

WEST DUNBARTONSHIRE LICENSING BOARD

Report by the Clerk to the Licensing Board

8 November 2011

Subject: Alcohol (Minimum Pricing)(Scotland) Bill

1. Purpose

- 1.1** To report on the forthcoming Bill relating to minimum pricing and to ascertain whether the Licensing Board wishes to submit evidence to the Scottish Parliament's Health and Sport Committee.

2. Background

- 2.1** Section 1 of the original Alcohol etc (Scotland) Bill related to the setting of minimum price for the sale of alcohol. The minimum price per unit of alcohol would have been set by regulations made under the Act but the Government indicated that it was to be initially set at 45p per unit. The Government stated that the effect of the introduction of a minimum price at this level would be 1200 fewer hospital admissions, £5.5m fall in healthcare costs, 50 fewer deaths and 23,000 fewer days off per annum. In terms of pricing this would have seen a 2 litre bottle of Tesco's cider go from £1.32 to £3.80 and a bottle of ASDA whisky go from £9.20 to £12.60.
- 2.2** The minimum price proposal was not passed by the Scottish Parliament and was omitted from the Alcohol etc (Scotland) Act 2010 when it was passed.
- 2.3** In August 2010 the commission appointed by the Scottish Labour Party under Professor Sally Brown produced its proposals. It also recognised the link between alcohol pricing and alcohol related harm and proposed a UK floor price for alcohol which should be below the total cost of production, duty and VAT. Duty rises were to be the main lever for achieving price increases. The Commission also proposed a legal limit on the caffeine level in alcoholic drinks as a result of the link between alcohol, caffeine and violence and disorder.
- 2.4** The new Alcohol (Minimum Pricing)(Scotland) Bill was introduced into the Scottish Parliament on 31 October 2011. The Government propose to revisit the 45p per unit limit previously proposed and will re-run the Sheffield University model to give up to date evidence. The Parliament's Health and Sport Committee have called for evidence from all interested parties on the general principles of the Bill. A copy of their call for evidence, the Bill and Policy Memorandum are attached as Appendices 1, 2 and 3.

3. Main Issues

3.1 The Scottish Parliament's Health and Sport Committee on 1 November called for evidence from all interested parties on the general principles of the Bill. They intend that evidence received will inform its consideration of the Bill at Stage 1. Responses should address all or any of the following points in turn:

- The advantages and disadvantages of establishing a minimum alcohol sales price based on a unit of alcohol.
- The level at which such a proposed minimum price should be set and the justification for that level.
- Any other aspects of the Bill.

3.2 Views in the Bill are to be submitted by 12 December 2011. As West Dunbartonshire Licensing Forum's next meeting is 13 December, the Chair of the Forum has been contacted to ascertain whether an early meeting should be called. In light of the relatively short timescale it is recommended that the Board decide on its own response and forward it to the Forum to inform the Forum's considerations.

3.3 Pages 1 to 7 of the Policy Memorandum provide an overview of the Bill and the evidence which underlies it. As previously detailed to the Board, there is clear international evidence linking alcohol related harm to both the availability and price of alcohol. Alternative approaches to that proposed by the Scottish Government are detailed at pages 13 to 16 of the Policy Memorandum. The Scottish Government, the UK Government and the Opposition Labour Parties in both parliaments have all accepted a clear link between alcohol related harm and pricing but proposed different means of dealing with this. In summary their alternative proposals are:-

3.3.1 In January 2011 Westminster Government proposed a ban on sales of alcohol below the rate of duty plus VAT. This would result in the following pricing.

440ml lager can at 4.2% - 38p

1l cider at 4.5% - 40p

750ml wine at 12.5% - £2.03

1l vodka at 37.5% - £10.71

3.3.2 During consideration of the Westminster Government's proposals at the House of Commons Science and Technology Committee in October 2011, the position of Labour's Shadow Public Health Minister, Diane Abbot was that the UK Government should be prepared to look at minimum pricing.

