

Memorandum

From Martin Rich
Licensing Manager

To Robert Millar
Depute Clerk to the Licensing Board

Our ref

Date 10th June 2011

Your ref

REPORT ON THE WORK OF THE LICENSING STANDARDS SERVICE

1. Purpose

- 1.1 To advise the Licensing Board on the current operation of the Licensing Standards Service.
- 1.2 To provide a report to the Licensing Board detailing work undertaken by the Licensing Standards Service in the year April 2010 – March 2011, and from April 2011 to present.
- 1.3 To advise the Licensing Board of the service objectives for the year to March 2012.

2. Current operation of the Licensing Standards Service

- 2.1 The Licensing Standards Service currently comprises of the Licensing Manager, Senior Officer, eight Licensing Standards Officers and one Senior Support Assistant. Between August 2010 and April 2011 the service operated with seven Licensing Standards Officers due to the resignation of one officer.
- 2.2 The Licensing Standards Officers work in pairs and are assigned Neighbourhood areas for routine work purposes. In addition to this the LSO's work citywide on Friday and Saturday nights to deal with entertainment noise complaints received.
- 2.3 The routine work of the team consists of complaint handling and investigation; assessing premises for compliance with licensing legislation, and assessing licence applications received. A number of projects have also been carried out over the last year and all officers have participated in these.

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2.4 Where a non-compliance issue is discovered, LSO's will normally leave a written record at the premises detailing the non-compliance and identifying a return inspection date. These written records are called Confirmation of Verbal Advice and Information (COVAI) and are referred to later in this report. Where issues of sufficient severity are discovered a compliance notice will be issued under Section 14 of the Licensing (Scotland) Act 2005, or a premises licence review application will be made.

3 Work undertaken by the Licensing Standards Service April 2010 – March 2011

3.1 Visit and complaint figures

3.1.1 In total the service carried out 3105 visits to premises in this period. See Appendix A Table 1 for relevant statistical data.

3.1.2 The service dealt with 3352 service requests in this period. 460 of these are recorded as complaints; 172 as enquiry/ request for service, and the remainder as applications. See Appendix A Tables 2 and 3 for relevant statistical data.

3.1.3 The service identified 579 non-compliances with licensing and associated legislation. See Appendix A Table 4 for relevant statistical data.

3.1.4 It is worth noting that due to the transferring of entertainment noise complaints between this service and the night noise team, it is difficult to identify exactly how many noise complaints we have dealt with as a service, and how many breaches of the local noise condition we have identified. In total 393 entertainment noise complaints were received by the Council.

3.1.5 In addition to this work, 21 compliance notices were served to premises licence holders during this period. Eight of these were for irresponsible drinks promotions; seven for breaches of the local noise condition; three for issues relating to staff training; two for price variations and one for operating outwith the operating plan.

3.2 Premises licence reviews

3.2.1 The service applied for six premises licence review applications over the period. Four of these related to entertainment noise concerns, one related to staff training issues and one related to the 'protecting and improving public health' licensing objective.

3.2.2 In relation to entertainment noise review applications, two were made with recommendations that the local noise condition be attached to the relevant licences. The Licensing Board agreed to this on both occasions. The other two applications were made in relation to breaches of compliance notices served to ensure compliance with the local noise condition. One of these was subsequently withdrawn by this service as appropriate measures were eventually taken by the premises licence holder, and in the other case a further period of time was allowed by the Licensing Board for the premises licence holder to take appropriate steps.

3.2.3 In relation to the review application made regarding staff training, the premises licence holder received a written warning and were instructed to undertake further staff training. In relation to the 'protecting and improving public health' licensing objective review application, the premises received a written warning.

