Shetland Licensing Forum and Shetland Alcohol and Drug Partnership

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

This Member’s Bill was introduced by Richard Simpson MSP on 1 April 2015. Its aim is to make provision for reducing and dealing with the abuse of alcohol; to amend the legislation in relation to applications for, and to vary, licences for the sale of alcohol; and for connected purposes.

1. Do the committee support the Bill as a whole?

Yes

2. Do you support particular provisions in the Bill?

Yes, see below.

3. Do you have concerns about particular provisions in the Bill?

Yes, see below.

Section 1: Minimum price of packages containing more than one alcoholic product

This provision would place restrictions on multi-pack discounting by preventing larger multi-packs of alcohol being sold at a discount relative to smaller multi-packs even where a single can, bottle or other container of the same alcohol product is not sold in the same retail outlet. E.g. this would prevent a 12 pack of beer being sold at less than twice the price of a six pack of the same beer sold in the same size and type of container, even if that beer (in that size and type of container) is not for sale individually on those premises.

Support

Section 2: Alcoholic drinks containing caffeine

This condition prohibits the sale of ready-mixed alcoholic drinks containing caffeine at a level greater than a limit to be prescribed by Scottish Ministers in regulations.

The rationale for this is that when alcoholic beverages are mixed with energy drinks, the caffeine (a stimulant) in these drinks can mask the depressant effects of alcohol. At the same time, caffeine has no effect on the metabolism of alcohol by the liver and thus does not reduce breath alcohol concentrations or reduce the risk of alcohol-attributable harms. The campaign group DrinkAware states that combining alcohol and caffeine means that you:

- can drink more alcohol, become ‘wide awake drunk’\(^i\) and are more likely to take risks\(^ii\)
are likely to experience increased physical and psychological side effects, such as heart palpitations, problems sleeping, feeling tense or agitated

can consume large amounts of caffeine, which in this quantity, can cause anxiety and panic attacks

can consume a lot of calories and sugar, that can make you put on weight, adding to the risk of developing type 2 diabetes which you face when you drink alcohol on its own

can increase your chances of developing short and long-term health problems.

More information on alcoholic drinks containing caffeine is available here:

https://www.drinkaware.co.uk/check-the-facts/health-effects-of-alcohol/effects-on-the-body/alcohol-energy-drinks

and here:


Support

Section 3: Age discrimination, off-sales.

Licensing Boards currently have an ability to impose license conditions on age related grounds, for example, to prohibit the sale of alcohol to adults between the ages of 18 and 21. This section of the bill proposes the prohibition of any ‘policy of age discrimination’ among adults.

We believe that although this provision has been rarely, if ever, used in Shetland, it may on occasion be useful, for example, to deal with particular issues around particular premises. We do not see it as age discrimination. There are many other examples where age restrictions are put in place for good reasons e.g. age at which a person can hire a car, higher insurance premiums for younger drivers, etc.

The rationale for this is that whilst consuming alcohol within a licensed premises, a young person is afforded the protection of licensing laws within the establishment. If a young person was to bulk buy alcohol at an off sales outlet, they are then free to consume it as they wish. Shetland is not saying that all young people are irresponsible drinkers, however, they may be inexperienced drinkers who could on occasion be offered some protection in relation to off sales purchasing.

Mixed feelings – wouldn’t want to discriminate against responsible reasonable drinking
Section 4: Container marking – off sales

The point of this amendment is to allow individual containers (e.g. a beer can) to be discreetly marked in such a way that the premises from which they were sold can be later identified. It is proposed to give Licensing Boards very wide discretion in how they target off-sales premises which are to be targeted to allow them to focus on individual premises, particular types of premises, or premises in a specific area where there is thought to be a particular problem with under age drinking.

It is felt that containers could pass through so many hands before being consumed that it would make this amendment unworkable and therefore of little use.

Disagree

Section 5: Applications for, or to vary, premises license: Consultation and publicity

This proposal is to expand the scope of local consultation where no community council is active and to increase the length of time available to respond to a consultation on a new license application or application to vary an existing license from 21 days to 42 days.

