



## Policy and Strategy Paper No 07

### Shifting the Culture - A Proposal for a Bill to Bring Forward Measures to Help Change Culture in Relation to Alcohol in Scotland.

#### 1 Introduction

This paper is to advise the Network of a member's bill consultation which is being launched in connection with a draft proposal of The Alcohol (Public Health and Criminal Justice) (Scotland) Bill. The draft proposal aims 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 reports; and
- d. Directing offenders towards treatment or restricting their access to alcohol.

Dr Richard Simpson MSP and Graeme Pearson MSP have produced a consultation document to look at policies to help combat Scotland's abusive relationship with alcohol. The proposed Bill and corresponding consultation have been created as it was felt that the current Alcohol (Minimum Pricing) (Scotland) Bill currently being discussed requires a more comprehensive set of measures to bring about a cultural shift in relation to alcohol.

The role of the consultation, in the development of the draft Bill, is to provide a range of views, highlight potential problems with the proposals, identify equalities issues, suggest improvements, raises any financial implications which may not have previously been obvious and, in general, to assist in ensuring that the resulting legislation is fit for purpose. The consultation is available on the Scottish Parliament's website and consultation responses should be submitted by 29 June 2012. The link to access consultation paper is:

[http://www.scottish.parliament.uk/S4\\_MembersBills/20120313\\_Shifting\\_the\\_Culture\\_Alcohol\\_Bill\\_Consultation\\_Final\\_version.pdf](http://www.scottish.parliament.uk/S4_MembersBills/20120313_Shifting_the_Culture_Alcohol_Bill_Consultation_Final_version.pdf).

#### 2 Context

Scotland has a particularly difficult relationship with alcohol, although steps taken in the past ten years appear to have arrested the sharp increase in consumption since the 1970s. However, in 2010, the amount of alcohol sold per adult in Scotland was still 23% higher than in England and Wales<sup>1</sup>. It is recognised that it is not just the level of consumption but the patterns of consumption which are harmful. Binge drinking is for many an accepted norm and can lead to community safety issues including anti social behavior, injury or arrest and can also impact upon people after work or at home as part of their everyday lives.

Licensing laws were modernised in 2005 with the development of the Licensing (Scotland) Act 2005 which saw the banning of happy hours and other irresponsible alcohol sale practices. However, it is thought that the implementation of this

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<sup>1</sup> NHS Health Scotland, *Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS): An Update of Alcohol Sales and Price Brand Analyses*, Published August 2011- <http://www.healthscotland.com/uploads/documents/16795-completeReportMESASAugust2011.pdf>

legislation may have contributed to the generation switch from on to off sale drinking as 54% of adults now drink more frequently at home<sup>2</sup>. Licensing laws were further amended with the Alcohol etc. (Scotland) Act 2010 which further restricted alcohol displays and promotions and introduced the mandatory “Challenge 25” scheme to prevent underage sales.

The relationship between crime and alcohol is evident. 2009 statistics show that 50% of all prison inmates stated that they were drunk at the time of their offence, with this rising to 77% among young offenders<sup>3</sup>. However, although 46% of prisoners may have harmful alcohol use or potential dependency, only a fraction took part in alcohol courses and even less completed them<sup>3</sup>. Furthermore, there appears to be a link associated with increased aggression following consumption of pre-mixed caffeinated alcohol products. A study of young offenders at HMP Polmont found that 43.4% of those who admitted to drinking before their offence had consumed one particular brand of caffeinated alcohol<sup>4</sup>.

### 3 The Consultation

The consultation document highlights that the outlined proposals are intended to complement measures such as brief interventions in primary care which, together with the strengthening of specialist treatment capacity, are vital components of a comprehensive approach. As part of a comprehensive approach, the proposed Bill is about tackling both health issues and revising the criminal justice system to properly focus on those whose drinking is causing problems for themselves and others.

#### **Part 1: Health**

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

It is proposed that the scope of the Alcohol etc. (Scotland) Act 2010 is expanded to ensure that it is no longer possible to sell different sized multipacks of particular alcohol products at differential prices per item. Consultees are asked if they feel a further restriction on quantity discounting would be beneficial and what disadvantages do they envisage.

##### 2 Public Health Interest and Child Protection

The Licensing (Scotland) Act 2005 contains the objectives of “promotion of public health” and “the protection of children from harm”, however it is deemed that there is lack of clarity as to how licensing boards should take these objectives into account. It is proposed that the Scottish Government should be required to issue detailed guidance on the application of these two licensing objectives and to report to the Parliament at least once in each session. Consultees are asked if they believe Ministers should be required to issue guidance and if they should be required to report to the Parliament.

