being given powers, through primary legislation or regulations, to require participation in container marking schemes as a condition of a licence. However, we think it’s worth giving more consideration to the cost-effectiveness of the measure before wider implementation. We would be in favour of further pilots being carried out that are fully costed and assessed in terms of effectiveness of reducing underage sales in comparison to other interventions aimed at preventing under-age alcohol sales.

5. Notification and consultation on premises licence applications

AFS supports these proposals to extend notification and consultation on premises licence applications and variations. Our engagement with community councils has also highlighted the difficulty they sometimes face in trying to comply with the current consultation period, as it doesn’t always give them sufficient time to gather the views of members. Extending the consultation period would allow community councils to have a more considered and detailed input into the licensing decision-making process.

\(^4\) SALSUS 2013 report www.isdscotland.org
Licensing practice impacts on everyday life. The physical availability of alcohol in communities – the numbers and types of premises and the way they operate – influences drinking behaviour and health. Areas in Scotland with the highest density of licensed premises have double the alcohol-related death rates of areas with the fewest.\(^5\) Greater availability of alcohol is also linked to higher levels of crime, public nuisance and social disorder, all of which negatively impact on the quality of life in local neighbourhoods.\(^6\) We believe that local people should be empowered to have a greater say in shaping the licensing environment in their area. The proposed provision in this bill is welcome in so far as it facilitates community involvement in licensing decisions. However, a lot more needs to be done to make the licensing process accessible to local people. Many aspects of the way the licensing system currently operates act as a barrier to community involvement, including the use of legal jargon and impenetrable bureaucratic language and the undue formality of licensing board hearings that public objectors find intimidating and off-putting. Action in these areas is necessary to realise the value of any legislative changes to extend community participation in licensing decision-making.\(^7\)

**Chapter two: Restrictions on advertising of alcohol**

6-7. Ban on alcohol advertising near schools etc.

AFS supports a ban on alcohol advertising near premises used by children. However, we strongly believe such a ban should extend to all public places. Viewed from the perspective of a child, a ban on alcohol advertising limited to a 200 metre radius around schools makes no sense as their lives are not confined to the vicinity of their school or nursery. They are out and about around their home, playing in the park, going to the shops. If we believe children should be protected from exposure to alcohol advertising near their schools, then that protection should extend to all the public places they inhabit. Whether at school or in their local neighbourhoods, they are the same children with the same vulnerabilities and should be afforded the same degree of protection.

A huge amount of money is spent each year on alcohol marketing in the UK, including around £27 million on outdoor advertising.\(^6\) Product design, packaging, price promotions, sponsorship and media advertising are all put to use in integrated marketing campaigns aimed at getting us drinking and drinking more. Marketing seeks to create strongly pro-alcohol social norms, influencing our knowledge and attitudes to alcohol. Children are particularly susceptible. Many of the common features of alcohol marketing - humour, music, special technological effects and so on - strongly appeal to children.

The alcohol industry claims its marketing activity is not about increasing overall consumption, but maintaining market share and encouraging brand

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\(^5\)Alcohol-related illness and death in Scottish neighbourhoods, 2014 alcohol-focus-scotland.org

\(^6\) Popova S et al 2009 Systematic review Alcohol and Alcoholism 44, 5

\(^7\) Strengthening the community voice in licensing decisions GCPH 2014

\(^8\) OFCOM Children’s and young people’s exposure to alcohol marketing 2013
switching between existing adult consumers. However, if alcohol marketing is powerful enough to convince drinkers to change their brand choice, then it’s more than powerful enough to appeal to children and influence their decisions on whether or not to drink, and how much. Research demonstrates that alcohol marketing reduces the age at which young people start to drink, increases the likelihood that they will drink, and increases the amount of alcohol they consume if they already drink.⁹

Current rules covering alcohol marketing in the UK are inadequate. They fail to prevent children from being exposed to a high level of alcohol marketing. A survey carried out for AFS found 10 and 11-year-olds in Scotland were more familiar with spirits and beer brands than leading brands of crisps, ice-cream and biscuits.¹⁰ Research also shows that 10-15 year olds in the UK see more alcohol adverts on TV, per hour watched, than adults.¹¹ Although existing advertising codes state that alcohol advertising should be shown to mainly adult audiences, in reality they allow alcohol advertising to reach large numbers of children. Children may on occasion make up a minority of an audience in percentage terms, but that can still amount to thousands of children. A more robust and clear legal framework is necessary to ensure that all children are protected from exposure to alcohol marketing communications, all of the time.

Some powers to regulate alcohol advertising are reserved, specifically broadcast media. However, we believe the Scottish parliament is competent to take action to limit alcohol advertising in public places (on billboards, bus shelters, etc.) and in cinemas. Cinema is a not a broadcast medium and the recent removal of the requirement for advert approval from the British Board of Film Classification means that there is no longer any statutory controls over cinema advertising in UK, leaving the way open for Scottish-specific controls.

