

ALCOHOL (PUBLIC HEALTH AND CRIMINAL JUSTICE) (SCOTLAND) BILL

DR RICHARD SIMPSON MSP

SUMMARY OF CONSULTATION RESPONSES

This document summarises and analyses the responses to a consultation exercise carried out on the above proposal.

The background to the proposal is set out in section 1, while section 2 gives an overview of the results. A detailed analysis of the responses to the consultation questions is given in section 3. These three sections have been prepared by the Scottish Parliament's Non-Government Bills Unit (NGBU). Section 4 has been prepared by Dr Richard Simpson MSP and includes his commentary on the results of the consultation.

In some places, the summary includes quantitative data about responses, including numbers and proportions of respondents who have indicated support for, or opposition to, the proposal (or particular aspects of it). In interpreting this data, it should be borne in mind that respondents are self-selecting and it should not be assumed that their individual or collective views are representative of wider stakeholder or public opinion. The principal aim of the document is to identify the main points made by respondents, giving weight in particular to those supported by arguments and evidence and those from respondents with relevant experience and expertise. A consultation is not an opinion poll, and the best arguments may not be those that obtain majority support.

Copies of the individual responses are available on the following website:

www.Richardsimpson.info/consultation-responses-2/

A list of individual responses is set out in the Annexe to this document.

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SECTION 1

INTRODUCTION AND BACKGROUND

Dr Richard Simpson's draft proposal, lodged on 13 March 2012, is for a Bill—

to bring forward measures to help change the culture in relation to alcohol in Scotland; to promote public health and reduce alcohol-related offending through (a) restrictions on the retailing and advertising of alcoholic drinks; (b) changes to licensing laws; (c) obligations on Scottish Ministers to issue guidance and report; (d) directing offenders towards treatment or restricting their access to alcohol.

The proposal was accompanied by a consultation document, prepared in consultation with Graeme Pearson MSP, and with the assistance of NGBU. This document was published on the Parliament's website, from where it remains accessible:

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/29731.aspx>.

The consultation exercise was run by Dr Richard Simpson's parliamentary office.

The consultation period ran from 13 March to 29 June 2012 and was then extended by the member to 31 July 2012.

NGBU understands that around 233 consultation documents were issued to various organisations and individuals, including local authorities, education and training groups, children and young people groups, licensing boards, health boards, alcohol and drug partnerships, medical representative organisations, police and legal professions/organisations, the advertising sector, alcohol manufacturers and representative organisations, the retail sector, equalities groups, campaign groups, charities, and faith and religious groups,

Dr Simpson also held a press conference at the start of the consultation period to increase awareness of the consultation.

The consultation process is part of the procedure that MSPs must follow in order to obtain the right to introduce a Member's Bill. Further information about the procedure can be found in the Parliament's standing orders (see Rule 9.14) and in the *Guidance on Public Bills*, both of which are available on the Parliament's website:

- Standing orders (Chapter 9):
<http://www.scottish.parliament.uk/parliamentarybusiness/26514.aspx>
- Guidance (Part 3):
<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/25690.aspx>

SECTION 2

OVERVIEW OF RESPONSES

In total, 55 responses were received.

The responses can be categorised as follows—

- 23 (41%) from public sector bodies and organisations (9 health boards, 2 local authorities, 5 alcohol and drug partnerships, 3 licensing boards, 1 drug treatment and testing order scheme; 1 from the court service; and 2 from community justice authorities);
- 10 (18%) from representative bodies (representing parts of the medical profession (3), advertising industry (1), police (2), alcohol industry (2), legal profession (1), and one promoting health and eradication of inequalities);
- 2 (4%) from charities;
- 3 (5%) from organisations representing faith/religious viewpoints;
- 4 (7%) from organisations representing children and young people's interests;
- 2 (4%) from organisations from further education institutions;
- 1 (2%) from a private sector organisation;
- 1 (2%) from an independent regulator;
- 1 (2%) from a community support organisation;
- 1 (2%) from a consumer representative organisation;
- 7 (13%) from individuals (including: a councillor/member of a licensing board; chair of a health board; chair of an alcohol counselling service; professor of transplantation surgery; and solicitor with some experience of licensing).

The draft proposal and consultation cover a broad spectrum of issues relating to proposed measures in both the public health and justice areas. Therefore, because of the diversity of the proposed Bill, it is problematic to provide a general sense of support or opposition to the proposed Bill as a whole. (For further details specifically on support/opposition, see General Question 1 on page 11.)

This section highlights some of the areas where there were particularly strong themes or a particular difference in views.

An over-arching general theme related to support for measures aimed at addressing alcohol misuse and reducing the impact on the health and criminal justice systems,

although some respondents felt that the focus was too much on either one or other of the systems.

Measures which had an overall majority of support included: quantity discounting, Ministers issuing guidance on licensing objectives, specific restrictions on advertising of alcohol, further alcohol education and public information campaigns, and re-establishment of a National Licensing Forum.

On the proposed restrictions on advertising, there was support for the proposals from a range of stakeholders and a significant number of suggestions for going further than the advertising restrictions proposed. However, there was general opposition from organisations associated with the advertising and alcohol manufacturing related sectors, who argued that current rules governing advertising were sufficient and that complaints by the public about alcohol advertising were few in number.

One of the areas where there was opposition was in relation to the proposed notification to GPs about patients convicted of an alcohol-related offence, with some respondents not being convinced that such a requirement would have a significant impact on addressing drinking behaviours among offenders.

Areas where a recurrent theme was the need for a further evidence and evaluation included—

- Restrictions on pre-mixed caffeinated alcohol products;
- Licensing Boards making participation in bottle-tagging schemes a licensing condition;
- Fine Diversion being made available on a statutory basis;
- Arrest Referral Schemes for alcohol (as well as drugs) being a statutory requirement in each Community Justice Authority;
- Drink Banning Orders;
- Extending Drug Treatment and Testing Orders (DTTOs) to become Alcohol Drug Treatment and Testing Orders (ADTTOs).

Other views included, amongst other things, that (1) there was not a need for legislation for all the proposed measures, and that in some instances it might be more appropriate to advance the proposed objectives in consultation with the Scottish Government and through the implementation of the wider alcohol strategy (Alcohol Focus Scotland); and (2) that recent significant legislative changes were still at early stages of implementation and required to be fully evaluated before further measures were considered (Scotch Whisky Association).

SECTION 3

RESPONSES TO GENERAL QUESTIONS

Question 1: Do you support the general aim of the proposed Bill? Please indicate “yes/no/undecided” and explain the reasons for your response?

Twenty-two respondents answered this question, although a number also commented in other contexts (for example, in a covering letter) on their views in relation to the general aim of the proposed Bill; more general observations in that context have been made in the overview of this summary (Section 2). The focus in this analysis relates to the content of the direct responses to this question.

Just over half of the respondents (12) indicated general support for the proposed Bill, just over a third (8) either expressed qualified support subject to further evaluation of evidence or supported some of the measures but not others. One consultee (Church of Scotland) was undecided and one (NHS Fife) did not support the proposals, expressing the view that they did not address underlying cultural issues, nor did they reach the major area of concern, which related to higher income groups and wine consumption.

A general theme related to support for any measures aimed at addressing alcohol misuse and reducing the impact on the health and criminal justice systems. Specific examples of supportive comments included—

- ACPOS was of the view that measures which offered alternatives to prosecution were worthy of further exploration, commenting that any measure that attempted to address alcohol misuse and change people’s behaviour could only be a positive thing.
- NHS Health Scotland was supportive of the proposals to further restrict discount selling, issue guidance on achieving the public health and child protection objectives, further restrict alcohol marketing and improve the effectiveness and local accountability of the Licensing Boards.
- Any actions which aimed to tackle the root cause of issues associated with alcohol misuse relating to health, criminal behavior, social relationships and domestic abuse and promote sustainable culture changes were welcomed and supported (NHS Dumfries and Galloway).

Respondents who had mixed views or raised additional issues commented—

- There was a need for a wider strategy that encompasses health, justice, education and pricing (BMA).
- The measures and proposals, particularly those relating to criminal justice, only tackled part of the problem, and did not address why people drank to excess. It was suggested that the recommendations made by the Young Scot’s Commission on Alcohol should be taken into account (Children in Scotland).

- The Scottish Episcopal Church felt that a holistic approach was required, recognising the influence and treatment of poverty in Scotland, and providing a broader examination of the rapid changes in the trade, marketing and consumption of alcohol especially to the individual. It was suggested that this could be improved by promoting responsible drinking in the context of better sociable, familial and communal settings.
- The Scotch Whisky Association believed in the approach adopted by the World Health Organisation of taking action to reduce the harmful use of alcohol rather than alcohol *per se*.
- The Scottish Government legislation on minimum price per unit was welcome and any additional legislation to complement and reinforce current policy, if evidence based, should be considered and supported (NHS Dumfries and Galloway).
- The Association of Scottish Police Superintendents (ASPS) highlighted that enforcement alone would not address the underlying causes of alcohol abuse or successfully treat its symptoms. The Scotch Whisky Association, on the other hand, felt that enforcement in certain areas required to be improved as there were still low numbers of prosecutions for those who sold to those under the legal purchase age.
- Scottish Health Action on Alcohol Problems (SHAAP) thought that the consultation focused too much on criminal justice and should have more on health and other treatment services. It was felt that—

“The framing of alcohol problems in the bill reflects a “problem drinker” perspective, one which is often advocated by parts of the alcohol industry and there is an absence of a whole population approach. This over-emphasis on sub-groups ignores the evidence base for the need to address alcohol-related harm at a population level through measures that reduce per capita consumption.”

Question 2: Are there further legislative (or non-legislative) changes that you would recommend, beyond those outlined in this consultation, in order to further its general aims of tackling Scotland’s culture of excessive alcohol consumption?

Fourteen respondents answered this question and there was a range of further changes suggested beyond those outlined in the consultation.

Pricing/sales

- Labelling of alcoholic beverage containers which, while reserved, should be pursued with MPs for regulation on this matter. This might also be a method to provide explanatory guidance on drinking guidelines and alcohol content in terms of units, information on the maximum recommended daily level of alcohol consumption, and a warning of the dangers of excessive drinking (BMA Scotland).

