

SHAAP

SCOTTISH HEALTH ACTION ON ALCOHOL PROBLEMS
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Alcohol (Licensing, Public health and Criminal Justice) (Scotland) Bill – SHAAP
Response – 18th June 2015

This submission comes from Scottish Health Action on Alcohol Problems (SHAAP). SHAAP is a project of the Scottish Medical and Nursing Royal Colleges and Faculties. Since our formation in 2006, SHAAP has been at the heart of the debate on changing Scotland's relationship with alcohol and has been involved in many of the proposals which have led Scotland to be regarded as a world leader on alcohol policy.

Do you support the Bill as a whole?

SHAAP supports particular elements of this Bill but has serious concerns about other measures that make blanket endorsement impossible.

Do you support particular provisions in the Bill?

Yes – SHAAP supports the following measures:

Minimum price for packages containing more than one alcoholic product (section 1) – this would close a perceived loophole in the existing law which prevents retailers selling multiple units of alcohol at a discount in comparison to the price of a single unit. – **SHAAP supports any measures which close loop-holes in legislation designed to prevent multi-buy discounts.**

However Scotland should go further than what is proposed in this bill and ban all price discounting. Alcohol is heavily discounted in the UK and the evidence we have on drinking behaviour suggests that people are more likely to buy brands of alcohol that are promoted or discounted in price.¹

Container marking in off-sales (section 4) – this is better known as “bottle-tagging”. It would allow licensing boards to require that bottles are marked with a code so that drink from underage drinkers can be traced back to specific licensed premises. – **We**

¹ The relationship between off-sales and problem drinking in Scotland, Scottish Executive, 2007; Drinking in Scotland: Qualitative Insights and Influences, Attitudes and Behaviours, NHS Health Scotland, May 2008; Analysis of drinking diaries and self-poured drinks, NHS Health Scotland, Oct 2007; Drinking places: where we drink and why, Joseph Roundtree Foundation, 2007

support this measure however caution that the success of bottle tagging depends on how enforcement is undertaken and this will vary by jurisdiction and day of the week.

The task of reducing proxy purchase, where alcohol is bought by a person of legal purchase age and passed onto a young person, is a complex one. Achieving progress is likely to require a combined approach of public information, server training, effective policing and price controls.

Applications for, or to vary, premises licence (section 5) – this would change the requirements to notify and publicise such applications with the intention of increasing community involvement. – **We think this would support licensing objectives of the 2005 Licensing Bill:**

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting children from harm.

Any measures designed to encourage and better enable community input - particularly in areas lacking a formal representative body - into licensing decisions can only be of benefit in realising these important public health goals. Areas in Scotland with the highest density of licensed premises have double the alcohol-related death rates of areas with the fewest.² Greater availability of alcohol is also linked to higher levels of crime, public nuisance and social disorder, all of which negatively impact on the quality of life in local neighbourhoods.³

Restrictions on advertising (sections 6 – 13) – these sections would limit alcohol advertising near places (such as schools) used by children and at events targeted at children. It would also limit alcohol advertising on retail premises. - **SHAAP strongly support this measure and suggest that such a ban should extend to all public places. A ban on alcohol advertising limited to a 200 metre radius around schools is illogical. Children's lives are not confined to the vicinity of their school or nursery. We call for the Scottish Government to work with the UK government to impose restrictions on alcohol advertising in other media such as television. Research shows that 10-15 year olds in the UK see more alcohol adverts on TV, per hour watched, than adults.⁴ We support the view of the BMA and Alcohol Marketing Monitoring in Europe that alcohol advertising, including sponsorship should be banned. The current system of co-regulation with the ASA and the Portman Group is ineffective and the Commons Health**

²Alcohol-related illness and death in Scottish neighbourhoods, 2014 alcohol-focus-scotland.org

³ Popova S et al 2009 Systematic review Alcohol and Alcoholism 44, 5

⁴ RAND 2012 Assessment of young people's exposure to alcohol marketing.

Committee has concluded it is failing young people (House of Commons Health Committee 2010). Regulation should be independent of both the alcohol and advertising industries.

Alcohol awareness training as alternative to fixed penalty notices (section 30) – this would allow police constables to offer training as an alternative to a fine when an offence is committed under the influence of alcohol. – **This is sensible but further piloting of Fine Diversion should be undertaken before any legislation is adopted.**

Do you have concerns about particular provisions in the Bill?

Yes – these concerns focus on the diversion of resources onto issues which are a distraction from the real health harms associated with alcohol consumption and the selective respect for individual human rights evidenced in several measures in the Bill specifically sections 3 & 31.