##### 3 Restrictions on Alcohol Marketing

It is proposed that the advertising of alcoholic drinks is restricted, particularly in a context where they are likely to be seen by children. This includes a complete ban in public places (eg billboards, hoardings, bus shelters, buses) however it would not be

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<sup>2</sup> NHS Scotland (ISD), Alcohol Statistics Scotland 2011, Published 2011 -

[http://www.alcoholinformation.isdscotland.org/alcohol\\_misuse/files/alcohol\\_stats\\_bulletin\\_2011.pdf](http://www.alcoholinformation.isdscotland.org/alcohol_misuse/files/alcohol_stats_bulletin_2011.pdf)

<sup>3</sup> NHS Health Scotland, *Prison Health Needs Assessment for Alcohol Problems*, published October 2010 -

<http://www.healthscotland.com/uploads/documents/15105-Prison%20Health%20Needs%20Assessment%20for%20Alcohol%20Problems.pdf>

<sup>4</sup> McKinlay et al, *Alcohol and Violence among Young Male Offenders In Scotland 1979-2009*, published January 2009 -

<http://www.sps.gov.uk/Publications/Publication84.aspx>

extended to places where the public is only permitted on payment, such as football grounds. It is also proposed that a ban on advertising alcoholic drinks will be placed on cinema advertisements where the film shown is below an 18 certificate. The consultation asks respondents if they believe the proposed restrictions are proportionate and if there are any further measures which should be introduced.

#### 4 Caffeine Limit in Pre-mixed Alcohol Products

It is proposed to restrict the strength of caffeine in pre-mixed alcoholic products to 150mg per litre with the aim of encouraging reformulation of such products and to prevent the proliferation of new ones. Consultees are asked if they believe these restrictions should be applied and if the limit is appropriate.

#### 5 Alcohol Education

The proposals would require the Scottish Government to publish a statement of its policy on alcohol education and public information; Ministers would then have to evaluate the effectiveness of the policy and report the results to the Parliament. Consultees are asked if there is a role for further alcohol education and public information campaigns in changing alcohol culture. It also asks if it would be beneficial for Ministers to be made directly accountable to the Parliament for their policy.

#### 6 Alcohol Discrimination Against Under-21 Year Olds in Off-Sales

It is proposed that current restrictions are extended to ensure that Licensing Boards are prevented from proposing conditions on off licenses to sell only to a restricted adult age group. As such, this prevents the discrimination of those aged between 18 and 21. The consultation asks if respondents support a ban on Licensing Boards requiring off licenses to restrict sales on age grounds alone but also asks if there are circumstances where it could be justifiable.

#### 7 Community Involvement in Licensing Decisions

It is proposed that every premises license is subject to an initial time-limit, after which it would be required to be renewed. Renewals would be made subject to a requirement to advertise the application locally to allow local people to be aware of it and to have the right to object. The consultation asks if community neighbours should be consulted and welcomes suggestions as to how local people can be given a meaningful opportunity to be consulted.

#### 8 National Licensing Forum

It is proposed that a National Licensing Forum is created, set within legislative framework and reporting annually to the Scottish Parliament, to coordinate local licensing forums. Consultees are asked if they believe there is a role for a statutory National Licensing Forum and asks questions relating to membership, funding and accountability.

### ***Part 2: Justice***

#### 9 Alcohol Bottle Tagging

It is proposed that current legislation is amended so that requiring participation in bottle tagging schemes is automatically a basis on which Licensing Boards may vary licence conditions. Consultees are asked if there is sufficient evidence to justify this amendment to legislation or if current voluntary arrangements are adequate.

## 10 Alcohol Fine Diversion

It is proposed that a fine diversion scheme, an early intervention aimed at addressing binge drinking and associated anti social behaviour, is piloted further and if effective, underpinned by legislation and rolled out to all areas. The consultation asks if fine diversion should be made available on a statutory basis across Scotland.

## 11 Alcohol Arrest Referral

It is proposed that the Bill will require an Arrest Referral scheme to be operated by each Community Justice Authority within its area to ensure persons taken into custody who are perceived to have drug or alcohol problems are offered counseling as a fast track to treatment. Consultees are asked if an Arrest Referral scheme should be a statutory requirement.

## 12 Drinking Banning Orders

It is proposed that Drinking Banning Orders (DBOs) are introduced in Scotland, DBOs are currently available by application by police and local authorities in England and Wales to tackle alcohol related crime and disorderly behavior by preventing individuals from entering premises licensed to sell alcohol. The DBO may relate to specific premises, a category of premises (i.e. private clubs) or a geographical area. The consultation asks if DBOs should be introduced to Scotland.

## 13 Alcohol and Drug Treatment and Testing Orders (ADTTO)

It is proposed that current Drug Treatment and Testing Orders (DTTO) legislation is extended to include alcohol, creating Alcohol and Drug Treatment and Testing Orders (ADTTO). Consultees are asked if extending DTTOs to become ADTTOs would add value and what differences in context between drugs and alcohol would need to be taken into account.

## 14 Alcohol Offences Information Sharing

It is proposed that a new requirement is placed on any court which convicts a person for an offence in which alcohol was a significant contributory factor, to notify the person's GP accordingly. Consultees are asked is it would be beneficial for a GP to be notified about a patient's conviction for an alcohol related offence.

## **4 Conclusions and Recommendations**

The consultation proposes a number of initiatives which would have a significant impact on CSP partners resources but could potentially be useful tools in tackling a number of community safety issues. It is recommended that community safety sector consider responding to this consultation to ensure that they are part of the process in aiding to direct the scope of the proposed Alcohol (Public Health & Criminal Justice) (Scotland) Bill.

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