

NHS Health Scotland

AN EVALUATION OF THE IMPLEMENTATION OF, AND COMPLIANCE WITH, THE OBJECTIVES OF THE LICENSING (SCOTLAND) ACT 2005

A SUMMARY OF THE RESEARCH BRIEF

Introduction

In October 2009 tenders were invited to undertake an evaluation of the implementation of, and compliance with, the objectives and relevant requirements of the Licensing (Scotland) Act 2005 (abbreviated here to the 'Licensing Act'). The three-year evaluation, which commenced in February 2010, is intended to provide learning to further support improvements in implementation and compliance and the achievement of the Act's five objectives at national and local levels.

The following summarises the aims, specific objectives and suggested methods for evaluating and monitoring the Licensing Act.

Context

In response to the growing scale and burden of alcohol related harms the Scottish Government is taking forward action to tackle alcohol misuse through the new Licensing (Scotland) Act 2005 and the new strategic approach to alcohol outlined in Changing Scotland's Relationship with Alcohol: A Framework for Action. The Licensing Act, which came into full effect on 1 September 2009, overhauls existing licensing arrangements and introduces a range of significant new measures to protect communities from alcohol-related harm.

To assess the impact of the new strategy and legislative changes a Monitoring and Evaluation Reference Group for Alcohol (MERGA), led by NHS Health Scotland, was established and developed a portfolio of monitoring and evaluation studies¹.

Within this context the evaluation of the Licensing (Scotland) Act 2005 is concerned with the impact of the legislation in meeting the five licensing objectives. The focus will be on the implementation of the relevant sections of the legislation; the adoption by the agencies and professionals responsible for implementation; short term outcomes, in terms of compliance with the legislation; and intermediate outcomes in terms of the impact on the availability of alcohol. This evaluation is not, however, addressing the administrative aspects of implementation.

Research aims and objectives

The broad aims of the research are to:

- Monitor and describe the implementation of, and compliance with, the licensing objectives and relevant requirements of the Licensing Act and associated regulations
- Assess the effectiveness of implementation and compliance in controlling the availability of alcohol

¹ Since the brief was issued responsibility for delivery of the portfolio of seven monitoring and evaluation studies has passed to the Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS) Project Team

- Assess the factors facilitating implementation and compliance and/or which act as barriers
- Generate learning to support further improvement in implementation and the achievement of the Act's objectives at national and local levels and, as appropriate, inform any future legislation
- Contribute the findings from the evaluation to the evidence from the wider portfolio of studies developed by MERGA to assess the overall impact of the actions aimed at tackling alcohol related harms.

To meet these aims the research has eight objectives:

1. To monitor changes in the numbers of licences applied for and registered, and assess trends (from Sept 2009) in 'capacity' and in licensed hours with a view to assessing the on-going effectiveness of the Act in controlling the availability of alcohol
2. To monitor compliance with the relevant requirements of the Licensing Act and actions taken in terms of sanctions for breaches and to identify and account for any differences in practice across Licensing Board areas. The following are of particular interest:
 - Bans on irresponsible promotions in on-sales
 - Training for personal licence holders and staff
 - Refusal to serve a customer who is drunk
3. To obtain an understanding of the numbers of LSOs, the local authority department/services within which they are based, their roles and activities and the implications for their potential to improve the implementation of, and compliance with, the Licensing Act
4. To obtain an understanding of whether and how Local Licensing Boards are addressing the Licensing Act's five objectives in their Licensing Policy Statements, building on the research commissioned by Alcohol Focus Scotland in 2008²
5. To obtain an understanding of the ways in which Licensing Boards interpret and apply key relevant requirements of the Licensing Act, including: assessments of 'capacity' for on and off sales; definition and application of criteria of 'over-provision'; and facilitation of the 'public right' to make objections and representations in relation to licence applications
6. To analyse the membership, roles and operation of the Local Licensing Forums, their relationships with Local Licensing Boards and the impact of the forums on the policies and actions of the Boards, identifying the factors that facilitate their role and those which act as barriers to their effectiveness
7. To review the implementation of test purchasing, including the actions taken when failure to comply is identified, and to determine the barriers and

² See MP Consultancy (2008) *Licensing Law and the Impact of the Public Health Objective - A Review Paper*, Glasgow: Alcohol Focus Scotland <http://www.alcohol-focus-scotland.org.uk/pdfs/Licensing%20and%20Public%20Health%20Review.pdf>

facilitators to implementation, including the implications of the roll out model being different from the model originally piloted³

8. To analyse and integrate the findings to generate learning to further improve the effective implementation of, and compliance with, the Licensing Act and inform any future legislation.

