

## **SCOTTISH BORDERS LOCAL LICENSING FORUM**

MINUTE of MEETING of the SCOTTISH BORDERS LICENSING FORUM held in the Council Chamber, Council Headquarters, Newtown St Boswells on 20 April 2011 at 4.00 p.m.

Present: M. Ballantyne (Convener), Inspector K. Simpson, A. Craig, S. Bell, H. Davies, K. Rowan, C. Mouat, S. Robb (part of meeting), J. Swanson (part of meeting), G. Todd, S. Walker, I. Tunnah, A. Vickery.  
Apology: K. MacDonald  
In Attendance: Committee & Elections Officer (K. Mason).

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### **NEW MEMBER – WELCOME**

1. Susan Robb, Participation Officer, Education (Scottish Borders Council) was welcomed to her first meeting of the Forum.

### **MINUTE**

2. The Minute of Meeting of 23 February 2011 had been circulated.

### **DECISION**

**APPROVED and signed by the Convener.**

### **MEMBER**

Mr H. Davies joined the meeting during discussion of the following item of business.

### **MATTERS ARISING**

3. With reference to paragraph 11(a) of the Minute, the Convener advised that she had ascertained that there was no legal obligation for the Director of Public Health (DPH) to attend meeting of the Forum and he could send a representative in his place. Mr Baijal, DPH was on holiday and the Convener undertook to contact him on his return.

### **DECISION**

**NOTED.**

4. With reference to paragraph 11(b) of the Minute, the Clerk advised that she had still to liaise with the Children's Panel to ascertain if they wished to appoint a Member to the Forum.

### **DECISION**

**NOTED.**

5. With reference to paragraph 11(c) of the Minute, the Chairman and G. Todd advised that their attendance at Board meetings had been interesting and a recommendation was made to all Members of the Forum to attend meetings of the Board. It was agreed that the Convener and S. Bell attend the next meeting of the Board to be held on 13 May 2011.

### **DECISION**

**NOTED.**

6. With reference to paragraph 11 (d) of the Minute, I. Tunnah advised that details relating to delegated powers were contained in Appendix 2 of the Licensing Board Policy Statement.

### **DECISION**

**NOTED.**

7. With reference to paragraph 6 of the Minute discussions took place as to whether the Forum could undertake drawing up a questionnaire to be completed by young people to seek their views on alcohol related issues and this would be dependent on funding.

**DECISION**

**AGREED that the Clerk to the Committee would ascertain how much money was available in the budget for a project of this nature.**

8. With reference to paragraph 12 of the Minute, it was confirmed that the Clerk would be sent copies of the Scottish Licensed Trade News and she would bring copies of this with her to meetings of the Forum. Kim Rowan undertook to email Members with relevant information from the publication.

**DECISION**

**NOTED.**

9. With reference to paragraph 13 of the Minute, the Convener advised that owing to financial restraints there was no contact in the Scottish Government who would be able to advise the Forum on legal issues.

**DECISION**

**NOTED.**

**NEW MEMBER – WELCOME**

10. C. Mouat (Broughton Ales) joined the meeting during discussion of the following item of business and was welcomed to his first meeting of the Forum

**UPDATES**

11. (a) Lothian and Borders Police  
Inspector K. Simpson reported on recent work of the Police in regard to test purchasing, and to the review hearing on 13 May of H20. There had been no issues in relation to Melrose 7's. He referred to a situation in the Tweeddale area when an Occasional Licence had not been granted and commented on reports which had appeared in the local media. He advised that the Police were happy to support such events for young people on condition they were held in a safe and legal manner.

**DECISION**

**NOTED.**

**MEMBER**

Inspector Simpson left the meeting.

- (b) Licensing Standards Officer  
I. Tunnah reported on recent work of the Licensing Board. A number of variations had been granted owing to shop refitting etc. One premises licence had been reviewed but the Board had taken no action because all due diligence was in place within the premises. Many discussions had taken place with licensees regarding mandatory rules relating to hospitality packages offered by licensees.

**DECISION**

**NOTED.**

### **TRAINING – PROTECTING CHILDREN FROM HARM**

12. Owing to problems viewing the video relating to training for local licensing Forum Members, the Forum referred to page 24 of the training manual entitled “Protecting Children from Harm”. Members agreed that the problems in the Scottish Borders were no worse than anywhere else in Scotland. Some of the key problems related to agent purchasing of alcohol and drinking at home meant there was more emphasis on getting drunk and less emphasis on drinking as one part of a social interaction. The possible way forward for the Forum would be to gather information and be clear what issues can, and what cannot, be addressed by the Licensing Board. The Forum could look at other schemes or projects which addressed some of the issues e.g. a campaign to raise awareness with the public that buying for under 18’s was an offence. A paper was tabled at the meeting by S. Robb presenting examples of how public health could be promoted as recommended by Alcohol Focus Scotland, particularly in off-sales settings. The Forum needed to look at the Licensing Board’s Policy relating to “Protecting Children from Harm” to review evidence and ascertain what the Forum’s input could be.