- Investment should be pursued in preventing fetal alcohol harm, supplemented by efforts to identify and support those living with the condition (Children in Scotland).
- The proposed Bill should recognise that increasing price was one of the most effective ways to reduce population levels of consumption and harm, and suggest additional measures to address the price of alcohol, particularly those that would target the high strength, low cost drinks favoured by heavy and young drinkers (NHS Health Scotland).
- Further regulation and limiting the hours and days of sale, numbers of alcohol outlets, and restrictions on access to alcohol in reducing both alcohol use and alcohol-related problems (NHS Health Scotland).
- Data on volume sales should be collected from licensed premises at a local level (NHS Dumfries and Galloway).
- The role of the alcohol industry should be restricted to implementation of alcohol policy and not involved in the delivery of public health goals given the obvious conflict of interest (AFS).

Criminal justice

- Random testing of drivers for alcohol, given the correlation between excess alcohol consumption and higher income groups. Higher sentences for drivers caught drink-driving and those involved in accidents, particularly where others were harmed, should also be explored (NHS Fife).
- Any person who was subject to an exclusion order or banning order could be prohibited in the order from having alcohol in a public place, with a power for police officers to seize and dispose of any such alcohol and (at their discretion) report it as a breach of the order (Association of Scottish Police Superintendents).

Licensing Boards

- Licensing Boards should have discretion to refuse an occasional licence (for example, for a large event in connection with a national sporting event) in the event of an adverse report from the Police or Licensing Standards Officers (City of Glasgow Licensing Board).
- Action was required in relation to the membership of Licensing Boards and Licensing Forums, including reviewing conflicts of interest and understanding the principles of actions to reduce alcohol related harm (NHS Ayrshire and Arran).

Question 3: What is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?

There were thirteen responses specifically on the financial implications and these tended to focus on police service and court costs and health expenditure.

One response from individuals working in addictions or education fields expressed the view that the benefits to the legal system and health service would be likely to outweigh any additional cost.

Health

Two NHS Boards referred to the increased demand for NHS treatment which would follow from expansion of DTTOs to become ADTTOs, leading to increased expenditure. In the medium term, investment in effective regulation and intervention in line with WHO evidence for the effectiveness and cost-effectiveness of interventions to reduce alcohol-related harm should have a positive impact, however. Another NHS Board highlighted that, if successful and alcohol misuse fell, there would be a reduction in costs in the long term.

Police service

Both ASPS and ACPOS highlighted that any legislation that increased police powers or created enforceable offences inevitably increased demands on the police force and some of the proposed measures might require additional resources or prioritisation of how resources were used.

Scottish Court Service

The Scottish Court Service indicated that there would be financial implications for it in terms of a number of the proposals, including the expansion of DTTOs to become ADTTOs, fine diversion, drink banning orders and notification of offenders to GPs.

Licensing Boards

There could be increased financial implications in the event of the proposed measure regarding license renewals being implemented (ACPOS and Glasgow Licensing Board).

Question 4: Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

There were mixed views expressed in the eleven responses to this question, with some respondents stating that the proposed measures would have a beneficial impact on the health and wellbeing of those suffering the most disadvantage, and others taking the view that the proposals could have a more detrimental impact on the most socially excluded. The majority of comments focussed on inequalities resulting from the health implications of alcohol.

NHS Health Scotland made the general point that the relationship between alcohol and social and health inequalities was complex and different measures might have

differing impacts. From the evidence base, it was unclear what these were likely to be, however.

Positive impact

Where the view was that the proposed measures might have a positive impact on equality issues, points raised included the following—

- Excess alcohol use was common in all socio-economic groups, but alcohol-related harm was concentrated in most deprived sections of society. A whole population approach and effective alcohol policies should have a positive impact on health inequalities for the most disadvantaged people (NHS Lothian).
- Alcohol-related hospital admissions tended to be commoner in more deprived sections of society, and as some of the measures appeared likely to affect those sections, they could help reduce health inequalities (NHS Dumfries and Galloway).

Negative impact

- NHS Ayrshire and Arran highlighted that people with alcohol problems tended to become marginalised, with poorer health outcomes than many other groups and intervention measures might lead inadvertently to inequalities – particularly in relation to banning orders, ADTTOs, information sharing and arrest referral.

Gender

In relation to gender issues, Glasgow Caledonian University stated that, although men were more likely to drink excessively and experience and cause problems related to alcohol, the recent increase in heavy drinking by British women was also a cause for concern. Reference was made to research which suggested that young women and men in mid-life in the west of Scotland regard drinking together as an “act of friendship”, which suggested the possibility of developing and testing group interventions to reduce heavy drinking. More research needed to focus on gender and alcohol in order to identify harm reduction strategies which worked with both men and women.

Age

In relation to the proposed ban on Licensing Boards requiring off-licenses to restrict sales on age-grounds, the City of Edinburgh Council felt that not allowing 18-20 year olds to buy alcohol in off-licenses was discriminatory and that it would have a greater impact on young people in the lower socio-economic groups as they would be less likely to be able to afford to use alcohol on licensed premises, therefore increasing their experience of social exclusion.

SECTION 3

RESPONSES TO QUESTIONS ON SPECIFIC PROPOSED MEASURES

HEALTH MEASURES

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

Proposed measure

The consultation proposes that it would no longer be possible to sell different sized multipacks of a particular alcoholic product at differential prices per item. For example, 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.

Question 1 – 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?

A broad range of organisations responded in relation to this proposed measure, with 34 of the 44 respondents (77%) supporting the measure and the remaining ten either opposed or not expressing a clear view.

Reasons for support included that it was an effective measure with low implementation costs (NHS Greater Glasgow and Clyde); that it was a natural progression from the quantity discount ban on off-sales introduced by the Alcohol etc. (Scotland) Act 2012; and that it might further discourage some consumers from taking advantage of the multi-pack option (Association of Chief Police Officers (ACPOS)).

One respondent (the Scotch Whisky Association) expressed a wish to understand better the impact of this measure before taking a view on whether further action was required in this area.

Reasons for opposition included the following—

- Retail outlets might be encouraged to sell alcohol products only in larger packs to increase sales, thereby limiting consumer choice and potentially encouraging higher alcohol use (City of Edinburgh Council, Dept of Health and Social Care).
- Retailers selling alcohol currently had a full range of legislation to adhere to which could be particularly complex and expensive to implement and monitor for smaller, local businesses (Stirling Alcohol and Drug Partnership (ADP)).
- Where there was a demand for controlled products there was increased risk of criminal enterprise to exploit such demand (Association of Scottish Police Superintendents (ASPS)) (i.e. where there is legislation that prevented retailers from selling cheap multi-packs, this might benefit criminal activity to meet the demand).

- The Wine and Spirit Trade Association, Scottish Grocers Federation and Scottish Retail Consortium stated that: “Our understanding is that the quantity discounts ban introduced by the 2010 Act was designed to work in conjunction with the minimum unit pricing of alcohol. As the parliament has passed the Alcohol (Minimum Pricing) (Scotland) Act the pricing of multi-packs will now have to comply with the minimum unit pricing requirements of the new Act. We therefore do not believe that further changes to the quantity discount ban are necessary”.

In terms of whether there was a case for going further, one respondent called for an end to all forms of quantity discounting (Socialist Health Association Scotland (SHAS)).

Other suggested measures included—

- Specifically targeting the “drink to get drunk” products such as 9% lager, cheap fortified wines, alcopops and strong cider ((Professor Steve Wigmore, Professor of Transplantation and Surgery, University of Edinburgh).
- Investigation of the possibility of imposing a levy on those who profited the most from the sale of alcohol and use of that income for more hard hitting education programmes, for example, or approaches to prevent alcohol misuse (Lanarkshire ADP supported the proposal by Alcohol Focus Scotland (AFS)).
- The British Medical Association (BMA) Scotland called for a ban on the use of supermarket loyalty card schemes, reward points or vouchers for alcohol to avoid supermarkets being able to offer further discounts to alcohol which could take the price below the established minimum price per unit.
- The purchase of alcohol should be detached completely from the purchase of household groceries by restricting the sale of alcohol to designated off-licenses in outlets separate from other retail household premises (NHS Lothian).

Public Health Interest and Child Protection

Proposed measure

This proposal would require the Scottish Government to issue detailed guidance on the application of two licensing objectives: “the promotion of public health” and “the protection of children from harm” and to report to the Parliament, at least once in each session of the Parliament, on the implementation of that guidance.

Question 2 - Do you believe that Ministers should be required to issue guidance on these two licensing objectives?

Thirty-six (80%) of the 45 respondents to this question agreed with this measure, while nine (20%) either did not support it or were undecided/unclear. Positive themes which emerged included achieving consistency across all licensing boards in relation to guidance on objectives, and ensuring that members of licensing boards had a better understanding and interpretation of the licensing objectives. In particular—

- Children in Scotland believed that such guidance should support licence holders, applicants and licensing boards to identify what they could do to reduce any negative impact from licensed premises on children and young people.
- ASPS believed that improved understanding through Ministerial guidance should enable boards to be more informed in tailoring policies promoting public health, with a move away from considering conditions of individual premises to the bigger picture across the board area. Such guidance would also facilitate consistency of approach across board areas.

Additional points on what the guidance should cover

One respondent (NHS Forth Valley) also felt that guidance should specify that all licensing applications be accompanied by an estimate of the annual sales of alcohol from that outlet in units of alcohol, which would allow licensing boards to gauge the amount of additional alcohol being released to the population of the area which the licence represented.

Guidance on all objectives

A number of respondents felt that the Scottish Government should go further and issue guidance on all five of the licensing objectives set out in the Licensing (Scotland) Act 2005 (“the 2005 Act”), including the City of Edinburgh Council and the Scotch Whisky Association.

The City of Glasgow Licensing Board was in favour of the extension of such guidance, particularly in the light of recent case law such as *Brightcrew Ltd v City of Glasgow Licensing Board* 2011, which held that the five licensing objectives set out in the 2005 Act did not “empower a licensing board to insist on matters which, while perhaps unquestionably desirable in that sense, are nevertheless not linked to the sale of alcohol”. The outcome was that the Board was only able to apply the objectives to matters which related directly to the sale of alcohol and was unable, for example, to use them to deal with issues relating to noise or nuisance at licensed premises.