3.3.3 The recommendation from the Opposition Scottish Labour Party in August 2010 was that there should be a UK floor price for alcohol which should be below the total cost of production, duty and VAT. Duty rises were to be the main lever for achieving price increases.

3.4/

3.4 The report to the Board on 25 October 2011 summarising the update on alcohol sales and price band analysis report by NHS Health Scotland noted data on pricing levels. Not unsurprisingly it noted that higher off-trade sales (compared to on-trade sales) were particularly marked in the 30 to 44.9 pence per unit range and for spirits, especially vodka. It noted that in 2010 the average price of a unit of alcohol through the off-trade in Scotland was 45 pence per unit and 134 pence per unit through the on-trade. A minimum unit price of alcohol would therefore impact much more on the off-trade sales than on on-trade sales. However it was noted that as the price of alcohol increased between 2008 and 2010, the proportion of alcohol sold through the off-trade under different price thresholds changed. In 2008, 57% of off-trade sales was sold at less than 40p per unit and 81% at less than 50p per unit. By 2010 this had dropped to 45% at less than 40p per unit and 73% less than 50p per unit. Their conclusion was that if a minimum price per unit was to be introduced, changes in alcohol prices and disposable incomes would need to be monitored to assess whether they might influence the potential effect of a minimum unit price on consumption and harm. This is presumably one of the reasons why the Government proposes to re-run the Sheffield University model to give up to date evidence as to what the proposed minimum price should be.

3.5 It is likely that minimum pricing will be challenged in court by major supermarkets and drinks companies. The legal issues are not straightforward and the UK Public Health Minister, Anne Milton, told the House of Commons Science and Technology Committee in October, that their legal advice was that minimum price legislation was likely to contravene European free trade legislation. She welcomed the clarification to the law that the Scottish Government's minimum pricing proposals would probably provide. The advice to the Scottish Government is understood to be that minimum pricing is legal. The implications of this legal uncertainty will be that once the Act is passed it is likely that it will be bogged down in litigation, possibly ending up in the European courts. Until then the Act cannot be brought into force. For this reason it is understood that Civil Servants are keen that this Bill contains little else other than minimum pricing to avoid anything else becoming delayed by litigation.

3.6 The Scottish Government proposals when compared to those of the UK Government and Scottish Labour Party are likely to provide the largest immediate increases in alcohol pricing. An example would be the sale of 2l of cider at a strength of 4.5%.

- UK Government proposal – 80p
- Scottish Government proposal - £4.05

Accordingly the Scottish Government proposals are likely to have a greater immediate impact in reducing alcohol related problems in Scotland, providing they survive legal challenge.

3.7/

3.7 The Scottish Labour Party Commissions proposals were that rises in duty would be the main lever for achieving price increase. This would be a more gradual incremental approach which could eventually result in pricing levels similar to those proposed by the Scottish Government. It would however depend on the willingness of successive UK Governments to raise duty and rule out different proposals more tailored to Scotland's needs. Preliminary indications are that the new Bill is supported by the Lib-Dems and Greens but opposed by Scottish Labour and the Conservatives.

3.8 West Dunbartonshire was one of very few Licensing Boards in Scotland to undertake a comprehensive evidence gathering exercise to substantiate its Overprovision Policy. The broad conclusions from this were that there were three key problems.

- Crime and disorder on Friday and Saturday nights in town centres – while the attractiveness of pubs and nightclubs and the night time economy is one factor in this, the increasing trend of pre-loading at home before going down town means that these problems can no longer be laid at the door of the on-trade. It could be argued that many such problems have their root in the consumption of cheap alcohol, particularly from supermarkets prior to patrons going out.
- Youth crime and disorder/under age and outdoor drinking – alcohol generally obtained from off-sales, often by agent purchases.
- Alcohol related deaths, hospital admissions, domestic abuse, fire, crime and police incidents outwith town centres – predominantly linked to low cost alcohol from large supermarkets.

3.9 The Board may wish to comment on the need for other changes identified in the Alcohol Focus Scotland proposals as part of this call for evidence.

