

The Scottish Parliament

The Information Centre

Research Note

00/106
4 December 2000

NATIONAL ALCOHOL MISUSE STRATEGY

This note is intended to serve as background to the Executive Debate on Development of a National Alcohol Misuse Strategy on 7 December 2000, and considers initiatives taken by the Scottish Executive to develop that strategy.

ASPECTS OF ALCOHOL MISUSE

Consideration of research output from both the Scottish Parliament and the Scottish Executive indicated that any strategy with alcohol misuse as its focus, may take into account issues relating to both health and criminality.

CRIMINALITY

Crimes committed while under the influence of alcohol have long been an interest of the criminal law. These have at times inspired the leading of the partial defence of diminished responsibility in respect of violent crimes and the so-called hip flask defence in respect of drink-driving.¹ In respect of the latter, a blood test would be required as corroboration. In respect of the former, the stance of the law is that the decision to drink was taken while lucid and any resultant actions by extension stem from that decision.

¹ Failing a breath test and saying that failure occurred because the accused had had only one drink and had that only minutes prior to being stopped.

Drink-Driving

As publicity campaigns reveal, this is a matter of particular public concern around festive period. In 1998 the Central Research Unit of the Scottish Office published the Development Department Research Programme Research Findings No. 49 (1998) *Alcohol and the Pedestrian Road Casualty*.² The report considered age, gender and time variation of alcohol consumption as well as injuries attributable to road accidents and alcohol consumption. Among the findings were that 9% of road accident casualties had evidence of alcohol consumption and that pedestrians in the 40-49 age group show an increased risk of being involved where alcohol has been consumed. In addition, a 'greater level of admissions to hospitals was evident amongst pedestrians who had been drinking, being more than twice as likely to be admitted than those who had not been drinking.' Some of these findings were graphically represented and are reproduced here.³

Figure 2: Proportion showing evidence of alcohol by gender

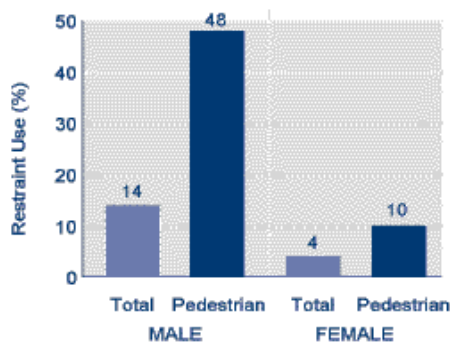
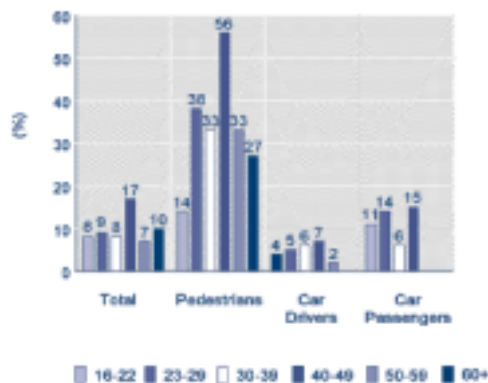


Figure 3: Proportion showing evidence of alcohol by age



Alcohol Licensing Laws

Alcohol licensing laws have as one of their main purposes the protection of consumers. As will be seen below, the Scottish Advisory Committee on Alcohol Misuse is to undertake a review of liquor licensing laws. The Licensing (Scotland) Act 1976, as amended, transferred the functions of the licensing courts to boards consisting of elected council members, which meet with the remit to discuss the granting of new and provisional licences as well as renewals. The boards also consider applications for extensions and restrictions on permitted hours.

Under the Act, several types of licence exist:

- a. Public house: for consumption on or off the premises
- b. Off-sales: for consumption off the premises
- c. Hotel: for consumption on and off the premises
- d. Restricted Hotel: where there is no bar counter and sale of liquor is restricted to diners or guests or friends of guests who are entertained at the expense of the guest

² <http://www.scotland.gov.uk/cru/resfinds/df49-00.htm>

³ Ibid. Proportions refer to proportions of attendees in Accident and Emergency departments of 5 large Scottish hospitals.

- e. Restaurant: where there is no bar counter and liquor is sold for consumption with, and ancillary to, a meal
- f. Refreshment: where there is no bar counter and refreshments (including food and non-alcoholic beverages) are sold. This type of licence allows children under the age of 16 to be present when accompanied by someone over 21, up to 8:00pm
- g. Entertainment: for places of public entertainment where consumption of liquor is on the premises and ancillary to the entertainment.

Part II of the Act gives effect to the proposal of the Clayson Commission that persons other than natural persons (e.g. companies) may hold licences. Part II of the Act also sets out who may make objection (s.16) to the granting of a licence and the grounds on which such an objection may be made (s.17).