Other views

Comments from respondents who were not in favour or had no definitive view on the proposal included the view that changing licensing practice was also about changing attitudes and this was best achieved through joint working locally between agencies such as public health, child protection and the licensing board.

Alcohol Focus Scotland (AFS) advised that licensing boards had previously reported difficulty in interpreting the public health objective in particular, and believed that the provision of more practical resources would aid understanding more than the provision of further legal documentation. AFS was currently preparing a licensing resource toolkit and was working with Alcohol and Drug Partnerships and public health consultants to support licensing boards to develop more effective licensing practice.

The opinion of one individual was that issuing guidance to licensing boards as currently set up would have little effect and there needed to be a fundamental change in the composition of licensing boards, as they were weighted towards elected members and the licensed trade.

Highland and Argyll and Bute ADPs had no single view – while it was felt that further legal guidance could be useful, it would also have the potential to be restrictive. Further legislation focused on interpretation might result in boards “focusing narrowly and quite literally on the letter of the guidance”.

Another view was that it was not necessary or appropriate for legislation in this area.

Question 3 - 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?

Arguments in favour of Ministers being required to report to Parliament included—

- NHS Lothian felt that a formal report of cross-government progress against Scotland’s public health challenges would be helpful and alcohol would feature highly in that.
- The measure would allow Ministers an opportunity to see how the law in this area was evolving and the impact which legislation had on a practical level (City of Glasgow Licensing Board).
- A top level strategic scrutiny which would allow for best practice being provided to local boards and local policing areas would be ensured (ACPOS).

A range of suggestions was made for what the report should be required to cover, including—

Strategic issues

- Whether the two objectives were achieving their desired aims in terms of the overall purpose of the Act (Clerk to North Lanarkshire Licensing Board).
- An overview of the direction taken by each Board in relation to their policies, upholding of objectives, identifying areas of best practice, outlining the justification for decisions outwith policy and informing the development of the 2005 Act (ACPOS).
- What progress the Scottish Government was making against the *Alcohol Framework for Action*, published in 2009 (Barnardo’s Scotland).

Information of a more operational nature

- The number of licence applications made, granted, and withdrawn.
- The number of objections and their nature, as well as how many were upheld and on what grounds.
- The trend and analysis on consumption.
- Crime and disorder.
- Presentation of health problems, particularly in Accident and Emergency settings.

- An analysis of density and capacity of alcohol outlets.
- A full comparative report on licensing decisions across all local authorities.

Seven respondents agreed with reporting once per session; one thought it should be every three years, and one felt that it should be left to Ministers and Parliamentarians to determine how often reports were required and what they should cover.

Those who did not support the proposal argued that a national report would be too high-level to have much significance in local areas and that reporting was not necessarily successful.

Alternatives to a Ministerial report

Other suggestions for reporting included—

- The duty to report should be placed with Licensing Boards (AFS).
- The information could be covered in the existing annual report arrangements for Alcohol and Drug Partnerships/Single Outcome Agreements (NHS Borders).

Restrictions on Alcohol Marketing

Proposed measure

The objective would be to restrict the advertising of alcoholic drinks, particularly where they were likely to be seen by children. The consultation proposes that there should be a complete ban in public places (for example, billboards, hoardings, bus-shelters, buses and other vehicles). The ban would not extend to places where the public is only permitted on payment (such as football grounds or other sports venues). In addition, it was proposed to ban such advertising through the medium of filmed advertisements shown during cinema presentations to which children are admitted.

Question 4 - Do you believe that the proposed restrictions on advertising are proportionate or necessary?

Forty-seven responses answered this question, with 38 (81%) largely supportive of restrictions on advertising, five (10%) were opposed, and four undecided. Arguments by those respondents who thought that such restrictions were proportionate or necessary included—

- Advertising could reinforce gender stereotyped roles and glamorise sexual violence and alcohol marketing could, for example, associate beer drinking with men playing sports and wine drinking with “glamorous” women (Zero Tolerance).
- AFS highlighted that, of the £800m spent on alcohol marketing, around £550m was spent on football/sport sponsorship, promotions, music festivals and online marketing and promotions where the potential exposure of children was even greater and more difficult to regulate.

- The Law Society of Scotland referred to its response to a Scottish Government consultation which stated that the Society supports such restrictions on the basis that they should lead to responsible drinking.

Those opposed were the Advertising Association, the Advertising Standards Authority, Heineken, the Scotch Whisky Association, and the Wine and Spirit Trade Association, Scottish Grocers' Federation and the Scottish Retail Consortium who argued that current rules governing advertising were sufficient.

Specific arguments against the proposed measure included—

- The Advertising Association and Advertising Standards Authority said that the Committee of Advertising Practice (CAP) Code set out the rules for non-broadcast advertising, including cinema and outdoor advertising, and these rules were adhered to. Even when alcohol advertising was permitted with a film, its proportion did not exceed 40% of reel time and Cinema Advertising Association members endeavoured to ensure that alcohol advertisements were always interspersed with non-alcohol advertisements.
- Heineken, the Scotch Whisky Association and the Wine and Spirit Trade Association, Scottish Grocers' Federation and the Scottish Retail Consortium claimed that there was no evidence to suggest a ban on alcohol advertising would be an effective response and that the UK already had some of the strictest restrictions on alcohol advertising and marketing in the world.
- The Advertising Standards Authority stated that complaints by the public about alcohol advertising were few in number (despite high public awareness of the advertising regulator).

Question 5 - Are there any further measures you feel should be introduced?

One of the main themes which emerged in this context was that in future sporting events, music concerts and other popular events should not be sponsored by the alcohol industry, with a number of respondents sharing the view that alcohol industry sponsorship of sporting events was inconsistent with the promotion of health and well-being. Further suggested measures focussed on the following areas—

Children and advertising

- A number of respondents expressed the view that the Scottish Government should urge the UK Government to develop UK-wide approaches and target all advertising that can be viewed by children and young people.
- AFS and Orkney ADP supported the French “Loi Evin” framework which provided guidance on marketing practices and how best to ensure children and young people were protected from an exposure that posed a risk to their health and wellbeing. AFS commented that the Loi Evin had been upheld by the European Court of Justice which found the measure to be proportionate, effective and consistent with the EC Treaty.

Devolved/reserved issues about broadcasting

- The Scottish Government should pursue the issue of devolving powers on advertising to Scotland or there should be a UK-wide approach to alcohol advertising.

Sporting and cultural events

- There should be restrictions at sporting and cultural events – a view supported by a range of respondents, including AFS, City of Edinburgh Council, Salvation Army, BMA, Children in Scotland, NHS Dumfries and Galloway, NHS Lothian, NHS Health Scotland, NSPCC, Stirling ADP, and the University of West of Scotland.
- There should be no alcohol industry sponsorship of the forthcoming Commonwealth Games in 2014 (AFS).
- A number of respondents suggested banning sporting replica kits with alcohol sponsorship, while the SHAS called for such a ban on children's sporting replica kits. One view from the Highland and Argyll and Bute ADPs argued that such a ban should also cover the sale, in shops likely to be frequented by under-18s, of clothing with alcohol-related messages or logos along with the wearing of such clothes in public places.

Cost-benefit analysis of complete ban

- Borders ADP suggested a cost-benefit analysis should be conducted on a complete ban on alcohol advertising.

Cinemas

- Restrictions should apply in cinemas, including the building's lobby (AFS, NSPCC Scotland, Stirling ADP, Children in Scotland).

Social media websites

- A ban on advertising of alcohol on social media websites. AFS referred to the fact that, in 2007, the alcohol industry increased its marketing spend on social media by 70% and felt that: "This has worrying implications with regards to the exposure of children and young people to alcohol marketing when the growing presence of alcohol companies on social networking sites such as Facebook and Twitter is considered. Research from Ofcom has shown that almost half (49%) of children aged between 8 and 17 years old who use the internet have set up their own profile on a social networking site".

Television

- Alcohol companies sponsored popular television programmes and the watershed should apply to this (ACPOS).
- The emphasis on drinking alcohol and on scenes set in licensed premises in many popular television programmes (particularly the "soaps") should be discouraged and programme makers responsible to Government (for example, the BBC) made aware of these concerns (NHS Dumfries and Galloway).

Others

- The Community Justice Authorities suggested restricting visibility of alcohol within off-license premises – restricted aisles and/or restricted sales tills.

One view from the Highland and Argyll and Bute ADPs sounded a note of caution about any proposal to introduce a ban on alcohol advertising within sport. A sudden ban could create serious damage to some sports and to teams/activities within sport. The consultee also felt that such a ban would be less effective than might appear, at first sight, to be the case due to the ready access across Scotland to English, European and World Sport (which would be unaffected by the ban) through satellite and other outlets which were outwith the Scottish Government's control.

Caffeine Limit in Pre-mixed Alcohol Products

Proposed measure

The consultation proposes 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 preventing the proliferation of new ones. This would only apply restrictions to the retail of such products and would not be a total ban.

Question 6 - 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?

There were 43 responses and a view even from some of those who expressed support that more evidence demonstrating the connection between caffeinated products and anti-social behaviour was required..

Supportive comments referred to research evidence, which appeared to suggest that the combination of caffeine with alcohol had the effect of disguising the disinhibiting effects of alcohol (Clerk to North Lanarkshire Licensing Board) and suggested that removing the small number of such ready to drink products from general sale could be beneficial, given the publicised links between such products and anti-social behaviour (Children in Scotland).

Comments opposed to the proposal included—

- Focussing on caffeinated products carried the risk of distracting attention from the harm which comes from alcohol in all forms and should not be a priority for policy action (SHAAP).
- Wine and Spirit Trade Association, Scottish Grocers' Federation and The Scottish Retail Consortium, and the University of the West of Scotland were of the view that there was no clear evidence to support such a restriction. In addition, Glasgow Caledonian University was of the view that alcohol policy should be evidence based and did not think that there was sufficient evidence to support this proposal.

- The proposal could result in the Scottish Parliament falling foul of EU directives, resulting in the legislation being open to judicial challenge (Dumfries and Galloway Licensing Board).