### **DECISION**

#### **AGREED**

- (a) to examine Test Purchasing statistics over the previous 12 months;
- (b) K. Rowan to contact Aberdeen Licensing Forum for information on their questionnaire on licensing issues for young people;
- (c) to put together a newspaper campaign (column re Licensing Act to raise awareness/education issues – targeting key issues);
- (d) to contact Diagio re sponsoring beer mats, for children to colour in; and
- (e) to identify a competition to raise the profile of the Forum.

### **DATE OF NEXT MEETING**

13. The next meeting would be held on Wednesday 20 July at 4.00 p.m. The main focus would be training/discussion relating to “Protecting and Improving Public Health”.

### **DECISION**

#### **NOTED.**

*The meeting concluded at 7.10 p.m.*

# An evaluation of the implementation of the objectives of the Licensing (Scotland) Act 2005

First interim report summary

June 2011

Andy MacGregor,  
Clare Sharp,  
Judith Mabelis and  
Joan Corbett;  
Scottish Centre for Social Research

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## 1. Introduction

The Licensing (Scotland) Act 2005 came into full effect on 1 September 2009<sup>1</sup>. It aimed to overhaul the existing licensing arrangements and established five licensing objectives, all of which have the potential to impact on health and well-being in some way. The objectives are:

- a) Preventing crime and disorder.
- b) Securing public safety.
- c) Preventing public nuisance.
- d) Protecting and improving public health.
- e) Protecting children from harm.

In January 2010 NHS Health Scotland commissioned The Scottish Centre for Social Research to undertake a three year evaluation of the implementation of, and compliance with, the objectives of the Licensing (Scotland) Act 2005<sup>2</sup> (the 'Licensing Act'). NHS Health Scotland will be publishing a series of summary reports based on the findings from the different stages of the evaluation as they become available. Drawing on telephone surveys of licensing standards officers (LSOs) and licensing board representatives from across Scotland, this first summary report describes interviewees' perceptions of the early impacts of the legislation and some of the facilitators and barriers to implementation and compliance<sup>3</sup>.

In total, 30 LSOs and 29 licensing board representatives (predominantly clerks)<sup>4</sup> took part in these baseline surveys. The interviews were conducted over the period July – November 2010. The views expressed here are those of these respondent groups at this comparatively early stage of the Licensing Act's implementation. Later stages of the evaluation will include the views of other stakeholder groups, including local licensing forum (LLF) members, representatives of the licensed trade, police, public health professionals and the general public. Follow up interviews will also be conducted with LSOs and licensing board representatives to identify any changes over time.

## 2. Perceptions of the overall impact of Licensing (Scotland) Act 2005

LSOs and board respondents were asked how much impact they felt the Licensing Act had had in their area to date. Among the LSOs, 19 felt that the Act had already had at least quite a large impact, while one-third felt that the impact had been minimal (Table 1).

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<sup>1</sup> Prior to full implementation the period from 1<sup>st</sup> February 2008 to 1<sup>st</sup> September 2009 was designated as a transitional period.

<sup>2</sup> Further details of the research brief and proposal, including the aims, objectives and methodology are available online at:

<http://www.healthscotland.com/documents/4044.aspx>

<http://www.healthscotland.com/documents/4043.aspx>

<sup>3</sup> A copy of the unpublished draft first interim report on which this summary is based is available on request from [fionamyers@nhs.net](mailto:fionamyers@nhs.net)

<sup>4</sup> There are 40 licensing boards distributed across 32 local authorities. The aim was to interview one board representative per local authority, however three declined to participate, hence 29 respondents.

The LSOs who said that the Licensing Act had produced at least quite a large impact cited as evidence greater awareness of licensing issues among licensed trade professionals and other groups, including the public. It was felt that licensees were much more aware of their responsibilities, especially in relation to the training and monitoring of staff. LSOs drew attention to examples where licences had been revoked, and this information was believed to have filtered through to other licence holders resulting in improvements in practice. It was felt that, as a consequence, licensing standards had been raised to some extent and that licensees were tending to comply with legislation. In some cases it was also suggested that there was evidence that crime rates were falling.