Specifically:

Alcoholic drinks containing caffeine (section 2) – this would place a restriction on the caffeine content of alcoholic drinks. - **SHAAP do not agree that a restriction on pre-mixed caffeinated alcohol products is a priority. Experience of the effects and harm resulting from the combination of alcohol and caffeine is highly variable internationally and within Scotland. We are not persuaded that there is reliable evidence that caffeine itself magnifies aggression. Alcohol is the drug most strongly associated with anti-social behaviour, violence and health harm and we should therefore focus attention on the reduction of alcohol consumption.**

Our interpretation of extant data such as the young offenders' survey, 'the McKinley report' (McKinley, 2008) is that in those areas where consumption of caffeinated alcohol is prevalent, it is consumed as part of a cocktail with cheap spirits. We anticipate that minimum unit pricing will reduce cheap spirit consumption and thus reduce harm. Furthermore findings from SHAAP's 2014 report 'Alcohol and the Developing Brain' indicate that alcohol has a more stimulating and less sedative effect on the immature brain, regardless of caffeine. For this reason further study is necessary before anecdotal accounts of their combination are used as a basis for policy-formulation.

The BBC investigation cited in the consultation as justification for priority action on Buckfast gives no comparison with other alcoholic drinks. There were 955,708 crimes reported to Strathclyde Police in the period from 2006-2010. In actual fact although 5,638 crime reports mention the word Buckfast in some context there were a total of 69,733 crimes that mention 'alcohol'. Of the crimes that mention 'alcohol' 753 were violent crimes and Buckfast was mentioned in only 11. In addition to this, the figures fail to account for the

possibility of geographical variances and the differences between crime police report surveys and victim surveys.

SHAAP believes that focus on unsubstantiated harm from caffeinated products carries the risk of distracting attention from the well-known and significant harm which comes from alcohol in all its forms and therefore should not be a priority for policy action.

Age discrimination in off-sales (section 3) – this would prevent licensing boards banning sales to under-21s as a condition of a premises licence. - **The Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) shows that the purchase of alcohol by under 18s has consistently fallen since 2000, age verification schemes do appear to be working. Supply to under 18s by “agents” such as friends or a family member has become the most common access for 15 and 13 year olds in Scotland. Schemes such as Challenge 21 or Challenge 25 will have no effect on this trend.**

We do not share the view that the Scottish pilot schemes, such as that in Armadale, were unsuccessful and note the view of Central Scotland police that these were effective in dealing with a specific set of local circumstances.

International evidence is that countries which have raised their legal drinking age have reduced rates of alcohol related harm. We recognise that the proposal for a higher legal purchase age in off sales did not achieve public support in Scotland. We anticipate that other countries may test out split-age purchase arrangements and we should be willing to learn from these.

We note the Bill's support for Licensees being able to set a higher legal purchase age if they identify a reason to do so and believe that Licensing Boards should also have this option. We would therefore not support a proposal which limits the flexibility of Boards.

Drinking banning orders (sections 15 – 29) – these sections would enable a court to impose a ban on drinking in specified places where a person is convicted of an alcohol-related offence. - **Drink Banning Order's (DBO's) are available in 50 local justice areas in England but figures available show that as of November 2011 only 313 had been issued. Until the impact of the effectiveness of DBO's has been measured by the Home Office we do not recommend their introduction in Scotland.**

Alcohol related disorderly behaviour can be addressed adequately by the existing law and the disposals available to courts when sentencing offenders. DBO's would increase resourcing pressures on police budgets due to the difficulties of enforcement. The consequences of a breach of an order could place further pressure on the criminal justice system and they do nothing to

meet the demand for more alcohol treatment options to be available to offenders.

Notification of offender's GP (section 31) – this would require that an offender's GP is notified by the courts where the consumption of alcohol has been a contributory factor in their offending behaviour. - **We do not agree that informing GPs of a patients' conviction for an alcohol related offence is likely to increase the chances of an offender receiving appropriate treatment for an alcohol problem. We would like to see improvement in early identification and appropriate intervention through the criminal justice system. This may, in turn, increase the likelihood of the offender seeking help through their GP.**

SHAAP agrees with Alcohol Focus Scotland's observation that the relationship between a GP and a patient is therapeutic, confidential, and based on trust. This relationship is jeopardised if a GP is seen by a patient as collaborating with enforcement authorities.

SHAAP also endorses the view of the BMA who have concerns about information on legal convictions being recorded on a person's medical record. Medical records are becoming more accessible to various agencies, for example insurance agencies and employers, this kind of information being available after limits on disclosure have lapsed is unlikely to be beneficial. GPs can require such information when it is relevant and appropriate to their clinical work. Anything other than information relevant to clinical treatment in records is inappropriate and a possible contravention of individual human rights.