It was also highlighted that it would not prevent people from simply purchasing a caffeinated drink and alcohol and mixing the drink themselves.

Other suggestions included consideration of the packaging of caffeinated alcohol products moving away from glass bottles which have in the past been used as weapons (City of Edinburgh Council); it might be worth piloting such a scheme and monitoring the effect it had on the crime level in that area.

In relation to whether the proposed caffeine limit was appropriate, three respondents specifically expressed support, with the AFS also seeking the level of alcohol to be lowered, and NHS Lothian and the Socialist Health Association Scotland being supportive of the Danish example. AFS believed that this would only apply to two products currently on the market.

Midlothian and East Lothian Drug and Alcohol Partnership felt that if there was sufficient evidence of increased violence, crime, disorder and harm, then a limit in-line with the Danish model would seem sensible. However, the problem seemed to be more with a specific product and its association with disorder and crime rather than the caffeine content of the product.

Alcohol Education

Proposed measure

Under this proposal, the Scottish Government would be required to publish a statement on its policy on alcohol education and public information.

Question 7 - Is there a role for further alcohol education and public information campaigns in changing alcohol culture?

Of the 45 responses to this question, 35 (78%) were generally supportive of the measure (many commenting on how existing measures could be improved), five (11%) were opposed, and the remaining five were either undecided or unclear.

Those who agreed believed that there was a definite role for further education and public information campaigns in relation to educating children and young people about excessive alcohol consumption. Negative comments focused, amongst other things, on evidence that such measures did little in tackling alcohol-related harm and were less powerful than regulation.

Those expressing qualified support for the proposed measures made suggestions on how they could be made more effective—

- Education should start early in schools, focussing on healthy lifestyles and identifying the consequences for individuals to their health and social behaviour if alcohol was abused (City of Edinburgh Council).

- Social marketing should be rolled out at national and sub national levels based on collaboration across council/health/justice areas. This approach had been pioneered by BALANCE.org in the North East of England (Community Justice Authorities).
- Education should include an awareness that sexual activity which occurred under the influence of alcohol and which did not involve consent might lead to prosecution for a sexual offence (Zero Tolerance).
- Barnardo's Scotland would like to see a sustained and integrated approach to tackling parental alcohol misuse, with a public awareness campaign including a sustained programme of health education, for example, Foetal Alcohol Syndrome.
- Stirling ADP cited as an innovative local approach the "Social Norms" project, piloted in partnership with NHS Health Scotland.

Some respondents also felt that public education campaigns had a part to play in an integrated approach to reduce harm.

One respondent (AFS) was not convinced that it was necessary or appropriate for legislation in this area.

Those who were opposed included three NHS boards, arguing that there was a lack of evidence to support the effectiveness of such programmes. The Socialist Health Association Scotland viewed such campaigns as being expensive, raising awareness but not changing behaviour and tending to widen (health) inequalities with messages being picked up by those in society best placed, able and resourced.

Question 8 - Would it be beneficial for Ministers to be made directly accountable to the Parliament for their policy in this area, as proposed?

Of the 37 responses to this question, 26 (72%) were in favour of Parliamentary accountability, 9 (25%) were opposed, and 2 were undecided/unclear. Those in favour argued from a number of perspectives, including that—

- Ministerial accountability would ensure that the implementation of public information campaigns were scrutinised and keep the policy high on the agenda and would ensure regular reviews (City of Edinburgh Council).
- One respondent believed that it would be appropriate for Ministers to report at least on an annual basis (Clerk to North Lanarkshire Licensing Board).
- Ministerial accountability should be through a consistent measurement of alcohol-related harm in a performance framework with Alcohol and Drug Partnerships (Community Justice Authorities).

Other comments included that it would be useful to have national guidance in order to prevent duplication of work in local areas. NHS Dumfries and Galloway felt that whilst the national policy was clearly the responsibility of Ministers, the responsibility for delivering the policy rested with local authorities, NHS Boards, and their planning partners. Consumer Focus Scotland felt that the impact and effectiveness of such measures should be monitored, such monitoring to operate in conjunction with the Scottish Governments review to be carried out five years after the implementation of minimum pricing.

One respondent (Angus Council) felt that it was a matter for the Parliament to decide how the implementation of public information campaigns were scrutinised.

Opponents of the measure expressed views such as it being inappropriate for a large amount of ministerial time to be taken up with this issue as evidence suggested that educational interventions were ranked far down the list in terms of achieving the goal of reducing alcohol consumption.

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

Proposed measure

The proposed measure was to 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 be an extension of the current law which prevents a Licensing Board from indicating, in its licensing policy statement, an intention to impose such restrictions. It would not prevent off-licenses themselves adopting a policy of selling to over-21s and being licensed accordingly.

Question 9 - 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?

Thirty-seven respondents answered this question, with many making observations on the subject area generally. Views ranged from issues such as there already being sufficient measures in place, to licensing boards being allowed to take action on restricting availability in the public interest when this was supported by evidence.

Positive comments included—

- NHS Health Scotland believed that consistently strict enforcement of the age of purchase of 18 years with a requirement for proof of age and streamlining the prosecution of offenders were likely to be effective in reducing under-age drinking.
- The Church of Scotland was of the view that “individual and collective responsibility for our alcohol consumption are essential to tackle the issues we face, therefore it is important that people aged 18-21 retain the right to be treated as responsible adults on an equal basis with other adults”.

- The Clerk to Renfrewshire Licensing Board questioned the extent of any effect of any restriction upon young people who drank responsibly.
- Angus Council believed that implementation of the “Challenge 25” approach should be sufficient to tackle under-age sales.

Points made in opposition or expressing caution to the proposal included the view that patterns of behaviour were variable and providing local Licensing Boards with flexibility in imposing controls to meet local circumstances was appropriate. Dumfries and Galloway Licensing Boards and Dumfries and Galloway NHS both claimed that it would impinge on the Boards in carrying out their functions. A further point made by a number of respondents, including ACPOS, Midlothian and East Lothian ADP and Lanarkshire ADP suggested that further evidence/study was required to provide a case for the impact of such a ban.

In relation to circumstances where Licensing Boards might require off-licenses to restrict sales on age grounds, the focus of responses on where there was evidence to support a decision by licensing boards – for example, a Board might be justified in imposing a restriction on the sale of alcohol to certain age groups or during certain times if premises were constantly selling alcohol to under-age persons (ACPOS), or if there were problems of public space violence and disorder (Community Justice Authorities and NHS Lothian).

Community Involvement in Licensing Decisions

Proposed measure

In New Zealand all stores are required to notify the public (who have the opportunity to object) when they apply to renew their alcohol licenses (no more than a year after first granted, and every three years thereafter) by way of two newspaper notices and a visible sign on or near the premises. The proposed measure is for a similar requirement to be introduced in Scotland.

Question 10 - Do you believe that community neighbours should be consulted and their views taken into account when licences are being renewed or extended or when special licences are being issued?

There was a mixed response to this question, with 20 (50%) of the 40 respondents who answered it in general agreement, 10 (25%) opposed, five (13%) of the view that current arrangements were adequate, and five either undecided or unclear in their response.

Arguments in support of neighbours being consulted included—

- Lanarkshire ADP felt that it was crucial to consult local communities when licenses for alcohol premises are being renewed or extended, and that licensing boards should publish detailed information about licenses in force in their area to improve monitoring of licensing, consumption and harm trends to inform policy formulation and to equip local licensing for community groups and others wishing to engage in the process of shaping the local environment.

- NHS Ayrshire and Arran agreed that community neighbours should be consulted, and that licensing boards should be clear about the consideration given by the board to the representations from the community and the grounds on which licenses are granted.
- Consumer Focus Scotland and the Socialist Health Association Scotland agreed that community neighbours should be consulted and their views taken into account when licences are being renewed or extended or when special licenses.
- In the view of Children in Scotland, there could be a specific requirement to consult with children and young people – especially where licensed premises are in proximity to schools or other child-focused facilities. The Youth Commission on Alcohol made a recommendation that young people should influence licensing decisions.

A number of respondents, while being supportive in principle, nonetheless expressed notes of caution: NHS Fife felt that that the measure would merit testing and evaluating in one or two areas first to assess the practical aspects of implementation and NHS Lothian suggested this is current practice in some areas and would be worthy of more systematic assessment.

Others were not supportive of such notification, believing that current arrangements were satisfactory—

- Heineken and NHS Highland felt that community neighbours already had ample opportunity to engage in the licensing process through local licensing forums, community councils and local drug partnerships.
- Renfrewshire Licensing Board and the Wine and Spirit Trade Association, Scottish Grocers' Association and Scottish Retail Consortium were of the view that potential costs would outweigh any benefits.
- Both the Association of Scottish Police Superintendents and the City of Glasgow Licensing Board felt that the existing provision under the 2005 Act that “any” person can apply to a board to review a premises licence is sufficient.
- AFS felt that the current arrangements under the 2005 Act allowed local communities greater influence over licensing decisions and processes in their local area than those which are proposed in the consultation document. However, AFS was minded to support the suggestion that premises licences required to be renewed, but this would have to amount to more than an administrative exercise and involve consideration of whether continuation of the licence is consistent with promotion of the licensing objectives.

<p>Question 11 - Do you believe that the New Zealand model is an appropriate one to emulate, if not what changes should be made?</p>

Those favouring the New Zealand model argued that 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. NHS Greater Glasgow and Clyde was in favour of an automatic review of a premises licence, with a regular renewal period of 3-5 years.

However, ACPOS, the Law Society of Scotland, the Church of Scotland and the Wine and Spirit Association, Scottish Grocers Federation and Scottish Retail Consortium all saw no need to emulate the New Zealand model as they felt that the current model was working adequately. Other points included—

- In the case of occasional licences and applications for extended hours, given the volume of applications, timescales and the licensing authority's resources, it would be challenging on a practical level for the licensing board to consult with members of the community beyond the current advertising requirements as set out in the 2005 Act (City of Glasgow Licensing Board).
- The New Zealand model was overly bureaucratic (City of Edinburgh Council)
- Dumfries and Galloway Council felt that “even to discuss renewals or probationary periods would be a backwards step”.