The LSOs who felt that the Licensing Act had only had a limited impact gave as reasons: a sense that the off sales sector had not been greatly affected by the legislation and were able to trade as before<sup>5</sup>; that the larger brewery chains were able to challenge elements of the legislation as it was open to interpretation; and that the Scottish drinking culture was too firmly rooted to be affected by the new legislation in such a short space of time.

Among licensing board respondents, 16 thought that the Licensing Act's impact had been at least quite positive (Table 2). Only three interviewees reported that the impact had been negative in their areas. However, nine individuals stated that the impact had been neither positive nor negative at interview – most commonly these interviewees gave examples of both perceived positive and negative impacts that they felt had arisen as a result of the legislation.

The main positive impact reported by board respondents was that the enforcement agenda had been strengthened: Boards were now able to suspend licences with immediate effect and LSOs were providing a valuable service on the ground - ensuring that licensees were complying with the legislation. It was also suggested that the new legislation had increased general awareness of the responsibilities of licensing and its objectives. Increased dialogue between key stakeholders, such as the board, licensees, LSOs and the police was also noted. Other positive developments cited by Board respondents included: the training requirement for licensed trade staff and for board members; the more flexible nature of the licence application, which a few respondents thought made the establishment of more family friendly premises more likely; and the need for licensed premises applicants to submit operational plans.

The main negative impact of the legislation perceived by board respondents was the loss of licences in a number of areas and, in particular, of outlets such as small hotels, rural shops and heritage sites which were not regarded

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<sup>5</sup> The interviews were undertaken prior to the passing and implementation of the Alcohol etc. (Scotland) Act 2010. When implemented as of 1 October 2011 the Alcohol Act will extend the prohibition of irresponsible drinks promotions to off sales. The Alcohol Act will also extend the existing mandatory restriction on the display of alcohol in off sales to 'alcohol display areas' to include a restriction on the location of drinks promotions on the premises and prohibiting certain drinks promotions from taking place in the vicinity of the premises.

as being responsible for alcohol-related problems in these areas. As a result the cost of licensing fees was criticised by a minority of board respondents.

### **3. Achieving the Licensing Act's five objectives**

The LSOs and board representatives interviewed were asked how successful to date they felt they had been in meeting the Licensing Act's five objectives.

Among the LSOs nine reported that the 'protecting children from harm' objective was being dealt with best locally, while eight felt that 'preventing public nuisance' was the most successfully addressed objective in their area. Seven LSOs felt that their area was tackling the 'preventing crime and disorder' objective most successfully<sup>6</sup>.

LSOs cited a number of factors felt to have been instrumental in the success achieved in realising these objectives, including:

- many complaints received related to noise and disturbance, and LSOs could deal with these on a reactive basis, sometimes with the help of other professionals, and they tended to resolve quickly. Also, LSOs were able to monitor noise and disturbance issues on a proactive basis, with the aid of others such as environmental health officers
- the local priority given to the 'protecting children from harm' objective in some boards and local areas. In these areas policies were supportive in terms of dealing with the issue and boards had considered children's access to licensed premises very carefully in applications and tried to ensure that family-friendly environments would be created
- the police, often in tandem with other agencies and professionals, including LSOs, were reported as having had successes in preventing crime and disorder locally. The compliance work of LSOs was also said to help meet this objective.

The majority of licensing board interviewees felt that their respective boards had been at least 'quite' successful in their attempts to meet the 'preventing public nuisance', 'crime and disorder', 'public safety' and 'protecting children from harm' objectives.

The board interviewees shared many of the views expressed by the LSOs when expanding on the factors associated with their perceived success in meeting these objectives. Reference was made, for example, to the crucial role of the police, environmental health staff as well as LSOs in resolving issues. Although cases being considered in relation to the 'public nuisance' objective were still reaching board level, examples were given of licences being refused or suspended because of relevant breaches. Licensing board respondents also mentioned that they had introduced local conditions in areas. These conditions related to issues such as dispersal from pubs and

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<sup>6</sup> It should be noted that a few LSOs rated more than one objective as being dealt with best in their area.

clubs, limiting times for smoking areas outside of licensed premises to reduce noise late at night, curfews, outdoor drinking (beer gardens, etc), CCTV and lighting.