3.3 Project work

- 3.3.1 The service undertook a number of projects during the period. A festive project to identify compliance rates in licensed clubs resulted in 27 initial compliance visits being made. Of these initial visits, COVAI notices were served on 12 premises, covering a total of 50 separate breaches of licensing legislation. In terms of visits, this represents an overall failure rate of 44.4%. This project is being repeated this year.
- 3.3.2. The service took part in Operation Astrodome, the joint initiative running in the city centre over the festive period. The two strands of this initiative we participated in were targeted visits to nightclubs to check compliance with the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007, and a pilot exercise with the ambulance service to provide a fast response facility for alcohol related incidents in licensed premises.
- 3.3.3 The results from the nightclub inspections revealed a failure rate on inspection of 62%, up from 49% the previous year. The increase is largely due to the capture of an additional data set however, and taking this into account the failure rate remained almost unchanged. Relevant statistical data is included in Appendix B.
- 3.13 The pilot project with the ambulance service involved an LSO, a paramedic and two environmental wardens with a CCTV van. The project revealed that there may be a significant number of issues occurring in licensed premises requiring police attendance that are unreported. This work is currently being followed up.

3.4 Other issues

- 3.4.1 Interpreting mandatory conditions on irresponsible drinks promotions and price variations was a challenging issue throughout the period, and remains so. This service submitted a briefing paper to the Licensing Board in May 2010 relating to percentage discount schemes, at which point a decision was deferred until the outcome of the Mitchells & Butlers v. Dundee Licensing Board appeal. The outcome of that case was that percentage discount schemes are considered permissible under the legislation. Local guidance has since been reissued to confirm this will apply locally. Decisions regarding potential irresponsible drinks promotions continue to remain at a local level with local interpretation and consultation.
- 3.4.2 A customer survey undertaken in August 2010 revealed an overall satisfaction rate with the service of 68%. Premises licence holders, designated premises managers and licensing solicitors were surveyed. Focus groups arranged to look at the service in more depth revealed that opinion of the service was improving, and that there had been a recognisable difference in the service provided during transition and after. Criticism was received for guidance offered on irresponsible drinks promotions and price variations, and for perceived inconsistency in enforcement of these, but there was also acknowledgement that these issues were difficult and complex ones that continue to affect the trade.
- 3.4.3 The service continued to support the licensed trade through attendance at, and setup assistance of, Pubwatch schemes citywide, and regularly attended the UNIGHT group meetings. We have continued to work jointly with Lothian and Borders Police Licensing section throughout the year and enjoy a very strong and productive working relationship with that section.
- 3.4.4 The service was instructed by the Chief Executive in June 2010 to record information relating to disability access in licensed premises. This work has been ongoing since then and will be reported to the Chief Executive shortly.

3.4.5 On at least 26 occasions during the period issues were discovered with the consumption and / or sale of alcohol outwith core hours. Premises licence holders have routinely been invited to Police headquarters at Fettes for a discussion about this, and recently an advice letter has been reissued to all premises licence holders in the area advising of their responsibilities regarding this issue. This letter was approved jointly by this service and the Police licensing section.

4 Service objectives for April 2011 – March 2012

4.1 In addition to the routine work of the service, a number of projects are planned across the period. These are included at Appendix C.

4.2 On the 1st October 2011 the Alcohol etc (Scotland) Act 2010 will come into effect. This legislation introduces a number of new mandatory conditions, principally concerning drinks promotions in the off trade. Work is ongoing to ensure that the provisions are correctly interpreted and that where possible common agreement is reached with the off trade in advance to ensure full compliance. A compliance inspection programme will be commenced for the off trade on the 1st October to assess the off trade citywide.

APPENDIX A – relevant statistical data for April 2010 – March 2011

APPENDIX B – Operation Astrodome results December 2010

APPENDIX C – project work planned for 2011 – 2012

Cc:

Stephen Broughton, Clerk to City of Edinburgh Licensing Forum

APPENDIX A

Table 1 - Number of visits and COVAI by month April 2010 – March 2011

	Monthly visits	COVAI issued
6/4/10 - 5/5/10	364	63
6/5/10 - 5/6/10	304	25
6/6/10 - 5/7/10	258	14
6/7/10 - 5/8/10	164	12
6/8/10 - 5/9/10	236	5
6/9/10 - 5/10/10	213	19
6/10/10 - 5/11/10	254	13
6/11/10 - 5/12/10	252	10
6/12/10 - 5/1/11	244	29
6/1/11 - 5/2/11	275	13
6/2/11 - 5/3/11	272	13
6/3/11 - 5/4/11	269	12
	3105	228