Objection may be made by those owning adjoining property, a community council, an organised church, the chief constable or the fire authority for the area. The grounds on which objection may be made, and the grounds on which an application may be refused, are that:

- the applicant is not a 'fit and proper person' to be the holder of a licence
- the premises are unsuitable for the sale of alcohol, having regard to their character, location, condition and the nature and extent of the proposed use of the premises
- use of the premises for the sale of alcohol is likely to cause undue public nuisance or pose a threat to public order and safety
- considering the number of licensed premises in the area at the time and, the granting of a licence would result in 'overprovision of licensed premises in the locality'.

Part II of the 1976 Act also specifies those certificates necessary for the granting of a new licence, such as certificates issued by planning authorities, food hygiene, the fire authority, etc.

Part V is concerned with permitted hours. The 1976 Act extended opening times to 11pm (s.53(2) and Schedule 4, on Sunday opening) and made provision for occasional and regular extensions and for the restriction of these hours. The Law Reform (Miscellaneous Provisions)(Scotland) Act 1990 made it more difficult to have long regular extensions - though s.45 provided that the new basic permitted hours for days other than Sundays would be 11:00am to 11:00pm, so abolishing the requirement to apply for afternoon extensions. Section 47 of the 1990 Act provides that an extension shall not be granted unless 'there is a need in the locality'. In addition, 'occasional permissions' may be granted to voluntary organisations for the purposes of catering for an event (s.34).

Under the 1976 Act, offences are in the main attributable to a breach of the terms of the certificate granted, and have to do with supplying drink outwith the hours specified, supply to minors and supply outwith the premises themselves.

Penalties for contravention include disqualification of the premises and of the licence holder. Fines (Schedule 5) range from level 1 on the standard scale (£20) for failure to display a notice of extended afternoon opening hours to level 5 (£400) for trafficking in liquor without a licence or the unlawful sale of spirits. Other specific offences have to do with the supply of alcohol to children and young persons, though s.68 provides that persons over the age of 16 may be supplied with wine with a meal, taking cognisance of the special position of premises operating under a refreshment licence.

Different provisions apply to registered clubs, including the requirement to provide a list of members and to give notice of the application in a local newspaper. The right to object is conferred on local churches and community councils and is withdrawn from the procurator fiscal. The presence of a bar on the premises ceases to be a ground of objection, though persons under the age of 14 are not permitted to be in the bar of a club during the permitted hours.

According to (the new) section 18A of the 1976 Act,⁴ boards are required to attach to licences either conditions prescribed by the Scottish Ministers or other conditions which are considered necessary for the safeguarding of the health and safety of those attending a specified event. Such events are any at which music is played or relayed, where a person may dance or at which the licensing board thinks drug-related offences may be committed.

Drinking in Public Places

In addition and in order to avoid criminal / offensive behaviour, several Councils have passed by-laws prohibiting the consumption of alcohol in parts of the council area, usually public and urban areas. Such bylaws must be confirmed by ministers and are made under the authority of the Local Government (Scotland) Act 1973, s201(1). Penalties for breach can be as high as £500, as in the case of South Lanarkshire where the bylaw was passed in April 1997. 25 Local Authorities have passed such by-laws (some of which were lifted for the millennium celebrations).⁵

All of these measures have at their heart the protection of health, be it that of potential victims of violent crime or potential victims of road accidents. The Scottish Executive has also considered the effects of alcohol on the health of the nation in a more explicit way.

⁴ Added by the Licensing (Amendment)(Scotland) ACT 1996, which followed the drug-related deaths at 'Hangar 13' in Ayr.

⁵ Angus, Argyll & Bute, Clackmannanshire, Dumfries and Galloway, Dundee, East Ayrshire, East Dunbartonshire, East Lothian, East Renfrewshire, Eilean Siar, Falkirk, Fife, Glasgow, Highland, Inverclyde, Midlothian, Moray, North Ayrshire, North Lanarkshire, Perth & Kinross, Renfrewshire, South Lanarkshire, Stirling, West Dunbartonshire and West Lothian.

HEALTH

The relationship between alcohol misuse and ill health forms part of a wider Executive strategy. Indeed, Sir David Carter, Chief Medical Officer pointed out in 1997 that 'no one measure will tackle alcohol abuse.'⁶ He went on to announce that ongoing action on alcohol misuse includes the following facets:

- package of measures to combat teenage drinking including the power to confiscate alcohol in public
- the Drinkwise (Scotland) Campaign raising the awareness of alcohol problems
- the Teenwise Alcohol Project (TAP)
- by laws to prohibit drinking in designated public places.

The Teenwise Alcohol Project (TAP) was evaluated by the Central Research Unit of the Scottish Executive in 1999.⁷ The findings indicates, among other things, that teenagers were able to distinguish between the acceptability of alcohol and the acceptability of drugs. Findings also,

indicated the need for educational and enforcement approaches to be supported by the provision of diversionary activities for young people; the importance of linking short-term local initiatives to regional and national strategies; and the need for models which are appropriate to deprived urban - as well as small town and rural - locations.