Some of the members of the Highland and Argyll and Bute ADPs would welcome further examination of the evidence base in relation to the impact of the New Zealand model. Consumer Focus felt that the consultation process should be developed in conjunction with local authorities to be seen to be enforcing any resultant license conditions, and referred to its report on best practice when engaging consumers in decision making in public services.

Suggested changes to the New Zealand model included—

- The renewal process should involve consideration of whether continuation of the license is consistent with promotion of licensing objectives (AFS).
- More required to be done to engage and inform the public and make the process much more user friendly (NHS Greater Glasgow and Clyde).
- Responsibility should be placed on license holders to communicate by mechanisms such as posters and adverts (Midlothian and East Lothian ADP).
- Renewal of licenses should be within a specified time period (Highland and Argyll and Bute ADP).
- There should be grounds for appeal (NHS Fife).

National Licensing Forum

Proposed measure

The National Licensing Forum was disbanded in 2009, on the basis that it was thought to have served its purpose, with its monitoring functions and responsibility for licensing qualifications passed to the Scottish Qualifications Authority (SQA). The consultation proposes that there would be 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.

Question 12 - Do you believe that there is a role for a statutory National Licensing Forum in additions to the existing forums?

Should it be funded through licensing fees or central Scottish Government funding?

What would its membership be, and who would appoint them?

To whom would it be accountable?

What would its function be?

Of the 33 responses to this question, 22 (67%) expressed a degree of support for a National Licensing Forum, five (15%) were opposed, and the other six either had mixed views or expressed other comments.

Comments from respondents who felt that there was a role for a National Licensing Forum included—

- It would be useful for sharing best practice and improve consistency in interpretation of the 2005 Act (Heineken, Scotch Whisky Association).
- A role for children and young people in such a National Forum (Children in Scotland).
- The Law Society of Scotland believed that there is a role for a statutory national licensing forum in addition to existing local forums on the basis that all relevant stakeholders would be represented.
- Scottish licensing policy was currently being developed without expert input and the establishment of an expert body to develop policy and to ensure a broad consistency of approach across all licensing authorities in Scotland would be welcome (City of Glasgow Licensing Board).

Arguments against the proposal included—

- The required resources involved could not be justified (NHS Forth Valley).
- The need for a National Licensing Forum was less compelling than the need for local boards to get more training and support for their role (NHS Fife).

Other comments included—

- A consultation on whether the National Licensing Forum should be re-established, focussing on the role, remit and membership of any new forum (NHS Health Scotland).
- The same results might be achieved through the mechanism of an annual conference rather than a National Forum (Highland and Argyll and Bute ADP).
- Prior to any such establishment, there should be a review of the outcomes under current arrangements, where AFS was in a position to contribute from a sound knowledge base to Licensing Forums (Community Justice Authorities).

One respondent was unclear as to whether there was a requirement for such a Forum to be set within a legislative framework.

Funding

Fourteen respondents commented on funding, of whom three felt that the National Licensing Forum should be centrally funded by the Scottish Government; three believed that it should be funded by both the Scottish Government and licensing fees; five felt that it should come from licensing fees; one was of the view that the source should at least in part be from licensing fees; one suggested that there should be an additional levy on licensees; and one suggested that the source could be COSLA or income generated from the Social Responsibility Levy.

Membership and appointment

There was a broad range of suggestions about membership from different stakeholders. Proposals ranged from various public sector services (including health, police, social work, and education) to the licensing trade and agencies representing domestic abuse and child protection interests. There were no specific comments on who should appoint members.

Specific suggestions about membership included—

Models

One suggestion was that membership should mirror that of Local Forums while another was that it should be made up in a similar way to the membership of the original national licensing forum. A third view was for a model which would have membership from Local Licensing Boards, with possible support from the Scottish Government, AFS and legislative support.

Suggestions from individual organisations included—

- A community representative, licensing standards officers, representatives from alcohol and drug partnerships, public health, the police, young people, one licensing clerk, a representative from Health Scotland, social work, education and licensees (NHS Greater Glasgow and Clyde).

- A wide range of public health bodies including those specialised in violence against women as a public health matter (Zero Tolerance).
- The licensing trade, police, ambulance, health, licensing boards, groups representing the interests of domestic abuse and child protection (ASPS).
- The licensed trade, including supermarkets, should be represented (University of West of Scotland).
- Legal expertise from the Law Society of Scotland, the judiciary, local authorities (including education and Social Work), the Association of Directors of Public Health, the Scottish Consumer Council and the Scottish Council for Voluntary Organisations (City of Edinburgh Council, Department of Health and Social Care).

Other comments included those from the City of Glasgow Licensing Board who felt that the membership should not be weighted towards NHS or the licensing trade and AFS which was of the view that it was important that commercial vested interests were not dominant.

Accountability

Of the nine responses which gave views on accountability, four favoured making a national forum accountable to the Scottish Parliament (one suggesting a cross-party committee representing legal, health, public health, industry and some non-MSPs), and five favoured the Minister for Public Health or Justice (or other appropriate Minister).

Functions

Suggested functions ranged from providing a training function, to advising Ministers with advice, to having a regulatory role in implementing sanctions. Details of some of the proposals are set out below—

- To bring clarity, guidance and support to local forums;
- To train and regulate licensing boards;
- To promote understanding of national issues in relation to the operating of the Act and monitor progress on national standards;
- To provide an overview of licensing across Scotland;
- To review, advise, report, monitor and carry out other functions in response to emerging problems and trends;
- To monitor and assist in identifying and delivering training needs;
- To implement sanctions or take corrective actions;
- To promote audit and research in the effectiveness of local interventions to reduce alcohol related harm;
- To provide Ministers with advice to improve the efficiency of the Act;
- To review, advise, report and monitor and provide national data to Scottish Parliament by means of an annual report;
- To set licensing qualifications;
- To promote community involvement and child protection.

JUSTICE MEASURES

Bottle Tagging

Proposed measure

The consultation referred to pilot schemes in Dundee and Fife in which licensees agreed, on a voluntary basis, to mark their bottles in such a way as to allow the police and other agencies to identify where bottles confiscated from under-age drinkers had been purchased. The proposed Bill would allow a Licensing Board that wished to establish such a “bottle tagging” scheme to compel participation by relevant licensees.

Question 13 - 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?

Many of the 35 responses to this question related to whether respondents supported the concept of bottle tagging in principle, so did not directly answer the question as to whether there was “sufficient evidence” to justify legislation.

Generally supportive comments included—

- Options which empowered Boards to use local intelligence and take evidence-based responses to their areas’ matters were welcomed and, in principle, supported bottle tagging was a useful response in some communities (Community Justice Authorities).
- It was another control that Licensing Boards could apply to assist with prevention and enforcement and provided retailers with the opportunity to contribute to prevention and enforcement (ASPS).

Those who did not support the introduction of bottle tagging schemes cited the lack of evidence to support such schemes and the cost of implementation—

- It would only be effective when it was part of a multi-component programme of community mobilisation but had high implementation costs if it is carried out thoroughly (NHS Greater Glasgow and Clyde).
- As test purchasing was already deemed a success, there was uncertainty as to whether the additional cost to monitor the tagging system and check shops compliance would be worth the additional investment required and that funding might be better spent on alternative activities for young people in the area (Edinburgh City Council, Department of Health and Social Care).
- The Wine and Spirit Trade Association, Scottish Grocers Federation and the Scottish Retail Consortium was of the view that bottle tagging schemes put an undue burden on retailers in marking individual products and there was no evidence to demonstrate that it was an effective means of tackling underage sales.

- ACPOS felt that there was a proportionality question around the whole workings of the scheme and there was significant time and effort from the trade and police to implement.

Other points of view included—

- Socialist Health Association Scotland suggested that another option might be on insisting that the sale of alcohol was restricted to more strictly designated areas (with their own checkouts).
- Heineken felt that it would be a costly and time-consuming solution to a declining problem.

Further evidence/pilots

A number of respondents indicated that they would support further pilots “which are robustly evaluated with outcomes focused approach, rather than any legislative change at this stage” (NHS Health Scotland). Dumfries and Galloway Licensing Board commented that Dumfries town centre took part in a bottle tagging scheme which lasted for three months and there was no firm evidence to suggest that the lower number of calls made to police about anti-social behaviour was as a result of the scheme.

Mandatory vs voluntary

While some respondents were content with the current voluntary arrangements which they found adequate. Dumfries and Galloway Licensing Board, for example, felt that there was not sufficient evidence to justify making participation in a bottle tagging scheme a mandatory licence condition and that it might be argued that the Boards already have the power to impose a condition to this effect following a Premises Licence Review where grounds made out relate to consumption of alcohol by children and young persons.

Others, such as such as the University of West of Scotland, stated that it would support the mandatory scheme if there was evidence to back up its value, as the voluntary arrangement allowed retailers to continue to sell to underage drinkers without hindrance. The City of Glasgow Licensing Board was of the view that licensing boards should be able to make participation a licence condition, rather than by voluntary arrangement, and that it could only compel full participation by all relevant licensed premises in a bottle tagging scheme if there was a statutory basis for varying licence conditions in this way.

Fine Diversion

Proposed measure

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. Fife Alcohol Support Services (FASS)

ran a similar scheme in seven areas during 2010-11. 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.

Question 14 - Should Fine Diversion be made available, on a statutory basis, throughout Scotland, if the further pilot is successful?

A recurrent theme from the 33 respondents to this question was that further evidence was required and any pilots should be fully evaluated before alcohol fine diversion was made available on a statutory basis nationally.

Supportive comments for the principle of diversion included that it was a means of reducing the negative impact of alcohol and allowed offenders to participate in an alcohol education programme rather than pay a fixed penalty fine. ACPOS supported the scheme as a means of reducing the negative impact of alcohol abuse by assisting in changing behaviour and cited the Fife scheme as being an initiative which had been highlighted by the World Health Organisation as an effective means to tackle alcohol-attributable problems, targeting individuals whose alcohol consumption was problematic and for whom early intervention had the potential to reduce drinking levels.