Both LSOs and licensing board respondents felt that the 'protecting and improving public health' objective was the one that had been the least successfully addressed locally (see Table 3 for board response). The reasons cited for this included:

- the difficulties defining and measuring this objective, which, it was felt, was too wide in scope and therefore the most challenging to address
- Scotland's drinking culture in general, and the perceived inability to tackle the off-sale sector in particular
- a view among boards and LSOs that they had not been given sufficient guidance as to how to address this objective. Both LSOs and boards felt that they lacked the knowledge and skills in public health, and, further, that their links with the NHS were poor. LSOs also felt that it was beyond their remit to try to reduce levels of alcohol consumption across the population
- a sense of powerlessness expressed by board members arising from their perceived lack of authority to tackle larger concerns such as supermarkets and large pub chains
- the inadequacies of local data to monitor success in relation to this objective
- the perceived need for specific legislation to allow boards to develop ideas on how to deal with this objective.

#### **4. Perceived success of the Licensing Standards Officer role**

The LSOs were asked how successful they felt they had been in conducting their overall role. One-half of the LSOs responded that they had been 'very successful', and a further 12 LSOs felt they had been 'quite successful' (Table 4). One of the reasons LSOs cited for achieving this degree of success was that they felt they had been able to build up good relationships with professional groups, and had received positive feedback, particularly in relation to their roles in providing guidance and information and in their mediation role. LSOs also indicated that they had undertaken a lot of work including licensee visits, checking training provision and display of notices, talking to different stakeholders, including the public, responding to queries and giving advice. The LSOs described how solutions had been found to most problems and few of the cases they were involved with ended up being reviewed by the licensing boards.

From the point of view of the licensing board respondents, 18 believed that the LSO role was functioning 'very well' in their board area, with a further eight stating that it was working 'quite well'. Only two respondents felt that the role was not functioning very well in their area (Table 5).

Mirroring the comments of the LSOs, the board respondents felt that the LSO role enabled issues to be resolved before they reached a critical stage. They

had also received positive feedback from the licensed trade about the guidance and advice that LSOs had provided in relation to matters such as training records and the display of notices. The detailed knowledge that LSOs brought to the board about licensed premises was also appreciated, creating a good link between premises and the work of the board. The view was expressed that having dedicated LSOs in post had greatly assisted the boards in their work.

## **5. Perceived success of the local licensing forums<sup>7,8</sup>**

The majority of LSOs (N=26) described their own working relationships with local licensing forums as 'very' or 'quite good'. They did however suggest that the forums had been experiencing some problems in becoming established in certain areas and that there was a lack of clarity about the remit and a need for more guidance from the government. Among licensing board respondents 19 of the 29 felt that their working relationships with the forums were 'very' or 'quite' good. Their perceptions of how well the local licensing forums were functioning were, though, more mixed, with 12 feeling that the forums were working at least 'quite well' but 13 suggesting that they were working 'not very' or 'not at all well' (Table 6). From the point of view of the boards the issues which were felt to be causing difficulties included a lack of leadership at the local licensing forum level, a lack of interest in responding to board queries (e.g. in relation to overprovision), a perceived bias towards the licensed trade, lack of understanding of what an ideal joint working partnership between forums and boards would look like and the difficulty for forums in engaging and involving specific groups (e.g. young people).

## **6. Factors facilitating or acting as barriers to the work of LSOs and licensing boards**

LSOs were asked to indicate which things had been most helpful to them in their work. Support from line managers, a good working relationship/support from the police and their own previous professional background (e.g. having held a similar role prior to the new Licensing Act, or experience of working in the police) were among the most commonly cited factors. Good working relationships and support from other LSOs, from licensing boards and from the licensed trade were also thought to be helpful by over one-third of LSOs (Table 7).

The facilitating factor most frequently cited by board interviewees as supporting their role was the work and support of the LSOs – this was referred to by 21 of the 29 respondents (Table 8). The training for board members, the efficiency of board members and good working relationships with the police

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<sup>7</sup> Section 10 of the Licensing (Scotland) Act 2005 requires local authorities to establish at least one local licensing forum for each licensing board in their area. The role of the local licensing forum is to keep under review the operation of the Licensing Act by the licensing board in their area.

<sup>8</sup> These are the views of the LSOs and licensing board respondents interviewed in the first phase of the evaluation. The second phase of the evaluation will include representatives from local licensing forums in selected case study areas.

were all reported as assisting the work of boards by about one-quarter of the respondents.

The main barrier for many LSOs (n=18) related to difficulties in interpreting the legislation (Table 9). A lack of national support or guidance was also seen as a barrier by 12 LSOs. Board respondents identified these same two issues as barriers to their own work: 12 interviewees cited problems relating to interpretations of the legislation, and eight referred to a perceived lack of national support and guidance. Other factors reported by board respondents included the low price of alcohol and the widespread nature of alcohol-related problems, suggesting that some respondents felt that boards were relatively powerless at addressing such an endemic cultural issue (Table 10).

