Dear Lesley

Post-legislative scrutiny of the Licensing (Scotland) Act 2005

Earlier in the year the Public Audit and Post-legislative Scrutiny Committee sought views from the public on which Acts would benefit from post-legislative scrutiny.

From the 24 Acts suggested the Committee agreed a shortlist of those it wished to take forward in the first instance. For the others the Committee agreed to write to the Scottish Government seeking information on the issues and concerns that were raised in the submissions.

In respect of the above Act I am writing to you seeking a written response to these issues. I would be grateful if you could provide a reply by Friday 23 February 2018.

A copy of the information provided in the submission can be found in the Annexe.

A link to our post-legislative scrutiny page can be found here:

http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/105094.aspx

Yours sincerely,

Alison Wilson
Assistant Clerk
Annexe

The Act reformed the licensing system and brought about much needed modernisation, for example through the introduction of a single premises licence and steps to tackle irresponsible alcohol promotions. The Act also introduced licensing objectives, including the fifth objective not in place in England and Wales, ‘protecting and improving public health’.

However, the decision to introduce a fifth licensing objective for ‘promoting and improving public health’ through the Licensing (Scotland) Act 2005 is not regarded as a widespread success. The following evidence indicates that the objective is difficult to understand and to apply:

- A 2011 report, supported by the Scottish Centre for Social Research (SCRC), evaluated the effect of the Act and found that ‘LSOs [Licensing Standards Officers] and licensing board respondents felt that the ‘promoting and improving public health’ objective was the one that had been the least successfully addressed locally’. The report cited a number of reasons for this including the difficulties defining and measuring the wider scope of the objective and the inadequacies of the local data available from which to monitor success.

- The final SCRC report, two years later, stated that ‘one of the most consistent findings throughout the three years of the evaluation was that the public health objective was viewed as being especially problematical, and it was the objective that Boards, Forums and LSOs in areas across Scotland were struggling to address. Owing to poor links between licensing and health officials, health professionals did not understand the licensing system and vice versa. It is important to note from this that officers in a council’s licensing department may lack the detailed knowledge of public health issues to apply a health objective properly. Furthermore, the report acknowledged that the Act failed to achieve the aim of increasing the cost of alcohol in the off-trade.

Monitoring and Evaluating Scotland’s Alcohol Strategy (MESAS), a programme run by NHS Health Scotland for the Scottish Government to assess the effects of a range of legislation on public health, reported that ‘understanding and addressing the public health objective has been challenging for Licensing Boards.

It is now clear that it is proving difficult to implement the public health objective, due to a lack of specialist health knowledge in licensing departments, and health professionals lacking the expertise and access to detailed data that would be necessary to assess whether proposed new licensed premises would pose significant risks to public health. Therefore, the Act should be reviewed so that proper scrutiny of the effectiveness of the health licensing objective can take place.