Research methods

To meet these aims and objectives the evaluation has three major components:

1. The development and implementation of a process for analysing routinely collected national and local monitoring data, as available, to inform an understanding of the implementation of, and compliance with, the Licensing Act (objectives 1, 2, 7). This component will run throughout the life of the evaluation, with final reporting on the first three years operation of the Act at the end of the evaluation. Because it is anticipated that monitoring of the Act will continue beyond the life of the study the methodology and approach developed for analysing the data by the successful researchers will need to be entirely transferable to another body or agency
2. The design, administration and analysis of 'bespoke' Scotland-wide surveys to contribute to an understanding of the implementation of, and compliance with, the Licensing Act and to an assessment of effectiveness (objectives 3, 4, 5, 8)
3. Case studies of a sample of 4 – 6 Local Licensing Board areas to explore the factors facilitating and/or acting as barriers to effective implementation and compliance (objectives 3, 4, 5, 6, 7, 8)⁴. The case studies will include qualitative and quantitative data collection from LSOs, the Licensing Boards and Licensing Forums in each study area, to provide a picture of the interactions between the different components of the licensing system.

Table 1 below summarises the anticipated links between the evaluation objectives, the proposed methods and the level of analysis (i.e. national level data or case study data).

³ For the evaluation of the pilot see Macgregor, A. (2007) *Evaluation of Test Purchasing Pilot for Sales and Alcohol to under 18s: Final Report*, Edinburgh: Scottish Government <http://www.scotland.gov.uk/Publications/2007/10/16091859/0>

⁴ For the purposes of the evaluation a 'case' will comprise the Local Licensing Board area. This may cover only part of a local authority area.

Table 1 Objectives, methods and level of analysis (national/case study)

Objectives	Methods Level	
	National	Local/Case study
1. To monitor changes in the number of licences applied for and registered, trends in 'capacity' and licensed hours	Quantitative analysis of national trends over time	
2. To monitor compliance with the relevant requirements of the Licensing Act and actions taken in terms of sanctions for breaches	Analysis of available national statistics	Quantitative analysis of Licensing Board Registers and LSO records in case study areas Qualitative analysis in case study areas to identify the factors informing local practices to ensure compliance and action in respect of non-compliance
3. To obtain an understanding of the numbers, the organisational base, role, activities etc of LSOs	Collection and analysis of statistics on the proportionate number of LSOs	Documentary analysis of a sample of LSO job descriptions Interviews with case study area LSOs to explore their work plan, workload etc. Interviews with a sample of licensees in case study areas
4. To obtain an understanding of whether and how licensing boards are addressing the Licensing Act's five objectives in their policy statements	Documentary analysis of policy statements (across Scotland or sample including case study areas)	

Table 1 Continued

	Methods Level	
Objectives	National	Local/case study
5. To obtain an understanding of the ways in which Boards interpret and apply key relevant requirements of the Licensing Act, in particular their assessment of 'capacity' for on/off sales and application of criteria of over provision, and how they facilitate the 'public right' to object or make representations	Survey of clerks and chairs/convenors of Licensing boards (including potential follow-up survey toward the end of the evaluation period)	Quantitative analysis of Licensing Boards' Registers of Applications in case study areas Case studies to explore factors informing interpretation and application of the key relevant requirements of the Act
6. To analyse the membership, roles and operation of the local Licensing Forums including their relationships with Boards, and their impact on the actions and policies of the Boards		Case studies to explore operation and impact of the Forums
7. To review the pattern and model of the implementation of Test purchasing	Quantitative analysis of ACPOS data	Analysis of Licensing Board Registers and LSO records in case study areas to identify actions taken when breaches detected Case studies to explore model and patterns of usage of test purchasing
8. Analysis and Integration of findings throughout the course of the evaluation to inform briefings and briefing papers to inform early learning	National data	Data from quantitative and qualitative case study analyses

Project Management

Project Management will be by Fiona Myers, Public Health Adviser, NHS Health Scotland, support by a small Project Advisory Group including representatives from Scottish Government, Alcohol Focus Scotland and CoSla.