3.10 While it is recognised that the UK and Scottish Governments and Labour Opposition parties have differing views on minimum pricing, all appear to accept the link between pricing and alcohol related harm. The evidence and data obtained by the Board as part of its Overprovision Policy is important to inform the debate on minimum pricing as it presently represents one of the few sources of comprehensive information about alcohol related harm in an area. Therefore it is recommended that regardless of the Board's view on the effectiveness of minimum pricing, that this evidence is made available to the committee.

4. People Implications

4.1 There are no people implications.

5. Financial Implications

5.1 There are no financial implications of this report.

6. Risk Analysis

- 6.1** There is a clear link between the price of alcohol and alcohol related problems within West Dunbartonshire. While this Board has been pro-active in gathering data and having innovative policies in overprovision, it cannot deal with pricing. Accordingly it is welcome that both the UK and Scottish Governments, as well as the Opposition Labour Parties in Westminster and Holyrood all agree on the link between alcohol related harm and pricing. It is also welcome that all parties have proposals to deal with this.
- 6.2** The Scottish Government's proposals are likely to have the most immediate effect in relation to alcohol related harm. The key risk is that minimum pricing is either held to be contrary to free trade legislation or becomes mired in years of litigation.
- 6.3** A risk of the alternative UK Government and Scottish Labour Party Commission proposals is that successive Governments will lack the willingness to raise alcohol duty to a level where it makes any significant difference to pricing and alcohol related harm.

7. Equalities Impact Assessment (EIA)

- 7.1** This report merely notes proposals relating to alcohol pricing and will not itself result in any changes. Accordingly it can have no impact on alcohol related disabilities or equalities generally.

8. Strategic Assessment

- 8.1** West Dunbartonshire's alcohol related problems have an impact on the area's ability to attract new business, to train a suitable workforce, on work absence rates and on the attractiveness of the area as a place to live and work. All of these issues impact on the long term regeneration of West Dunbartonshire.

9. Conclusions and Recommendations

- 9.1** The fact that both Governments and Oppositions recognise the link between alcohol related harm and pricing is welcome. The fact that all propose to do something about it is also welcomed.
- 9.2** It is recommended that:-
- i) The Board consider the advantages and disadvantages of the Scottish Government's proposals on minimum pricing and the level at which this should be set.

- ii) The Board consider whether any of the proposals detailed in paragraph 3.8 and the Alcohol Focus Scotland proposals detailed in another report to this Board are included within this Bill. If not, should this call for evidence be treated as an opportunity to ask that consideration is given to a further alcohol Bill in the near future to address these issues.
- iii) That regardless of the Board's view on the principle of minimum pricing, the Board should submit the factual evidence obtained during its overprovision assessment to inform Stage 1 of the Bill.
- iv) The Board authorise the Clerk to the Licensing Board to prepare and submit a submission to the Scottish Parliaments Health and Sport Committee, subject to consulting with the Convenor of the Licensing Board on the terms of the submission.
- v) A copy of this report, the draft minute and the Board's draft response are forwarded to West Dunbartonshire Licensing Forum to inform their consideration. In the event that the Forum have a similar view to the Board, the Board authorises the submission to be joint one from the Board and the Forum subject to consultation with the Convenor about any additions to the submission proposed by the Forum.

Andrew Fraser
Clerk to the Licensing Board

Person to Contact: Andrew A Fraser, Clerk to the Licensing Board and Head of Legal, Administrative and Regulatory Services, Council Offices, Garshake Road, Dumbarton, G82 3PU.
Telephone 01389 737800
e-mail: andrew.fraser@west-dunbarton.gov.uk

Appendices: Appendix 1 – Call for Written Evidence on the Alcohol (Minimum Pricing)(Scotland) Bill
Appendix 2 – Alcohol (Minimum Pricing)(Scotland) Bill
Appendix 3 – Alcohol (Minimum Pricing)(Scotland) Bill
Policy Memorandum

Background Papers: None

Wards Affected: All