Table 2 - Service requests by category April 2010 – March 2011 (excluding applications received)

	Licensed premises	Underage sales	Licensing enforcement	Other licensing issues	Smoking	Irresponsible Drinks Promotions	Variations	Entertainment noise	Smoking noise
6/4/10 - 5/5/10	67	0	20	4	0	4	2	17	0
6/5/10 - 5/6/10	42	1	11	1	2	2	1	17	4
6/6/10 - 5/7/10	77	0	8	2	0	2	2	26	1
6/7/10 - 5/8/10	19	0	1	1	0	0	2	12	0
6/8/10 - 5/9/10	11	0	5	9	0	3	0	19	1
6/9/10 - 5/10/10	13	1	7	12	0	5	1	14	0
6/10/10 - 5/11/10	33	0	2	6	6	4	1	5	0
6/11/10 - 5/12/10	19	0	2	2	2	8	4	10	0
6/12/10 - 5/1/11	14	0	3	2	1	3	3	2	0
6/1/11 - 5/2/11	24	0	3	1	1	3	1	3	0
6/2/11 - 5/3/11	33	0	0	1	0	5	0	5	0
6/3/11 - 5/4/11	26	0	10	1	0	1	2	7	0
	378	2	72	42	12	40	19	137	6

Table 3 - Applications processed April 2010 – March 2011

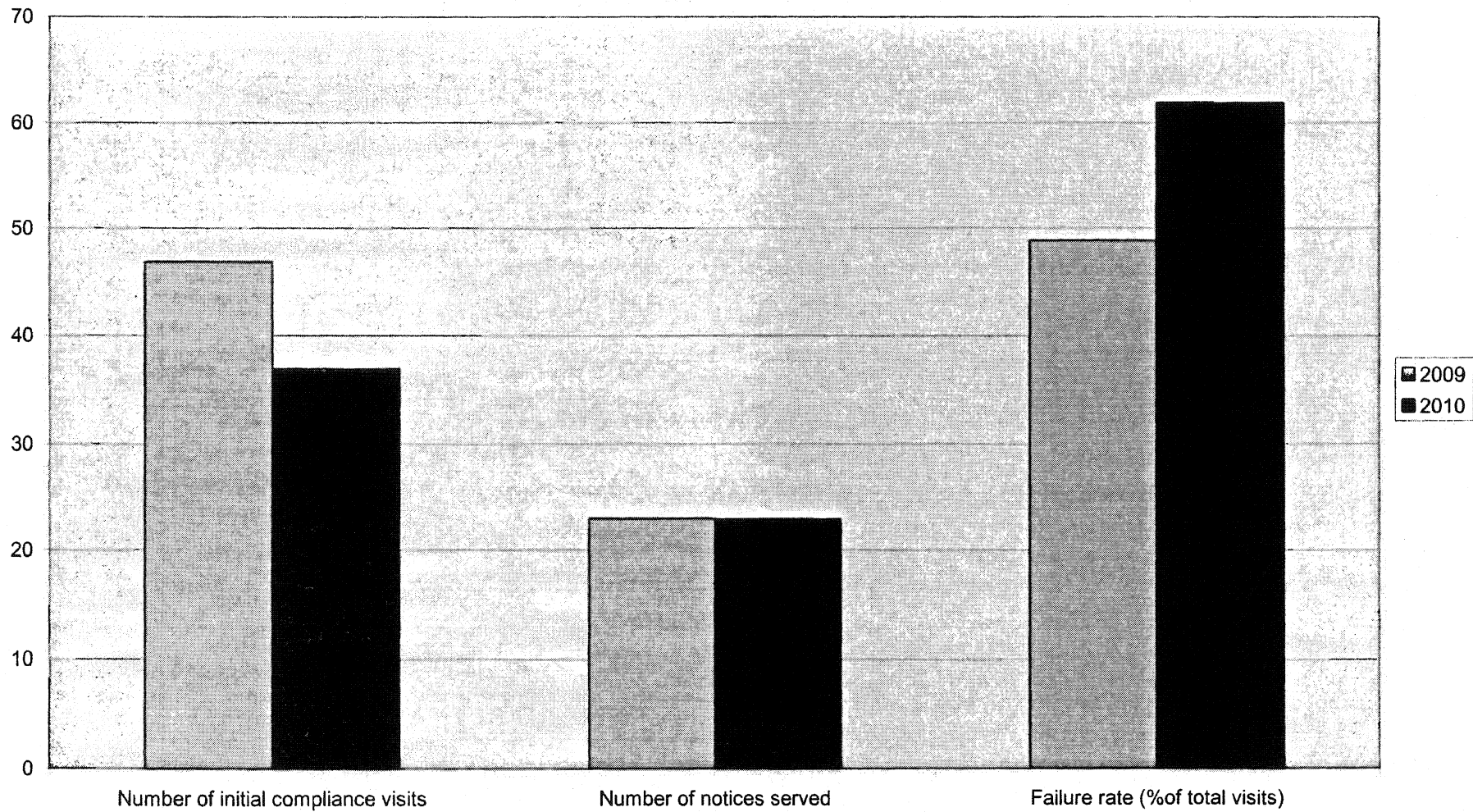
	Variation applications	New licence applications	Occasional licence applications	Review hearing reports	Extended hours applications	Transfer of licence	Confirmation of provisional licence
6/4/10 - 5/5/10	101	9	189	4	5	0	0
6/5/10 - 5/6/10	25	14	172	4	15	0	0
6/6/10 - 5/7/10	50	9	273	2	12	2	0
6/7/10 - 5/8/10	34	13	152	3	12	0	0
6/8/10 - 5/9/10	18	11	98	3	5	0	0
6/9/10 - 5/10/10	26	5	208	3	7	0	0
6/10/10 - 5/11/10	35	10	203	4	25	1	2
6/11/10 - 5/12/10	24	3	78	3	12	0	0
6/12/10 - 5/1/11	21	6	84	3	23	0	0
6/1/11 - 5/2/11	15	5	197	2	11	0	0
6/2/11 - 5/3/11	25	9	115	7	10	0	0
6/3/11 - 5/4/11	23	9	145	5	42	1	0
	397	103	1914	43	179	4	2