Support

Sections 6 & 7: Ban on alcohol advertising near schools etc

There is already a ban on advertising of alcohol within 200 meters of school premises. This provision is to define what counts as an alcohol advertisement – e.g. billboard, poster, illuminated sign, shop window displays of bottles and cans. The likelihood is that this would have little impact in Shetland, but we know that reducing advertising of a product (such as the ban on advertising cigarettes and the move to plain packaging) can have an impact on consumption, so would therefore support this proposal. This is particularly the case for people who are or have been dependent drinkers and are trying to resist alcohol.

Support

Section 8: Advertising of alcohol in licensed premises.

This section creates an offence of knowingly causing or permitting the display of an alcohol advertisement in retail premises containing an area which is licensed to sell alcohol for consumption off the premises, except inside that area. This would permit, for example, alcohol advertisements being displayed in those aisles of a supermarket where alcoholic drinks are on display, but not in the food aisles.
Section 9: Advertising at sporting and cultural events

This section is about extending the ban on displaying an alcohol advertisement within premises being used as the venue for a cultural event (other than a film-show) or sporting event where either the majority of participants are under 18, or the intended audience consists mostly of those under 18, to moving events (such as a city marathon or a street parade).

Support

Sections 10-13 – No comment to make

Section 14 – Alcohol education policy statements

This places a duty on the Scottish Ministers to produce statements of their policy on the provision of public information and education about the consumption of alcohol and to review the effectiveness of that policy and its implementation.

Support

Section 15 - Drinking banning orders.

This proposal is to create a new type of court order (a “drinking banning order” or DBO) that can be used against any person who has engaged in criminal or disorderly conduct while under the influence of alcohol. The purpose of any prohibition must be to protect other people from criminal or disorderly conduct by the subject of the order while he or she is under the influence of alcohol. This includes protecting other people’s property from unlawful loss or damage. In particular, the court may prohibit the subject from entering premises that are licensed to sell alcohol for consumption on the premises.

We feel that a Drinking Banning Order as a stand-alone disposal, would be ineffective and would only serve to criminalise what is very often a health issue. A breach of the Drinking Banning Order carries a fine of up to £2,500, which if imposed, could create serious financial hardship to individuals and their families, who actually require support and treatment. If imposed in conjunction with awareness raising/behaviour change/training/support or treatment, we would be more likely to support this element of the Bill. This might include

- Compulsory alcohol awareness training
- Compulsory Alcohol Treatment Order, stating that an offender must engage with alcohol treatment services
- Exclusion from specified areas or licensed premises
- Community payback order

Currently, bail conditions can be imposed which prohibit an offender from entering specified areas or licensed premises, prohibit an offender from being
drunk in a public place and require an offender to provide a specimen of breath to police upon request. Furthermore, at sentencing, a Sheriff can impose similar orders.

Support, if enhanced as suggested

Sections 16-29 include more detail on DBOs

Section 30: Fixed penalty offences involving alcohol: alcohol awareness training as alternative to fixed penalty

This section makes provision for fixed penalty offences involving alcohol and alcohol awareness training as an alternative to a fixed penalty.

This would be an early intervention scheme 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.

Support

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

This section places a duty on a court which has convicted an individual aged 16 or over of an offence, where it appears that consumption of alcohol was a contributory factor in the offending, to notify the individual's GP practice accordingly (where the practice is known). Notification would be required only where an individual is convicted of an offence – so would not apply in cases of acquittal, even if it is not contested that the accused was under the influence of alcohol at the relevant time (e.g. when arrested).

Support

4. How will the particular provisions in the Bill fit with your work, or the work of your organisation?

The Shetland Alcohol and Drug Partnership will be working alongside the Licensing Board over the next 3 to 5 years looking at the number of premises/personal licenses and the social/health impact on the Shetland community.

The Shetland Alcohol and Drug Partnership will also be working closely with the Criminal Justice Authority Partnership over the next few years to ensure joint planning and service delivery.

5. Will the Bill have financial or resource implications for you or your organisation?

Initially, if there is an increase in people accessing alcohol treatment services (due to GP notification) this may have a negative impact on finances and
resources. Due to the high financial cost of alcohol misuse, this would be an investment which could create significant savings in the future.

6. Do you have any other comments or suggestions relevant to the Bill?
No.

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