Arguments against the proposed measure included concerns about the lack of clarity about the nature of the pilot and success criteria (NHS Borders) and uncertainty as to whether it would be a good use of resources (NHS Forth Valley). Highland and Argyll and Bute ADPs, while recognising that it might appear to be a good idea felt this was not currently supported by the available evidence. NHS Health Scotland commented that there was little published evidence on the effectiveness of such interventions on reducing alcohol-related harm.

Identification of potentially problematic areas included—

- The Law Society of Scotland identified “certain practical issues with regard to whether or not alcohol was a factor in the offending behaviour and that whether the alleged offender should be accepting the offer of an anti-social behaviour fixed penalty notice without the benefit of legal advice”.
- Extra resources might be needed locally to cope with demand (Angus Council).
- There could be potential IT implications and costs for the Scottish Court Service as a result of revoking any fixed penalty fine depending upon the workflow generated by the new system.
- Consideration of the impact on treatment services would require to be considered (Angus Council).

Additional comments—

- The Justice Department should have responsibility, if implemented on a statutory basis, to ensure that an individual was not disadvantaged in accessing this option due to the individual's postcode of residence (NHS Greater Glasgow and Clyde).
- Further clarity would be required on how the schemes would be implemented and the interface they would have with third sector and statutory substance misuse services (Lanarkshire ADP).
- Schemes like the alcohol referral team had to be available for people presenting with complex needs and for whom more support than was provided via brief interventions is required (City of Edinburgh Council, Department of Health and Social Care).
- Evidence gathered from existing pilot projects, such as those in Fife, should be used to inform the design, implementation and evaluation of further pilot projects in geographically and demographically diverse communities (AFS).

Suggestions for alternative ways forward included—

- ASPS indicated that—
 “It is worth noting that Lothian and Borders Police are currently undertaking work which has been developed through their Alcohol Blueprint. This plan aims to effect attitudinal change, influence the wider criminal justice system and provide an evidence-based approach to alcohol interventions... By analysing different types of problem alcohol consumption in the Force area it will also examine the effectiveness of existing interventions.”
- NHS Lothian indicated that some police in Lothian had been trained in brief interventions and it might be an equally effective measure and less costly.

Arrest Referral Schemes

Proposed measure

In 2001-02 an Arrest Referral pilot was introduced, primarily to provide a pathway from early criminal justice contracts for misusers of drugs, but it was also applied to alcohol. Any person taken into custody who is perceived to have a drug or alcohol problem is offered counselling as a fast track to treatment. This section of the proposed Bill would require an Arrest Referral scheme to be operated by each Community Justice Authority (CJA) within its area. As arrest referral schemes generally rely on the participation of a range of partner organisations, the proposed Bill would not be prescriptive about the scope or nature of any scheme. However, it would require the CJA, or any successor organisation, to make adequate provision for such schemes.

Question 15 - Do you believe that Arrest Referral schemes for Alcohol (as well as Drugs) should be a statutory requirement within each Community Justice Authority area?

While there was support in principle for the concept of the extension of arrest referral schemes to include alcohol from some of the 32 respondents who answered this question, this was often qualified by the need for a favourable assessment of further evidence of such pilots before it became a statutory requirement.

Those in favour argued that—

- Across Forth Valley, an Arrest Referral scheme, for both drug and alcohol issues, was available in the local custody settings which worked well and Stirling ADP would be supportive of this approach across Scotland.
- ACPOS acknowledged the benefits of and supported such schemes as they not only improve the person's behaviour but also had a positive impact on families and communities as a whole.
- The Law Society of Scotland foresaw no practical issues on the basis that it was a matter for the individual as to whether they participated in the scheme.

Those opposed argued, amongst other things, that the number for whom the scheme may be suitable could be small and similar powers already existed in terms of section 94 of the 2005 Act.

Other points made in responses included—

- AFS indicated that findings from evaluations of Home Office alcohol arrest referral pilot schemes had shown largely disappointing results, and in particular, suggested that the schemes did not successfully reduce re-arrest. It recommended discussions with Glasgow Council on Alcohol to gather evidence on the short, medium and long term outcomes from the Community Payback Order pilot project, for further evidence.
- There was some uncertainty as to whether this should be a compulsory measure for the CJA (NHS Ayrshire and Arran) and the extent of the need should be scoped before making it mandatory for all CJAs. (Midlothian and East Lothian ADP).

Drink Banning Orders

Proposed measure

Drink banning orders (DBOs) are available in England and Wales under the Violent Crime Reduction Act 2006. Using such an order, 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. The proposal is to make provision for Drink Banning Orders in Scotland on a similar basis to the existing legislation in England and Wales.

Question 16 - Should drinking banning orders be introduced in Scotland? If so should they be piloted in one Sheriffdom?

Thirty-one respondents, ranging from ADPs and local authorities to health boards and representatives of the alcohol industry, answered this question. Views were generally mixed but the need for further evidence or an evaluation of any pilot schemes before the introduction of such orders in Scotland was a common theme.

Points in favour of such schemes included that the proposed measure might be suitable for repeat offenders and related the ban directly to the premises of the offending behaviour.

Concerns about the implications of such a scheme included the argument that existing tools and powers should be better deployed rather than arguing for more.

Lack of evidence

- There had been no evaluation by the Home Office about the effectiveness of DBOs and if they were piloted in Scotland, NHS Health Scotland would recommend that they were robustly evaluated with an outcomes focused approach.
- AFS was of the view that the consultation document did not provide evidence of the effectiveness of DBOs in England and Wales. Further evidence gathering and consultation was required on the effectiveness and cost effectiveness of such orders in reducing alcohol-related crime and disorderly behaviour before considering the introduction of the measure.

Vulnerable groups and young people

- A number of respondents had concerns that there might be a risk of inadvertently further criminalising people who breached an order: for example, vulnerable groups such as young people, alcohol dependent drinkers or those with mental health problems.
- One suggestion was that a pilot should be carried out initially with particular attention around the vulnerabilities to dependency and mental health problems which should assist with understanding the characteristics of those affected individuals and assess whether this is the best way to tackle to problem. This point was made by a range of organisations, including the City of Edinburgh Council, Department of Health and Social Care, Lanarkshire ADP and Midlothian and East Lothian Drug and Alcohol Partnership.

Costs

- The Scottish Court Service reported there would be costs involved as IT systems would need to be updated to record the new disposal. The same IT cost would be incurred if the orders were piloted, as the whole system would still require to be updated.

Piloting of DBOs

Overall, eight respondents commented on some sort of piloting of a scheme. Specific comments on this suggestion included—

- Three respondents recommended trialling the scheme in one sheriffdom, with one highlighting that this would allow an assessment to be made as to whether there was an evidential basis for establishing such orders on a countrywide basis.
- The Scotch Whisky Association suggested that DBOs should be piloted in at least two sheriffdoms and be fully evaluated before consideration is given to introducing them across Scotland.
- NHS Ayrshire and Arran recommended that piloting should take place in both urban and rural areas if such a scheme was to be considered.

Extending Drug Treatment and Testing Order (DTTO) to become Alcohol and Drug Treatment and Testing Order (ADDTO)

Proposed measure

A Drug Treatment and Testing Order (DTTO) is a form of community sentence (that is, an alternative to a custodial sentence) targeted mainly at high-tariff offenders aged 16 or over with a serious drug-misuse problem (especially those whose offences have been committed to pay for their addiction). It requires the consent of the offender, and is used to assist offenders who wish to break out of cycle of drug use and crime. It is suggested that the major effect of this measure has been to ensure that sentencers remain involved in the follow up of offenders who have been diverted onto DTTOs. In 2010, the Alcohol Commission proposed that this form of disposal should be extended to alcohol related recidivists. The proposal is to introduce a measure to amend the current legislation on DTTOs to turn them into ADDTOs (Alcohol and Drug Treatment and Testing Orders).

Question 17 - Do you believe extending DTTOs to become ADTTOs would add value to the existing range of disposals? What differences of context between drugs and alcohol would need to be taken into account?

A recurrent theme in the 33 responses to this question was the need for further evidence on the effectiveness of combined Alcohol and Drug Treatment and Testing Orders and difficulties in implementing such measures.

Supporters cited reasons such as the scheme allowing further structured disposals for those sentencing which should reduce the frequency of unnecessary custodial sentences, as well as providing an option of structured rehabilitation.

Support was also expressed by an existing DTTO scheme - Edinburgh, Midlothian and East Lothian DTTO schemes - who advised that, as the DTTO schemes had matured, they now allowed for people convicted of an offence and with a primary problem of alcohol dependency to also be considered for a robust, court mandated, community based, treatment disposal, they would seem to represent a sensible step forward. However, they also highlighted a number of issues which would need to be addressed before the scheme was piloted.

Mixed responses included—

- It was not clear how an ADDTO would be applied to people with different patterns of drinking and there were significant ethical considerations around how to manage a legally available drug such as alcohol within the criminal justice system.
- AFS expressed caution about the extension, given that the Scottish needs assessment identified that services were only available to address the needs of 1 in 12 of those who are alcohol dependent.
- NHS Fife was of the view that most of the problem drinkers were in higher income groups and it was not thought that this behaviour would be influenced by this measure. However, random breath-testing for drunk-driving might and it was suggested that this should be included as a possible measure.

Community Payback Orders

- Community Justice Authorities encouraged a further review of current use of alcohol treatment within Community Payback Orders (CPOs), which were introduced to achieve a simplifying of the criminal justice landscape and disposals available to courts – making options more understandable and straightforward.
- The Scottish Court Service referred to the consultation’s view on the shortcomings of CPOs and argued that such orders allow the court to impose alcohol treatment requirements on offenders, and did give scope to sheriffs to include specific treatment and require a responsible officer to be assigned by the relevant local authority. There were also specific requirements that could be imposed as part of the order, including requiring the offender to take part in a specified programme, which could be an alcohol programme.
- The Law Society of Scotland stated that CPOs allowed courts to impose drug treatment requirements and/or alcohol treatment requirements and was unsure as to whether this proposal would in fact add to the range of disposals available to sheriffs.

Issues highlighted by respondents in relation to the differences between drugs and alcohol which would require to be taken into account included—

- Ethical issues would require to be considered if imposing mandatory testing for any substance that an individual was legally entitled to consume, particularly if the intent was to enforce abstinence.
- The nature of drug offending was primarily that of acquisitive crime as opposed to public order/violent offending.
- Differences in treatments available and how they are administered.
- The profile of dependent alcohol users differed from illegal drug users.