Table 4 – COVAI notices by category

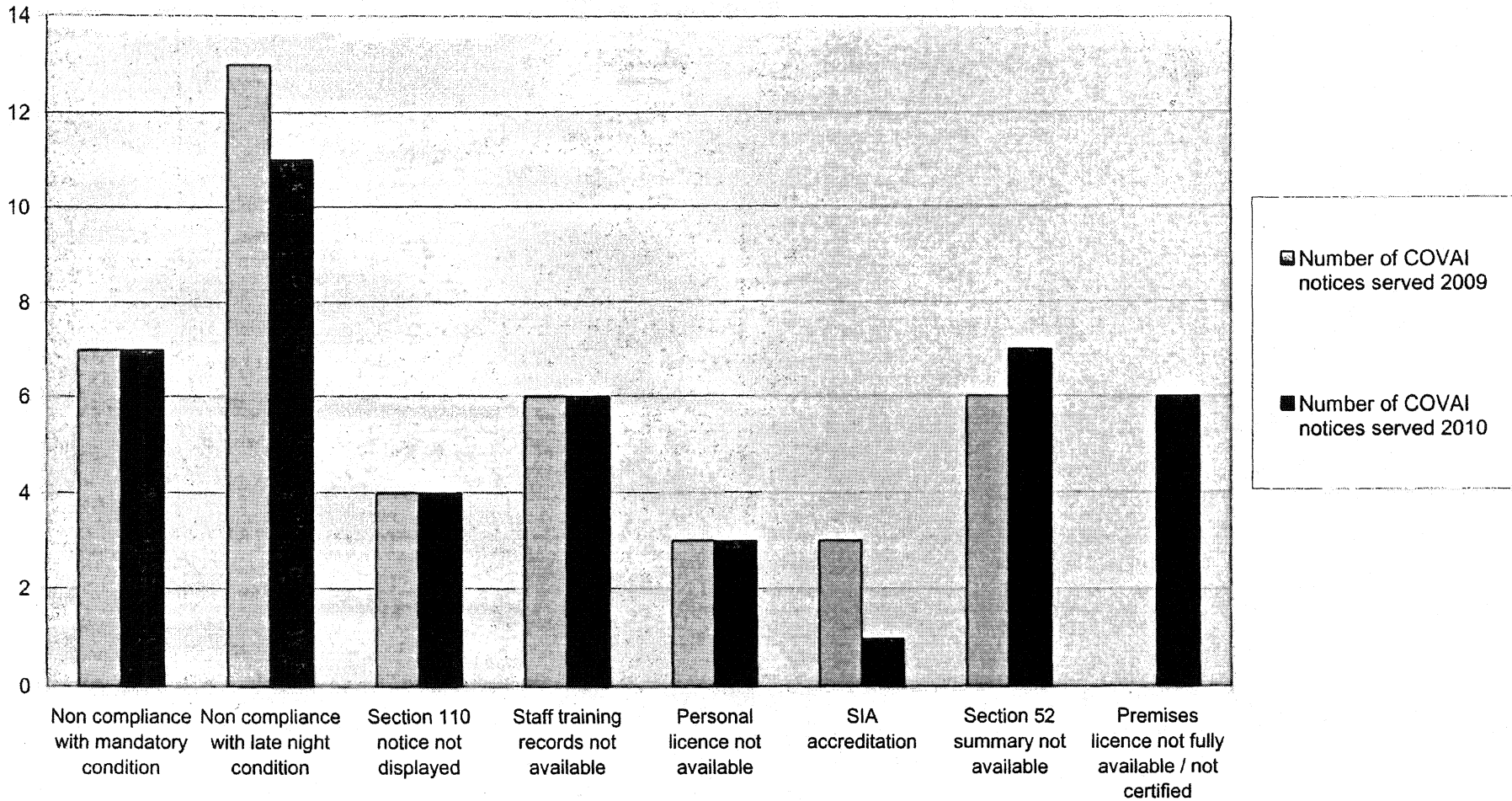
Irresponsible drinks promotions	1
Price variations	1
SIA accreditation	2
Smoking Health and Social Care Act 2005	8
Personal licence not available	16
Non compliance with late night condition	18
Non compliance with licensing objectives	18
Premises licence not available	26
After hours consumption	26
Non compliance with licensing board policy	31
Section 110 notice not displayed	31
Non compliance with layout plan	51
Non Compliance with operating plan	52
Non compliance with local condition	54
Licensing (Scotland) Act 2005	56
Training records not available	61
Section 52 licence summary unavailable	61
Non compliance with mandatory conditions	66

