Finance Committee

Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill

Submission from West Lothian Council

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

The council did not participate in the consultation preceding the Bill. The council responded to the Health and Sport Committee’s call for evidence regarding the Bill. A copy of the council’s response to that call for evidence is attached for ease of reference.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

N/A.

3. Did you have sufficient time to contribute to the consultation exercise?

N/A.

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

Reference is made to the sections of the Bill as follows:

Section 1: multipack discounting

The council does not consider that the administrative costs for Boards of ingathering and reissuing all premises licences in their areas containing new mandatory conditions have been recognised in the FM. When licences required to be updated in 2011 additional pages were sent out to licence holders to place in their licences. However this did not work effectively as many licence holders ignored the correspondence and licences were found to be out dated and new conditions were not observed. Accordingly the council intends to direct all licence holders to return their licences for updating, this is resource intensive but important for compliance reasons.
Section 2: caffeinated alcohol

As above for multipack discounting.

Section 4: container marking

With regard to its response to the Health and Sport Committee’s call for evidence, the council is concerned as to what purpose this section would serve, and what in practice it would achieve. The council is also concerned that the practical effect of this section, as envisaged in the FM, would compromise Boards who would be responsible for providing licence holders with the means to comply with a licensing condition which condition the Board would then be responsible for enforcing.

The council considers that the implementation of this section as envisaged in the FM could have significant financial implications for local authorities. The council does not consider that these implications have been reflected accurately in the FM. The council does not accept that the costs of container marking should be met by local authorities, but should be a cost to be met by the retailer and any cost to be met by local authority should be fully funded by the Scottish Government. Reference is made to the council’s response to the Health and Sport Committee’s call for evidence in this regard. It is difficult to quantify the cost associated with implementation of container marking, especially if it involves major supermarket retailers. However, the council does not recognise that such costs are likely to be minimal or accommodated within existing licence fees.

Section 5: community involvement

The council does not consider that the administrative costs for Boards of implementing this section have been recognised in the FM or that such costs will necessarily be recoverable within existing licensing fees.

Sections 15 to 29: drinking banning orders (DBOs)

With regard to its response to the Health and Sport Committee’s call for evidence, the council is concerned that having DBOs and ASBOs could cause confusion, including for the public. It is the council’s view that DBOs are not required as they would duplicate existing processes already available under ASBO legislation, which could be amended if necessary to provide for DBOs. The council does not consider that the FM has recognised that this could have additional resource implications for local authorities, especially in terms of the inefficiency which could arise from such duplication, in particular for local authority or community safety teams currently dealing with antisocial issues.
The council recognises that some of the main financial implications of DBOs will only arise if and when local authorities apply to the sheriff court for DBOs. The council has no comment to make regarding the figures for average court costs for ASBOs provided by The City of Edinburgh Council contained in paragraph 87 of the FM.

Sections 6 to 13: restrictions on advertising

The council notes that there is no equivalent fixed penalty payment scheme currently within alcohol licensing for comparison in terms of the costs of implementing such a scheme. However, the council considers, based on payment processes for other penalties such as fines for smoking in public places, and existing Licensing Standard Officer resource, that a fixed penalty payment scheme could probably be established without significant financial implications for local authorities.

Section 30: alcohol awareness training

With reference to the council’s response to the Health and Sport Committee’s call for evidence regarding this section, the council considers that the implementation of this section could have significant financial implications for local authorities. The take-up of alcohol awareness training would depend on factors beyond local authorities’ control – including the number of persons charged with relevant offences in a local authority’s area, which would be in the control of Police Scotland – and the option of alcohol awareness training may well be attractive to persons instead of a fine. With reference to paragraph 104 of the FM, the council does not consider that these financial implications have been reflected accurately in the FM, because the FM does not identify where funding for the schemes would come from, and to what extent it is anticipated that it may come from local authorities. With reference to footnote 33 of the FM and Alcohol and Drugs Partnerships, the council considers that additional funding would be required for alcohol awareness training, and that this should be made available by the Scottish Government.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