- Evidence suggested that the number of offenders with significant alcohol problems was far higher than the number for whom drug misuse was the prominent issue.
- Differences in the nature of offences, types of offenders and monitoring of drug or alcohol levels.

Notification of GP for Convictions for Alcohol-related Offences

Proposed measure

The proposal is for a new requirement on any court which convicts a person of an offence in which (in the court's opinion) alcohol is a significant contributory factor, to notify the person's GP accordingly. 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 it would at least ensure that the GP was alerted to a potential health problem, and this might make it more likely that the offender would receive appropriate advice or treatment for their alcohol dependency.

Question 18 - 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?

Of the 35 responses to this question, over half (18) were opposed to the proposed measure, nine (26%) offered some degree of support, and eight (23%) had mixed or other views. Organisations who were not in agreement included the BMA Scotland, SHAAP, five NHS Health Boards, NHS Health Scotland, an ADP, two local authorities, the Scotch Whisky Association, ACPOS, and the Law Society Scotland.

Two organisations (ASPS and SHAS) and two individuals agreed that it would be beneficial to notify a GP about a patient's conviction for an alcohol-related offence. The ASPS believed that providing a specific legal gateway to enable and encourage sharing conviction or other relevant information would be beneficial in removing any doubt that such sharing of information is proportionate, necessary and lawful in terms of compliance with the Data Protection Act 1998.

Neither BMA Scotland nor SHAAP was convinced that such a requirement would have a significant impact on addressing drinking behaviours amongst offenders. BMA was of the view that—

“We do not believe that notifying GPs of conviction information will make it more likely for the offender to receive appropriate treatment for their alcohol dependency. If a patient is not willing to address their behaviour, the chances of them addressing it because the GP raises it are only slight.”

Other concerns about the proposed measure related to issues such as—

- The Scottish Court Service had concerns on the requirement to notify all GP surgeries within the area the offender was resident in and how the court would do this, as well as financial implications for that service.
- Renfrewshire Licensing Board raised concerns about sensitive information being given out to third parties in the absence of a formal finding of guilt by a court.
- There was concern about information on legal convictions being recorded on a person's medical record, as these were becoming more accessible to various agencies, for example, insurance agencies and employers. GPs could require such information when it was relevant and appropriate to their clinical work. Anything other than information relevant to clinical treatment in records was inappropriate (BMA Scotland).

Other comments included—

- More information was required on what GPs would be expected to do with the information (AFS).
- Current provision of Alcohol Brief Interventions (ABIs) delivered in primary care settings afforded GPs the opportunity to ask their patients about their drinking on a routine visit (NHS Dumfries and Galloway).
- GPs might be flooded with information with no requirement for them to take action on the information they received (Lanarkshire ADP).

Alternative suggestions

- Both BMA and SHAAP would like to see improvement in early identification and appropriate intervention through the criminal justice system.

Two respondents were of the view that it should only be in cases of conviction, while one thought notification should take place wherever alcohol was a factor in criminal behaviour, whether resulting in conviction or otherwise.

SECTION 4

COMMENTARY BY DR RICHARD SIMPSON MSP

Commentary by Dr Richard Simpson

I would like to thank all those who responded to the consultation, both organisations and individuals.

My thanks are not just for the fact of taking the time and trouble to respond but for the detail, the suggestions of further possible measures, and the general support for a need to change the culture of Scotland's alcohol consumption.

My thanks are due also to the Non-Government Bill Unit team for their work in analysing and summarising the fifty five responses.

There is a universal acceptance that Scotland needs to go further than the three existing Acts to tackle alcohol over-consumption and the problems arising from misuse of alcohol. Price remains a central lever in controlling consumption and the recent increases in duty and VAT, and the resulting price increases, have been accompanied by a decrease in overall consumption. With the delay in introducing Minimum Unit Pricing the need for other measures to maintain momentum is more important than ever.

I believe that there is sufficient support to proceed with the majority of measures proposed. However, it is also clear that, in a number of areas, the measures proposed require further piloting and clarification of the evidence before full implementation. Some measures are going to be undertaken by the Scottish Government; some may be capable of being subsumed within current legislation. These measures will therefore not be pursued.

Discounting Ban

There was a decrease of 4.2% in alcohol consumption in Scotland in the year after the introduction of the discount ban (by the Alcohol etc. (Scotland) Act 2010). The Sheffield University model predicted a reduction of 3.0%¹ (arising from a discounting ban on its own, in the absence of minimum unit price). However, with all things other than the discount ban being equal between Scotland and England (e.g. VAT, duty) there was a “natural experiment” testing the discount ban. Alcohol consumption declined in England over the same period by 3.2%. The differential decrease of one percentage point compared to England (4.2% v 3.2%), is disappointing. However this may reflect the continuation of the sale of multipacks of beer and cider, and is a basis for strengthening Scotland’s discount ban.

I believe it was the intention of the Parliament to prevent alcohol ever being offered for sale at a lower price per litre when purchased in larger quantities. Such marketing strategies had already been partially banned by the 2005 Licensing Act for the on-trade by reducing or eliminating “happy hours” and bulk discounted selling. The discounting ban in the 2010 Act was intended to extend this to the off-license

¹ Sheffield Report (2009), Section 3.1.2

trade, but has been only partially successful. It has succeeded in banning two-for-one offers, for example, and it has stopped reductions being offered when two or more containers or bottles are purchased – these larger-volume offers can no longer be discounted if a single container or bottle is offered for sale in the same premises. However, the sale of discounted multipacks continues to be entirely legal provided that a single can, bottle or other container is not sold in the same retail outlet. I do not believe this was expected at the time the 2010 Act was passed. This has meant that multipacks of beer and cider of whatever size can be sold at varying discounts, which increase with the number of containers in each pack. One respondent suggested that increasing the strength of the ban to preclude this form of discounting would result in only larger packs being sold, and I recognise that it will be difficult to ban quantity discounting altogether. However a tightening of the discount ban to further limit discounting would appear to have support. A requirement that single bottles, cans or other containers must be offered for sale as well as multipacks would strengthen the discount ban.

Public Health Interest and Protection of Children: guidance on licensing objectives

There is general support for greater clarity on the application of these Scottish licensing objectives in principle. However, there is also general disappointment over the failure of licensing boards and the courts to apply these objectives to address over-provision. This failure is demonstrated by failed attempts to limit availability which have been reported to me on a personal basis by licensing board members.

The measure proposed is a modest one and seeks to provide comfort to boards and clarity for courts on the application of these objectives. The publication by Alcohol Focus Scotland, 'Good Licensing Practice'², provides a welcome analysis of the evidential basis for restriction of availability.

However, unless this is incorporated into a clear statement on over-provision in each Board area underpinned by clear guidance from the Scottish Government, I believe we are consigned to a further period of off-licence expansion, especially the size of licensed sales areas. The downward trend in the number of on-licence premises is also likely to continue but compensated by increases in the average size of such premises.

The number of licences rose between 1980 and 2003 from 13,982 to over 17,000. Though there has been a reduction in the number of licences since then³ (2013 figure: 16,237), this is in part due to a reduction in the number of premises with multiple licences. There has been a continuing decline in the on-trade and growth in the off-trade. The size of licensed areas in the off-trade is as important as the number of licences.

² Alcohol Focus Scotland, 'Good Licensing Practice' fact sheet.

³ Scottish Government statistics: <http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/PubLiquor>

However, we accept the Scottish Government's view that improved guidance can be achieved without legislation and we look forward to clearer guidance being issued. This strand will not be pursued in the Bill.

Restrictions on advertising

Whilst there is general support for the Bill proposal, many in the industry and the Advertising Standards Agency feel that the current treatment of advertising is appropriate, with light-touch controls. However this effectively treats alcohol as similar to any other commodity. Other opinions range from supporting the Bill proposal, through to a full implementation of the 'Loi Evin'. This was France's law governing all aspects of promotion which was highly successful, along with other measures, in halving the level of alcohol cirrhosis in France. It is not possible to move to a full implantation of that law; however, this modest proposal will further limit the reach of advertising. This measure will be included in the Bill.

The current voluntary system has had some effect where the industry chooses to submit adverts to the Portman group to be checked against the voluntary code. Some useful details were suggested by respondents on areas such as cinema premises. The response from the Advertising Standards Authority was particularly disappointing, especially the reference to the rule that restricts the proportion of advertising that relates to alcohol in a single cinema reel to 40% (ASA response, 4.2.3).

Public education and awareness

The general support for this from all categories of respondents is welcome and the measure will be pursued.

National Licensing Forum

Respondents' support for restoration of this national body is welcome and the various suggestions made about its role, financing and funding should be examined. However, given the Scottish Government's stated intention to restore the National Licensing Forum without legislation, this element will not be pursued in the Bill.

Notification to GPs of criminal offences

This was the one proposal which met with little support. The Court Administration was concerned about IT and other costs. However, I would not expect GPs to have to undertake significant additional work as a result. This measure would assist GPs to focus brief interventions on those who are most likely to benefit. At present it is only a requirement for certain types of worker to inform their professional registration body if they have committed an alcohol-related offence. Some of these bodies will then take action (including referring the worker for assessment or treatment for any underlying problem). However, many offenders will not have their problem looked at by a health professional. Ensuring that an alcohol-related offender's GP is informed will allow the GP to raise the issue with their patient if this appropriate as part of the brief intervention approach, which is current Government policy. This element will be kept in the bill to be tested further in evidence at stage 1.

Areas where there were more diverse views and where a recurrent theme was the need for further evidence and evaluation included—

- Restrictions on pre-mixed caffeinated alcohol products;
- Licensing Boards making participation in bottle-tagging schemes a licensing condition;
- Fine Diversion being made available on a statutory basis;
- Arrest Referral Schemes for alcohol (as well as drugs) being a statutory requirement in each Community Justice Authority;
- Drink Banning Orders;
- Extending Drug Treatment and Testing Orders (DTTOs) to become Alcohol Drug Treatment and Testing Orders (ADTTOs).

