



Edinburgh Licensing Board - Licensing Scotland Act (2005) Overprovision Consultation

We welcome the opportunity to respond to Edinburgh Licensing Board's consultation about overprovision.

Introduction

The Wine and Spirit Trade Association (WSTA) is the UK organisation for the wine and spirit industry representing over 340 companies producing, importing, transporting and selling wines and spirits. Our members include retailers who between them are responsible for thousands of licences. We work with our members to promote the responsible production, marketing and sale of alcohol.

The Scottish Grocer's Federation (SGF) is the trade association for the Scottish Convenience Store Sector. It is the authoritative voice of the Scottish convenience trade with nearly 2,000 stores in membership including groups such as SPAR Scotland, the Scottish Co-operative, Booker Premier, Scotmid, KeyStore, Nisa, Costcutter and McColl's, as well as a number of independent retailers including Margiotta Ltd. In total, SGF members employ over 32,000 people across Scotland.

The Scottish Retail Consortium (SRC) is the lead trade association representing the whole range of retailers in Scotland, from independents through to the large multiples and department stores, selling a wide selection of products through town-centre, out of town-centre, out-of-town, rural and online stores.

We work with our members to reduce anti-social behaviour related to alcohol through initiatives such as Challenge 25, which was developed by the Retail of Alcohol Standards Group and was recently made a legal requirement in Scotland; Community Alcohol Partnerships which have proven successful in reducing alcohol related crime and anti-social behaviour and with the Government through the Scottish Government Alcohol Industry Partnership. The industry also provides funding for Drinkaware to develop a social marketing campaign and education programme to encourage responsibility among young adults to shift attitudes towards drunkenness. We believe that initiatives that seek to engage with business, rather than restrict, are those which result in the most positive outputs.

We have outlined some of our concerns about the proposals below as well as providing responses to each of the consultation questions.

Evidence

Our primary concern about the policy lies in the lack of evidence base for the proposed over-provision assessments. There is little indication in the consultation of how over-provision is measured or evidence which links the availability of alcohol in Edinburgh to levels of alcohol related harm. The Scottish Government's own figures show that consumption in Scotland has been dropping since 2004 we would therefore question why the Licensing Board is proposing to extend its over-provision statement at a time when consumption is dropping. The academic literature cited in the report is couched in terms of

being 'thought' or 'suggested' and does not provide hard evidence to support the case, it also considers scenarios where alcohol consumption was increasing which is not the case in Edinburgh. The report acknowledges that evidence relating to the type of establishment where alcohol is sold is limited we would therefore question why the Licensing Board has chosen to focus its proposed restrictions on the off-trade sector.

We believe that the most effective way to address the problem is to focus attention and resource on those who mis-use alcohol rather than penalising the majority of responsible drinkers. The most recent statistics published by the Scottish Government demonstrate that progress is being made. Over the past two years alcohol-related hospital discharges have declined by 8.8% from 43,054 in 2007/08 to 39,278 in 2009/10. The Government's own statistics show that the majority of people in Scotland are drinking within the Chief Medical Officer's recommended weekly limits – with 73% of men and 82% of women drinking within the limits¹. We would be interested in any evidence which demonstrates there is a significantly different pattern within the Edinburgh area. The consultation paper shows that alcohol related hospital admission rates for Edinburgh, compared to the Scottish average, are only higher in 3 out of 12 localities.

There is no robust empirical evidence establishing a direct causal link between off-trade licensed premises and alcohol harms in Edinburgh. Indeed contrary to the assertions of the Licensing Board, Alcohol and Drug related fire incidents are more prevalent in those areas where off trade licences are in the minority (such as the city centre ward where off-sales account for 14.8% of all licences) and incidents are least in areas where off-licences are in the majority.

The Scottish Government introduced a range of measures in October 2010 to restrict promotional offers on alcohol within off-licences, and legislation is currently before the parliament to introduce minimum unit pricing in Scotland. Measures which the Scottish Government argues are specifically designed to reduce the availability of alcohol in off-licences. It would therefore seem prudent for the Licensing Board to wait for the changes being introduced at a national level to bed in and for their impact to be fully assessed, before introducing any further changes to the licensing regime in Edinburgh.

Impact on business

The Licensing Board's report shows that just 27.9% of licences in Edinburgh are off licences and in each of the areas assessed for over-provision, off licences are in the majority in just 2 of the 12 areas. We would therefore question how the Licensing Board can seek to justify designating these areas as over-provided for off-licensed premises?