## **7. The next stage of the evaluation**

The next stage of the evaluation will comprise case studies in four to five licensing board areas. This will provide the opportunity to explore some of the issues raised by the LSOs and licensing board respondents in more detail and across a range of stakeholder groups. This will form the basis of the second interim findings report summary which will be published in 2012.

## Appendix 1

**Table 1: Perceived overall impact of the Licensing (Scotland) Act 2005: LSO respondents**

<b>Overall Impact of the Licensing Act?:</b>	<b>Number of LSOs</b>
Very large impact	3
Quite a large impact	16
Not a very large impact	9
No impact at all	1
Don't know/can't say	1

**Table 2: Perceived overall impact of Licensing (Scotland) Act 2005: licensing board respondents**

<b>Perceived impact of Licensing Act in board area:</b>	<b>Number of LB respondents</b>
Very positive	2
Quite positive	14
Neither positive or negative	9
Quite negative	3
Very negative	-
Don't know/can't say	1

**Table 3: Perceived success in addressing the public health objective: licensing board respondents**

<b>Success in achieving the 'protecting and improving public health objective'?:</b>	<b>Number of LB respondents</b>
Very successful	-
Quite successful	3
Not very successful	14
Not at all successful	1
Don't know/can't say	11

**Table 4: Perceived overall success in LSO role: LSO respondents**

<b>Overall success in role?:</b>	<b>Number of LSOs</b>
Very successful	15
Quite successful	12
Not very successful	1
Not at all successful	-
Don't know/can't say	2

**Table 5: Perceived functioning of LSO role: licensing board respondents**

<b>How well LSO role is functioning</b>	<b>Number of LB respondents</b>
Very well	18
Quite well	8
Not very well	2
Not at all well	-
Can't say/don't know	1

**Table 6: Perceptions of local licensing forum functioning: licensing board respondents**

<b>How well the LF is functioning</b>	<b>Number of LB respondents</b>
Very well	1
Quite well	11
Not very well	10
Not at all well	3
Can't say/don't know	4

**Table 7: Factors facilitating the work of LSOs: LSO respondents**

<b>Facilitating factors</b>	<b>Number of LSOs</b>
Local support from line manager within council	20
Good working relationship/support from police	19
Own professional background/experience	18
Support/guidance from other LSOs	14
Good working relationship/support from LB	12
Good working relationship/support from licensed trade	12
Good knowledge of the licensing legislation	8
Good working relationship/support from LLF	6
Links with other agencies	6
Alcohol problems becoming increasingly recognised/major priority	5
Licensing Act 2005 and its regulations	4
Training for LSOs	4
National support/guidance	3
Good working facilities/resources (office space, admin support etc)	3
Good working relationship/support from public	3



**Table 8: Factors facilitating the work of the licensing boards: licensing board respondents**

<b>Factors facilitating the work of licensing boards</b>	<b>Number of LBs</b>
Good working relationship/support from LSOs	21
Training for board members	8
Efficient board members	7
Good working relationship/support from police	7
Good working relationship/support from LLF	6
Increased powers for boards in 2005 Licensing Act	6
Own/board members' professional background/experience	6
National support/guidance	5
Good working relationship/support from licensed trade	5
Good working facilities/resources (office space, admin support etc.)	4
Alcohol problems becoming increasingly recognised/major priority	2
Links with other agencies (eg Alcohol and Drug Partnerships)	2
Good working relationship/support from public	1
Support/guidance from other LBs	1

**Table 9: Factors acting as barriers to the work of LSOs: LSO respondents**

<b>Barriers</b>	<b>Number of LSOs</b>
Problems around interpreting the legislation	18
Lack of national support/guidance	12
Relatively low cost of alcohol	5
Lack of local support from line manager within council	4
Lack of training/more training needed	3
Lack of support from/poor working relationship with LLF	2
Lack of support from/poor working relationship with LB	2
LSO job remit unclear	2
Inadequate working facilities/resources (office space, admin support etc)	2
Alcohol problems so endemic difficult to address	2
Competing demands from non-alcohol licensing work	2

**Table 10: Factors causing difficulties for licensing boards: licensing board respondents**

<b>Factors causing difficulties for the work of boards</b>	<b>Number of LBs</b>
Problems interpreting the legislation	12
Lack of national support/guidance	8
Price of alcohol relatively low	6
Too much bureaucracy	4
Alcohol problems endemic in society	3
Power of boards insufficient	1
No barriers	2