Restriction on premixed caffeinated alcohol

The evidence from US Food and Drug Administration (FDA) and from Denmark shows that premixed strong caffeinated alcohol is harmful in a variety of ways, ranging from increased aggression to inappropriate sexual activity. In Scotland the use and abuse of premixed caffeinated alcoholic drinks is found in young men showing heightened levels of aggression, violence and criminality. In the USA, the FDA has banned strong premixed caffeinated alcoholic drinks. We do not propose a total ban, rather a limit of 150mg caffeine per litre. One useful suggestion is that such pre-mixed drinks should only be sold in plastic bottles, to reduce their use as a weapon and the broken glass found in significant quantities in open spaces.

Bottle Tagging

The implementation of the "Challenge 25" initiative in the 2010 legislation may help to alleviate some of the concerns around proxy purchasing and under-age purchasing. Bottle tagging can be used to gather evidence on both under-age drinking and proxy purchasing. There were some objections on the ground of cost to the licensee. However, this would not be a requirement on all licensees, rather a power available to licensing boards to make it a condition of the licence if requested by the police. Moreover many licensees are 'tagging' anyway, for the purpose of monitoring sales. It is my intention to pursue this in the Bill. .

Fine Diversion

Building on the success of the pilot in Fife, it has been suggested that a further pilot in an urban area should be undertaken. I plan to pursue this element of the Bill, possibly on the basis of such a further pilot.

Arrest Referral

These schemes can be extended without additional legislation. The Scottish Government should encourage their development in all Alcohol and Drug Partnerships. This does not require legislation and therefore this item will not be pursued.

Drink Banning Orders

Early results from Drink Banning Order pilots in England show benefit both in individual behaviour and in community safety. Some Police Commissioners are already committed to extending their use. ACPOS's support for this measure is particularly welcomed. This new order will be included in the Bill, possibly requiring a further pilot to be undertaken.

Alcohol Testing and Treatment Orders (ATTOs)

The introduction of alcohol treatment requirements as an element of community payback orders came in some years after our proposal for ATTOs was first made. However, one essential element in Drug Courts and DTTOs is the involvement of Sheriffs in on-going management of the offender. It is not clear to what extent this is happening with community payback orders except where the order is breached. The new style of judicial involvement as seen in the drug court and DTTOs is productive. However, the Scottish Government has argued that the flexibility of community payback orders with alcohol treatment requirements is sufficient. Moreover, there is evidence from the most effective DTTO centre that alcohol can in practice be included. I accept that both these approaches should be given time before the need for a new ATTO measure is demonstrated, and therefore this measure will not be pursued at this time.

Age discrimination against under 21s

The National Union of Students was very vociferous in its opposition to the Scottish Government's original proposals (in the Alcohol etc. (Scotland) Bill) which would have allowed Licensing Boards to impose a blanket ban in an area on sales to under 21s. The successful Labour amendment to the Government's proposal in effect removed the possibility of an area ban. It was the clear will and the intention of the Scottish Parliament when passing the 2010 Act to prevent any discrimination against 18-21 year olds. Despite this, the Scottish Government advised Licensing Boards that they could still make a ban a condition of an individual license, since the Act only prevented collective area-wide bans. This Bill proposes to close that loophole. I welcome the support of NUS for this additional protection against discrimination. I also welcome the comments on social inclusion/exclusion from the City of Edinburgh Council. The intention of the Scottish Parliament in passing the 2010 Act will be strengthened and re-asserted in this Bill.

Community involvement in licensing decisions

There were a number of supportive suggestions in response to this proposal. However, most would not require legislation. For example, it was suggested that licensing Boards should publish a mapped list showing the location of licensed premises. Boards should undertake a consultation on availability and publish the resulting views.

A number of responses were more cautious, suggesting that this measure be piloted. Alcohol Focus Scotland felt it should be applied to renewals and Glasgow Licensing Board's suggestion of an automatic requirement for periodic renewal with

consultation was an interesting modification. The Bill could include provisions for greater community involvement only in renewals or extensions.

Other issues arising from the consultation: Breathalyser locks on vehicles

One reference was made in personal correspondence to the application of breathalyser locks, which are required by some US States following a drink driving offence. Drivers have to demonstrate that they meet the drink driving limits before a vehicle will start. I would urge the Government to look further into breathalyser locks as a measure of public protection available to courts. The Scottish Government has committed to introducing new restrictions on the permitted levels of blood alcohol whilst driving. This additional power to the courts may be worth considering.

Conclusion

The responses to this consultation have thrown up a number of interesting suggestions for further consideration, such as a requirement for retailers to produce data on the volume and value of alcohol sold. This measure may be important to underpin any future introduction of the social responsibility levy and to hold the industry to their undertaking to reduce the units of alcohol sold in the UK by 1 billion units by 2015 through reformulation⁴.

The suggestion of giving the courts power to require car breathalyser locks for drink driving offenders is worthy of assessment by the Scottish Government. It should be noted that, since this consultation began, France has made it a requirement for all drivers to have a breathalyser in their car. Reference was again made to banning the use of loyalty cards for alcohol sales – both by preventing points being gained from such sales, but also preventing points being used to purchase alcohol, a ban which might also be applied to tobacco.

Since publishing the consultation document, I have had a meeting with the Cabinet Secretary for Health and Wellbeing. It was partly on the basis of this meeting that I have decided not to pursue some measures (as mentioned above).

The Scottish Government has made a point of stating repeatedly in debates in the Parliament and in statements to the press that Minimum Unit Pricing was never intended to be the only measure or a silver bullet in tackling Scotland's adverse drinking culture. It is very welcome that the number of deaths from alcohol and admissions to hospital has declined over the past number of years. But the delays in introducing Minimum Unit Pricing brought about by legal action makes the introduction of the measures in this bill even more necessary and urgent.

We hope that other parties will now back this set of measures to allow the Bill to proceed to the next stage.

⁴ UK Department of Health, 'Responsibility deal pledge on alcohol unit reduction: 1st Report.', available at: <https://www.gov.uk/government/publications/responsibility-deal-pledge-on-alcohol-unit-reduction-1st-report>.

ANNEXE**List of Respondents (numbered as received) to the
Proposed Alcohol (Public Health and Criminal Justice) (Scotland) Bill
consultation**

1	Holloway, Aisha
2	MacLeod, Alastair
3	Alcohol Focus Scotland (AFS)
4	Angus Council
5	Dumfries and Galloway Council Licensing Boards
6	NHS Greater Glasgow and Clyde
7	Edinburgh City Council, Department of Health and Social Care
8	Association of Chief Police Officers Scotland (ACPOS)
9	Lanarkshire Alcohol and Drugs Partnership
10	Midlothian and East Lothian Drug and Alcohol Partnership (MELDAP)
11	NHS Borders
12	NHS Forth Valley
13	Scott, J R
14	North Lanarkshire Licensing Board
15	Orkney Alcohol and Drugs Partnership
16	Wigmore, Steve, Professor of Transplantation Surgery, University of Edinburgh and Clinical Director General Surgery and Transplantation, Royal Infirmary of Edinburgh
17	Wilson, Robert
18	Salvation Army
19	Scottish Court Service
20	Advertising Association
21	Advertising Standards Authority
22	British Medical Association (BMA) Scotland
23	Children in Scotland
24	Community Justice Authorities
25	Consumer Focus Scotland
26	Edinburgh, Midlothian & East Lothian Drugs Treatment and Testing Orders (DTTO) Schemes I and II
27	Glasgow Community Justice Authority
28	Heineken
29	Highland and Argyll and Bute Alcohol and Drugs Partnerships
30	Law Society of Scotland
31	NHS Ayrshire and Arran
32	NHS Dumfries and Galloway
33	NHS Health Scotland
34	NSPCC
35	Renfrewshire Licensing Board
36	Scottish Episcopal Church
37	Scotch Whisky Association
38	Scottish Health Action on Alcohol Problems (SHAAP)
39	Substance Use and Misuse Team, Glasgow Caledonian University

40	Mitchell, A B
41	Barnardo's Scotland
42	Royal College of General Practitioners
43	Socialist Health Association Scotland
44	Stirling Alcohol and Drugs Partnership
45	Church of Scotland
46	Wine and Spirit Trade Association, Scottish Grocers' Federation and Scottish Retail Consortium
47	Alcohol and Drug Studies, Faculty of Education, Health and Social Sciences, University of West of Scotland
48	Youth Link Scotland
49	Zero Tolerance
50	Addiction Recovery Training Services
51	NHS Fife
52	NHS Lothian
53	Association of Scottish Police Superintendents
54	City of Glasgow Licensing Board
55	Simpson, Christine (Cllr), Stirling Council, member of a Licencing Board

**List of respondents (alphabetical) to the
Proposed Alcohol (Public Health and Criminal Justice) (Scotland) Bill
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Alcohol Focus Scotland (AFS)	3
Angus Council	4
Association of Chief Police Officers Scotland (ACPOS)	8
Association of Scottish Police Superintendents (ASPS)	53
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Lanarkshire Alcohol and Drugs Partnership	9
Law Society of Scotland	30
MacLeod, Alastair	2
Midlothian and East Lothian Drug and Alcohol Partnership	10
Mitchell, A B	40
NHS Ayrshire and Arran	31
NHS Borders	11
NHS Dumfries and Galloway	32
NHS Fife	51
NHS Forth Valley	12
NHS Greater Glasgow and Clyde	6
NHS Health Scotland	33
NHS Lothian	52
NSPCC	34
Orkney Alcohol & Drugs Partnership	15

Renfrewshire Licensing Board	35
Royal College of General Practitioners	42
Salvation Army	18
Scotch Whisky Association	37
Scott, J R	13
Scottish Court Service	19
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Scottish Health Action on Alcohol Problems (SHAAP)	38
Simpson, Christine (Cllr), Stirling Council, member of a Licensing Board	55
Socialist Health Association Scotland	43
Stirling Alcohol and Drugs Partnership	44
Substance Use and Misuse Team, Glasgow Caledonian University	39
Wigmore, Steve, Professor of Transplantation Surgery, University of Edinburgh and Clinical Director General Surgery and Transplantation, Royal Infirmary of Edinburgh	16
Wilson, Robert	17
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