In a Press Release of 4 December 2000,⁸ the Scottish Executive announced the publication of the 1998 Scottish Health Survey⁹ which, according to the press release, shows evidence that Scots are appreciating the link between lifestyle and health. It is also acknowledged that a strategy on alcohol forms part of a wider health strategy to cover eating habits, drugs, smoking and exercise. On alcohol, it was noted that the survey (of 13,000 Scots between the ages of 2 and 74) found that:

- the prevalence of problem drinking decreased with age: among men from 16% for those aged 16-24 to 7% for those aged 65-74; among women, from 8% to 2% respectively.
- some 9% of girls and 12% of boys reported having drunk alcohol in the past week.

The Scottish Advisory Committee on Alcohol Misuse

The Health White Paper *Towards a Healthier Scotland* set out new steps towards tackling alcohol misuse and announced the establishment of an Advisory Committee on Alcohol Misuse. SACAM met for the first time in April 1999 and subsequently agreed an Operational Framework. The SACAM has as its primary objective the development of a national strategy on alcohol misuse. The

⁶ Scottish Office News Release, 3 October 1997: <http://www.scotland.gov.uk/news/releas97/pr1410.htm>

⁷ Crime and Criminal Justice Research Findings No. 34 1999:

<http://www.scotland.gov.uk/cru/resfinds/crf34-00.htm>

⁸ <http://www.scotland.gov.uk/news/2000/12/se3120.asp>

⁹ <http://www.show.scot.nhs.uk/scottishhealthsurvey/>

groundwork for this had already been done in October 1997 with the Scottish Office funded conference *Alcohol Problems - Working Together*, which was organised by the Public Health Policy Unit, the Scottish Council on Alcohol and Alcohol Misuse Co-ordinating Committees. In addition, the *Alcohol Action Plan Conference Report* was published in February 1999.

Following this groundwork, the SACAM drew up its ***First Action Plan***, which is reproduced here.

Information collection and dissemination

<i>Objective</i>	<i>Action</i>
To develop and implement a Scottish Alcohol Misuse Information Strategy (to complement the existing Drugs Information Strategy).	<ul style="list-style-type: none"> • Phase 1: to commission a scoping review of alcohol misuse information as a precursor to a strategy • Phase 2: to develop and publish an Information Strategy with closely set objectives and action priorities • Phase 3: to establish the delivery mechanisms and implement the information strategy

Prevention and health promotion

<i>Objective</i>	<i>Action</i>
To develop a more coherent, co-ordinated and targeted programme of action for alcohol misuse prevention and health promotion activity which ties in with wider strategic developments	<ul style="list-style-type: none"> • Phase 1: to commission an examination of public perceptions and understanding of sensible drinking. This would look at such factors as the “pushes” and “pulls” and the role of licensing. • Phase 2: SACAM to review approaches to prevention, including working co-operatively with the drinks industry and the licensed trade and advice to be issued. Steering Group to be established to take forward this work. • Phase 3: consultation on draft guidance • Phase 4: Issue of guidance

Service provision

<i>Objective</i>	<i>Action</i>
To issue detailed guidance on the effective planning and provision of the full range of services , including criminal justice services, within the context of national strategic objectives and national priorities for tackling alcohol misuse.	<ul style="list-style-type: none"> • Phase 1: AMCCs to commission an audit to establish what they have done to establish need; of the services available to meet these needs; and what the perceived gaps are (bearing in mind national as well as local provision). • Phase 2: SE, on behalf of SACAM, to commission the development of guidance, informed by the results of the AMCC audit. Steering Group to be established to oversee this project. • Phase 3: public consultation. • Phase 4: Launch by SE of guidance.

Co-ordination

<i>Objective</i> To create effective co-ordination arrangements to develop and deliver local action plans to tackle alcohol misuse underpinning the new national strategy.	<i>Action</i> <ul style="list-style-type: none">• Phase 1 (<i>immediate</i>): increase funding to support AMCCs (to £30K) with immediate effect; appoint a national co-ordinator.• Phase 2 (<i>ongoing</i>): consider what advice needs to go out to AMCCs as the strategy emerges and ensure their active involvement at each stage of the process.• Phase 3 (<i>longer term</i>): develop an accountability framework for AMCCs to deliver key aspects of the developing strategic framework.
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Other parallel action:

- SACAM to actively promote the need for and participate in liquor licensing review.
- Scope for supporting proof of age card schemes.
- A Working Group established to pull together – over the next 18 month developmental period – an outline alcohol misuse strategy for Scotland (for publication and launch 2001).

The forward strategy, then, appears as follows:

BY: DECEMBER 2000:	Publish and launch Information Strategy (with key objectives and action priorities)
MARCH 2001:	Publish and launch alcohol services guidelines
MAY 2001:	Publish and launch prevention and promotion framework
OCTOBER 2001:	Publish and launch alcohol misuse strategy for Scotland

Research Notes are compiled for the benefit of Members of Parliament and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public.