There is strong public support in Scotland for stricter regulation of alcohol marketing to protect children. In a recent survey of public opinion survey, 86% of those polled in Scotland supported restricted alcohol advertising in cinemas to 18 certificate films and 82% supported a ban on TV alcohol advertising before 9pm.¹²

8. Advertising within licensed premises

AFS supports this measure. We were under the impression that there was already a legal requirement to confine alcohol promotions to a single area within a licensed premises, as specified in Schedule 3 (13) of the Licensing (Scotland) Act 2005. However, if there is a loophole in the existing legislation that the provision in this bill seeks to address then we would welcome its introduction.

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⁹ Anderson P et al 2009 Systematic Review Alcohol and Alcoholism 44
¹⁰ Children’s recognition of alcohol marketing 2015 alcohol-focus-scotland.org
¹¹ RAND 2012 Assessment of young people’s exposure to alcohol marketing.
¹² Opinion survey of UK residents carried out for the Alcohol Health Alliance UK in Oct/Nov 2014. Sample of 3077 respondents. Data weighted to be representative at country and English region level.
9. Advertising at sporting and cultural events

AFS supports a mandatory restriction on alcohol advertising at sporting or cultural events primarily involving under-18s. However, we believe this should be considered as the first step in the phased removal of alcohol sponsorship of all sporting activity and events.

There is an obvious conflict between drinking alcohol and sporting performance. However, the dominance of alcohol brand sponsors of sporting events that attract children as well as adults communicates a legitimacy and status to alcohol that belies the significant health and social harms associated with its use. Alcohol companies sponsoring sporting events sends the message to children that alcohol and sport are integrally linked. AFS’s brand recognition research in Scotland found children as young as 10 (particularly boys) associated beer brands with the football teams and tournaments they sponsor. Over half of the children surveyed (55%) linked Carling with football.

A recent opinion poll showed 69% of people in Scotland supporting restrictions on alcohol companies sponsoring sporting events. AFS would like to see discussion and debate start among policy-makers, sporting bodies and clubs on alternative models for the funding of sport, with a view to developing a road-map for the phased removal of alcohol sponsorship from sport. The recent sponsorship deal arranged by Hearts Football Club demonstrates that different approaches are possible. Ideally we should strive for sponsorship deals that are congruent with a sporting ethos and aims, rather than being seen as a vehicle for the promotion of health-damaging commodities and the purveyors of addiction.

Chapter three: Alcohol education

14. Alcohol education policy statements

AFS is unsure of this provision. We are unclear what it aims to achieve and confused by the information provided in the policy memorandum. The provision in the bill refers to the production of statement of alcohol education policy. However, the background information in the policy memorandum talks about the need for greater parliamentary scrutiny of progress in implementing the Framework for Action on Alcohol. As far as we can tell, the case for why a policy statement on education in particular is needed is not made. To assess the merits of an alcohol education policy statement, it would be helpful to know what such a policy statement would cover. Would it prescribe a general, uniform approach to alcohol education in Scotland? Would it apply only to the public information and education campaigns that the government initiates or is directly involved with; or it would apply to all alcohol education provided in schools, and how would this work? Based on the information provided, we’re unable to form a view on whether the introduction of alcohol education policy statements is an effective and cost-effective approach.

13 ibid
Part 2: Offences involving alcohol

15-29. Drink banning orders

AFS is unsure of this proposal. The policy memorandum provides detailed information on the form a DBO may take and how it would work, but there doesn’t appear to be any evidence presented on its effectiveness and cost-effectiveness. We’re not aware of any studies evaluating DBOs in terms of reducing alcohol-related harm. There is an obvious limitation in the way DBOs work in that a DBO cannot prevent someone from obtaining and consuming alcohol if someone else buys it for them. It would therefore be useful to know how effective DBOs in England have been in reducing alcohol consumption in individuals served with a DBO before legislating to introduce the scheme in Scotland.

30. Fixed penalty offences involving alcohol: alcohol awareness training as alternative to fine.

AFS is unsure of this proposal. We support further pilot studies being carried out on the effectiveness of offering alcohol awareness training as an alternative to a fixed penalty. However, in our view, it makes more sense to conduct a pilot first, evaluate the results and then legislate if necessary; rather than the other way round as proposed in this bill.

In general we are in favour of early interventions and for more support to be provided to individuals whose offending behaviour is linked to their alcohol use. However, the stages of behaviour change model suggests that the effectiveness of interventions of this type depends to a large extent on an individual’s willingness to reflect on their drinking behaviour and to be ready to change. We are not sure that a fine diversion scheme provides the optimum conditions for this. It would therefore be helpful to evaluate the effectiveness of the scheme beyond attendance rates, and to look at the longer-term impact of the training on drinking behaviour.

31. Offences involving alcohol: notification of offender’s GP

AFS is not in favour of this proposal. The relationship between a GP and a patient is therapeutic, confidential, and based on trust. This relationship is jeopardised if a GP is seen by a patient as collaborating with enforcement authorities. We are in favour of support being provided to individuals through primary health care services to help them address harmful drinking practices, but we believe there are better ways of delivering this than through a notification procedure.

Alcohol Focus Scotland