ALCOHOL RESEARCH UK

Alcohol Focus SCOTLAND

Using licensing to protect public health

From evidence to practice

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Key findings

- Public health partners have increased engagement and participation in the licensing process in Scotland
- Scottish Statements of Licensing Policy show an increased use of health evidence in comparison to 2010
- In 2013, ten licensing boards in Scotland have declared overprovision compared to seven in 2010, with five over a large geographical area.
- Almost three quarters of licensing policy statements do not declare overprovision in any areas
- Increased engagement with public health has raised confidence among some licensing officers in using overprovision to tackle harm
- However, more support is needed for health teams in gathering, analysing and interpreting health evidence to inform regulation

Research team

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Background

International evidence clearly indicates that increasing the price and reducing the availability of alcohol are amongst the most effective policy measures to reduce alcohol consumption and harm in a population. Licensing is the mechanism by which the availability of alcohol is regulated in the UK, controlling numbers and types of alcohol outlets, opening hours and conditions of sale. In recent years there has been policy divergence between Scotland and England with implications for licensing legislation. Scotland is working towards a population-based approach to alcohol policy development which provides the impetus and context for the use of licensing legislation as a contributory measure to manage the availability of alcohol. Policy making in England and Wales on the other hand, continues to emphasise market autonomy and voluntary partnership with industry. In licensing legislation, two of the main differences between Scotland and England are the inclusion of a fifth licensing objective in Scottish legislation - to protect and improve public health - and the requirement for licensing boards to assess overprovision of licenced premises in the board's area and include a statement on overprovision in the statement of licensing policy. A legal opinion commissioned by Alcohol Focus Scotland identified overprovision policies as the most obvious control for protecting and improving public health within the legislation.

The public health and overprovision elements of Scottish licensing legislation would appear to position Scotland favourably with regards to addressing changing drinking behaviours, in particular the increasingly dominant role of off-sales in shaping consumption patterns. However, the use of these legislative levers in practice face a number of challenges. Licensing has historically tended to focus on the prevention of antisocial behaviour rather than the protection of health therefore its key instruments were devel-

oped to regulate public drinking in pubs, clubs and bars rather than address the challenges of a market in which the off-trade is a significant factor. There is also a significant challenge in effectively merging the perspectives and practices of licensing and public health: public health considerations tend to concern population-level indicators and long-term trends, whereas licensing operates in an environment characterised by case-by-case decision-making, negotiated settlements and complex legal argument. Furthermore, licensing board members in Scotland often appear to struggle to apply scientific evidence to policy and decision-making.

The legislation provides for the practical implementation of the objective to protect and improve public health but arguably, effective implementation requires licensing boards to take a new or updated approach to gathering, analysing and interpreting evidence to inform their licensing policy. This has implications for licensing personnel with regards to knowledge and understanding, but also for public health practitioners in the presentation of evidence and arguments to inform licensing decision-making. Gaps in knowledge and understanding among the key stakeholders, as well as differences of practice and perspective, can act as barriers to the full realisation of the potential of the licensing system to reduce alcohol-related harm.

The objectives of this study were:

1. To build capacity within licensing boards in Scotland to enable them to give meaningful effect to the licensing objective "to protect and improve public health" (which is unique to Scotland);
2. To foster closer working relationships and greater understanding between licensing personnel and public health practitioners; to increase awareness of the evidence linking alcohol availability and harm; and help them understand one another's role in the licensing process;
3. To share knowledge and learning with key licensing stakeholders across the UK on the potential of licensing to contribute to the reduction of alcohol harms.

Methods

There were three core elements to the work involved in the study:

1. Increased dialogue and understanding between licensing personnel and public health practitioners in Scotland by holding a series of regional licensing events.
2. Development and dissemination of a resource toolkit for licensing personnel in Scotland.
3. Knowledge transfer with licensing and public health personnel in Scotland, England, Wales and Northern Ireland through dialogue sessions for a range of licensing and public health stakeholders.

The regional licensing events were held in six locations across Scotland and brought licensing officials and public health representatives together to explore and discuss the potential of the licensing system to promote and improve public health. Information on participants' responses to proposed approaches to shaping licensing policy and decision-making was gathered at the events and used to inform subsequent work.

A resource toolkit on licensing policy development was produced and disseminated to over 700 licensing and public health contacts across Scotland to assist with the process of gathering evidence and developing statements of licensing policy in 2013.

A dialogue group was established comprising representatives from public health organisations from Scotland and England. During a series of meetings between 2012 and 2013 the group considered lessons that could be learned from Scotland in the context of public health becoming a 'responsible authority' for licensing under the 2011 Police Reform and Social Responsibility Act in England. The group provided a platform for sharing information and ideas on public health and licensing which were communicated to over 800 stakeholders across Scotland and England via a series of conference and events that group members contributed to.