APPENDIX B – Operation Astrodome results

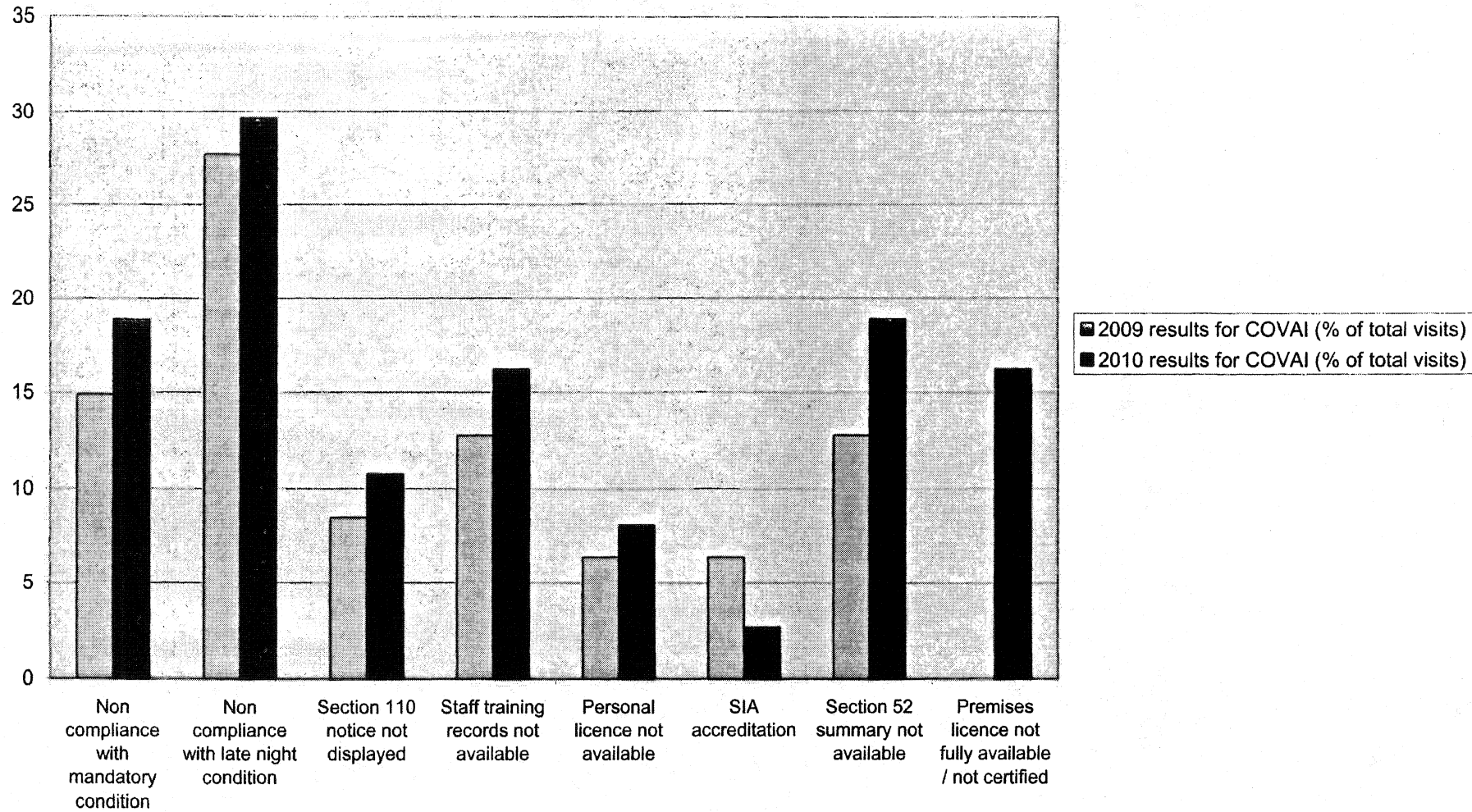
Operation Astrodome visit results



Operation Astrodome - Licensing Standards comparison for COVAI year on year



Operation Astrodome year on year percentage failure comparison



Appendix C – project work

PROJECT DESCRIPTION	LEAD OFFICER	PROJECT CAMPAIGN REFERENCE	START DATE	COMPLETION DATE	PROJECT REPORT SUBMITTED	COMMENTS
Joint project with Scottish Ambulance service and Police re overconsumption						
Registered clubs – compliance with Licensing (Scotland) Act 2005						
Dance entertainment venue compliance						
Best Bar None (Joint initiative with Police Licensing)						
Health promotion campaign in partnership with NHS and ADP						
Occasional venues during festival – compliance and staff training						
Late hours catering (licensed premises)						
Compliance of smoking legislation at temporary venues during festival						
Operation Astrodome – joint initiative with both external and internal partners						

Summer initiative - joint initiative with both external and internal partners						
Delivery of alcohol from vehicles - project to gauge the compliance levels with the requirements under Licensing (Scotland) Act 2005						
School leaving proms – checks to be carried out on levels of control being exercise by PLC in venues who are hosting such events . Carried out in partnership with Police Licensing						