The council is generally concerned that the savings referred to throughout the FM are reflective of early intervention measures, in that longer term savings will accrue within the health or criminal justice systems, but the costs of earlier intervention – including container marking, licence enforcement, and possibly also alcohol awareness training in preference to fixed penalties – will be a cost to local authorities.
With regard to whether the costs are reasonable, reference is made to paragraph 2 of the FM regarding the cost of alcohol misuse in Scotland. The council considers that a careful cost-benefit analysis of some of the provisions of the Bill is required. In particular the council believes that consideration should be given to whether and, if so, what evidence is available of the impact container marking and restrictions on advertising would have in tackling alcohol misuse. With regard to container marking, in addition to the concerns highlighted above, the council is concerned the liaison costs involved in this in practice, including with the police, will not be “minimal” as stated in the FM.

With regard to whether the costs of alcohol awareness training are reasonable, should they require to be borne, either in whole or in part, by local authorities, the council notes that local authorities will not receive payment of fixed penalty notices issued in relation to alcohol related public order offences. Therefore if there is a high take-up of alcohol awareness training in order to avoid a fixed penalty, no relevant fixed penalty income will have been collected by local authorities to set against the costs for them of providing alcohol awareness training.

S1 multipack discounting

The council is concerned that the savings identified appear to be based on research undertaken regarding the impact of different legislation. The FM does not specify where the savings mentioned would be made. However, if this is the NHS, this would seem to depend on the establishing of a causal link between the impact of multipack discounting and identifiable savings within the NHS.

6. **If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?**

The council notes that it may incur financial costs as a result of the Bill either directly e.g. costs of providing alcohol awareness training or indirectly i.e. providing resource to the Board not covered by existing licensing fees.

The council is unable to confirm that it could meet any financial costs that it might incur as a result of the Bill, as it is not clear at this stage what all of these costs would be.

In general the council considers that if the costs of the Bill cannot be met within existing licensing budgets, additional funding should be made available by the Scottish Government and/ or a review of existing licensing fees should be undertaken, as appropriate. With regard to the latter, the council considers that this would require to be considered carefully in places, for example, with regard to Section 4 container marking, the council considers that there is likely to be an issue
in principle with the costs of this for some premises being spread across all premises licence fees.

7. **Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?**

The council is concerned that, for the reasons explained in paragraph 34 of the FM, it has not been possible to include any margins of uncertainty in relation to the costs of container marking in the FM.

The council considers that there is a significant margin of uncertainty in relation to the take-up of alcohol awareness training instead of a fine. Paragraph 102 of the FM seeks to address this point based on the Fife model. However, the council is concerned that this margin remains unclear for local authorities based on the contents of paragraphs 101 and 104 of the FM, and the lack of information as to where funding for alcohol awareness training would come from.

With regard to timescale, the council considers that the margins of uncertainty are complicated and vary between the different provisions of the Bill. For example in relation to alcohol awareness training there would be uncertainty until it became clear what source(s) of funding were available for this which, based on the terms of the FM, would fall into an unspecified timescale. With regard to container marking, unless further evidence is made available of what the costs of this in practice have been elsewhere, the timescale for identifying any margins will be left open to the practical experience of Boards, which will only be able to be assessed once a sufficient number and range of applications for container marking have been received and processed.

8. **Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?**

For the reasons stated above the council does not consider that the FM reasonably captures all costs associated with the Bill, due to the absence of some specific costings in the FM, and information as to where additional funding, where required, would come from.

9. **Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?**

The council notes that the parts of the Bill which expressly refer to subordinate legislation are sections 2 caffeinated alcohol regarding the relevant caffeine levels, and sections 16 and 27 in relation to DBOs and approved courses. With reference to
paragraph 93 of the FM, the council notes that there is no suggestion in the FM that approved courses for the purposes of DBOs will be provided by local authorities. Based on the provisions of the Bill and contents of the FM, the council does not consider that all future costs associated with the Bill as a whole can reasonably be ascertained or quantified.