Findings

- The regional events held in Scotland in early 2012 achieved high levels of attendance and provided an opportunity for collective consideration of licensing policy and decision-making in the context of evidence of health harms associated with the availability of alcohol.
- Participants at the events recorded high levels of understanding of the shift in alcohol purchase patterns to a predominance of off-sales and the need for licensing to regulate off-sales as well as on-sales.
- However, confidence in the ability to gather, analyse and interpret the necessary information, including health data to inform effective regulation, was relatively low, suggesting the need for support.
- The licensing resource toolkit produced following the regional events provided a reference point and guide for licensing officials in the preparation of statements of licensing policy in 2013. It was also used by public health representatives to guide evidence-gathering for licensing boards.
- The UK dialogue group enabled the dissemination of information about the Scottish experience of public health engagement in licensing across England, helping to clarify a number of challenges for both health and licensing teams in establishing closer working relationships. This work is continuing as part of the Public Health England Licensing and Public Health Network.
- Evidence gathered during the project suggests that public health partners have increased engagement and participation in the licensing process in Scotland.
- With regards to the impact of this increased engagement, Scottish statements of licensing policy in 2013 show an increased use of health evidence in comparison to the previous statements published in 2010. Nine percent of policies in 2010 cited the use of health evidence in comparison with thirty-six percent in 2013.
- Ten licensing boards in Scotland have declared overprovision in 2013 in comparison with seven in 2010. Five have declared overprovision across a wide geographical area in 2013 in comparison with just one in 2010, better equipping them to address control the overall availability of alcohol in the board area.
- The progress suggests that increased engagement with public health has increased awareness among some licensing officials of the relationships between alcohol availability, consumption and harm, and increased their confidence to use overprovision policies as a mechanism to regulate alcohol availability.
- In the two case study areas, increased awareness of health evidence is attributed to the involvement of public health partners. However, interviewees in only one of the two case study areas were unani-

mously satisfied with the resulting licensing policy.

- Some licensing stakeholders in the second case study area expressed frustration that the licensing board had not acted upon the information received. This was with particular reference to the evidence provided by police and health representatives.
- In the same case study area, interviewees reported that the concept of overprovision was still contested and often misunderstood by licensing officials.
- While progress with regards to promoting the public health objective has been made in some licensing board areas, the majority of licensing policy statements from across Scotland do not demonstrate the general evidence base for the policy approach. Less than half of the policy statements produced in 2013 demonstrate or reference the health evidence that has been used to reach the policy position.
- Only just over one quarter of licensing policy statements include a policy on overprovision in any part of the licensing board area.

Conclusions

While impact has been demonstrated with regards to increased engagement of public health in the licensing process, the evaluation has shown that overall, the extent to which health data is used in practice continues to be subject to varying interpretations of the evidence by licensing board members and officials. The licensing policy outcome therefore does not always reflect the health evidence presented.

But whilst the licensing policy outcome does not always reflect the health evidence presented, progress has been made with regards to strengthening the working relationships between public health and licensing stakeholders in Scotland. Signs of increased capacity in licensing boards to give more meaningful effect to the licensing objective 'to protect and improve public health' are evidenced by the increased use of health evidence in licensing policy development and in some published positions on the overprovision of licensed premises. However, when considering the published statements of licensing policy in 2013 as a whole, progress has been relatively limited. Further work is needed to scrutinise licensing decisions in the context of the 2013 statements of policy in order to assess the impact of policy positions. Public health partners should continue to promote the use of health evidence to support licensing decision-making.

The project has involved significant regional work to further understanding and increase dialogue between licensing and public health personnel across the UK. The establishment of the UK dialogue group has enabled the sharing of information, learning and experience providing partners with support and a reference point for their efforts.

In England, the Westminster Government, while acknowledging the international evidence showing that controls on outlet density reduced a range of alcohol-related problems including health harm, concluded that there was not sufficient local data gathering or processes in place to support the implementation of a licensing objective on health. Instead, the government has opted to support the development of local work to improve local evidence which may support the creation of health as a licensing objective in the future.

In Scotland, where protecting and improving public health is a licensing objective enshrined in legislation, there are still obstacles and barriers to this objective being promoted effectively. The work of the project in Scotland has contributed to overcoming some of these barriers by facilitating better relationships and in-

creasing understanding between public health and licensing stakeholders. However, it is clear that more work is needed to make a real and significant impact on alcohol availability and levels of harm.

Given the continued divergence of licensing policy between Scotland and England, it will be important to continue dialogue in order to build capacity to promote and support using licensing to protect public health.

References

Babor,T. et al. (2010) *Alcohol: no ordinary commodity*. 2nd ed. Oxford: Oxford University Press.

Beeston, C., Reid, G., Robinson, M., Craig, N., McCartney, G., Graham, L., and Grant, I. (2013) *Monitoring and Evaluating Scotland's Alcohol Strategy*, 3rd Annual Report. Edinburgh: NHS Scotland.

Campbell, C. et al. (2009) 'The effectiveness of limiting alcohol outlet density as a means of reducing excessive alcohol consumption and alcohol-related harms. *American Journal of Preventive Medicine* 37, 556-69.

HM Government (2012) *The Government's Alcohol Strategy* Cm8666. London: HMSO

Nicholls, J. (2012) 'Alcohol licensing in Scotland: a historical overview', *Addiction* 107.8, 1397-403

Popova, S., Giesbrecht, N., Bekmuradov, D. and Patra, J. (2009) Hours and days of sale and density of alcohol outlets: impacts on alcohol consumption and damage: a systematic review. *Alcohol and Alcoholism* 44, 500-16.

Robinson, M. and Beeston, C. (2013) Monitoring and Evaluating Scotland's Alcohol Strategy: Annual update of alcohol sales and price band analyses. Edinburgh: NHS Scotland.

Webb, S. and Webb, B. (1963 orig. 1903) *The history of liquor licensing in England, principally from 1700 to 1830*. London: Frank Cass.

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