The guidance about overprovision states that there is a duty to identify robust and reliable evidence and that a causal link must be identified between that evidence and the operation of licensed premises. The guidance also states that the evidence must suggest that saturation point has been reached or is about to be reached. Nevertheless the reason for instigating the policy seems to be that there is high availability of alcohol in Edinburgh without providing any evidence to demonstrate saturation. The report acknowledges that evidence relating to the type of establishment where alcohol is sold is limited. We would therefore question why the Licensing Board has chosen to focus its proposed restrictions on the off-trade sector.

¹ Scottish Health Statistics, 2010

Our members are committed to tackling alcohol harm. We do not believe that penalising responsible new businesses in Edinburgh by preventing them from gaining a licence will have the impact the Licensing Board envisages. We fear that the overprovision policy will prevent responsible new applicants from gaining a licence and creating new jobs in the local economy, whilst failing to deal with irresponsible licensees who could be more directly contributing to the problems referred to in the overprovision policy. The guidance states that over-provision is not intended to restrict trade, but we fear that by taking a blanket approach in Edinburgh that is exactly what it will do.

It is important to recognise that most alcohol sold in the off-trade is purchased as part of a grocery shop and consumed responsibly at home. By restricting licensed premises, such as convenience stores and supermarkets which offer alcohol as one of a range of products that customers expect to find in store, it could prove a barrier to future investment. The proposed policy would allow incumbent businesses to continue to offer a full range of services to consumers, including the sale of alcohol, but would restrict new businesses from doing the same. This will undoubtedly provide a competitive advantage to existing businesses in Edinburgh.

It is recognised, including by the Scottish Government, that modern grocery stores, from small convenience stores to large supermarkets, are the biggest suppliers of healthy foods in any locality and have a very important public health role when supplying such foods. New stores can bring healthier nutritional options to localities which may previously have lacked them. Retailers are strongly committed to this agenda, for example in increasing sales of fruit and vegetables. There is therefore a bigger public health picture to be considered when contemplating measures which could restrict new store openings and development.

Furthermore, stores situated on the edge of any Licensing Board area may often attract some, or most, of their custom from people travelling from outside the area. It is difficult to see how any proper assessment of retail provision can seek to cover a whole Board area on the one hand, yet also stop artificially at the boundary of that geographical area. Over-provision restrictions could effectively limit access to choice and competitive grocery supplies for people based outwith the area as well as within it

Existing powers

We recognise the need for continuing targeted action against harmful drinking and against licensees who trade irresponsibly. The Criminal Justice and Licensing Act (2005) provides Licensing Boards with a number of new powers to prevent licensed premises from encouraging consumers to drink more than they had intended. It also equips Licensing Authorities with powers to revoke or suspend a licence where they believe licensed premises, whether in the on or off trade, are failing to meet the conditions of their licence. We would welcome clarification from the Licensing Board about what steps have been taken to prevent future problems, where a clear link was established between crime and anti-social behaviour, and alcohol consumed from licensed premises in Edinburgh.

Consultation process

We are concerned about the speed at which the consultation for such a major change to Edinburgh's licensing policy is being progressed. The Board has not sought views from individual licence holders, nor with wider community organisations. We are therefore concerned that many who would be keen to respond will be denied the opportunity.

It appears that the Licensing Board has developed a policy and then sought to consult, instead of gathering evidence and consulting in order to devise a new policy.

Consultation Questions

Do you consider that there is a high level of availability of alcohol within Edinburgh?

We do not accept the premise that availability of alcohol is necessarily linked to consumption and harm. We believe that other variables such as culture are also important. For example consumption in Scotland is significantly higher than in England where there are no promotional restrictions in place, disposable income is higher and alcohol is available through the same mix of off and on-trade outlets as in Scotland. Licensing Board policy should be evidence based and we do not believe that there is currently sufficient evidence to support the view that the availability of alcohol in Edinburgh is a factor in levels of alcohol harm.

Do you consider that the entire area might be overprovided for off-sales premises?

No – the Board's own assessment shows that off-licences account for less than a third of all licences granted in Edinburgh. There are only 2 areas in the whole of the Licensing Board area where off-licences are shown to be in the majority.

Do you consider that the applications increasing off-sales capacity in Edinburgh are likely to be inconsistent with any or all of the licensing objective of preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and. Protecting children from harm?

Each application to increase off-sales capacity should be judged on its merits against the Licensing objectives. If there is clear substantiated evidence to demonstrate that an increase to capacity or application for a new licence is inconsistent with any of the Licensing Objectives the Licensing Board already has powers to refuse an application. We would not support a blanket presumption against any future increases to capacity.