

Licensing Forum
15th April 2013
Diamond Jubilee Room, City Chambers, Edinburgh

Present: Graeme Arnott, Linda Bowie (Alcohol Focus Scotland), Inspector Dianne Bruce (Lothian and Borders Police), Patrick Browne (for Peter Swanson), Isla Burton (Facilitator), John Clark (East Representative), Maximilian Crema (Young Persons' Representative), Julie Dickson (Minute Taker), Kenneth Fairgrieve (Licensing Standards Officer), Rosaleen Harley, Maria Kelly (South West Representative), John Loudon (West Representative and Convener), Ian Lovie (Scotmid), Alison Magill, Robin Morris (South Representative), John Murphy, Samuel Piacentini (City Centre/ Leith Representative), William Strachan, Jim Sherval (NHS), Eddie Thorn (North Representative), Dr Fiona Watson (NHS), Chris Wigglesworth, James Wilkie

Apologies: Peter Swanson, Dennis Williams

1 Agenda

1.1 *Linda Bowie of Alcohol Focus Scotland will give a short presentation on her role and how she and the Forum can work together.*

Ms Linda Bowie from Alcohol Focus Scotland was welcomed. She advised that her role would be to provide support to Licensing Forums across Scotland. This would involve information sharing and best practice.

Linda explained that there are a number of issues which Forums have identified, including a lack of clarity regarding the core role of the Forum and how this role should best be carried out. Linda clarified that the role of the Forum is in relation to liquor licensing only, and that members of the Forum should be working to the 5 objectives in the Licensing (Scotland) Act.

Linda advised that another issue for Forums may be that they have carried out work but do not feel that they are recognised for it, or that their recommendations are not taken on board. Linda used a current piece of work (the Sunday Hours project), as an example. She advised that the beginnings of the project were positive, but advised that it required further work in terms of clarifying evidence, i.e. whether the evidence is statistical, anecdotal or expert opinion. Linda explained that evidence is most effective when it is collected by the Forum, for the Board. Conclusions are drawn from the evidence, and the evidence must therefore stand up to legal challenge.

1.2 *Minutes of the last meeting*

Mr Ian Lovie, of Scotmid, was welcomed by the Convener.

Mr Eddie Thorn advised that he had expressed an interest in being part of the Sunday Hours focus group, which had not been noted at the last meeting. Ms Alison McGill stated that she would also be interested in having input into this sub-group.

1.3 *Matters arising from Forum meeting of 26th February 2013*

The Convener advised that it was felt that increased communication and liaison between licensing and planning would be beneficial. However, he explained that this was not possible due to legislation. The Convener read the following quote, from a planning specialist:

"Planning and licensing take account of different considerations and it would not be appropriate for a planning condition to effectively make a decision on a licensing matter. Circular 4/1998, which relates to the use of conditions in planning permissions, makes it quite clear that " A condition which has no relevance to planning is ultra vires." In other words it is not legal.

In addition, such a condition could amount to 'fettering discretion' as arguably the Council as licensing authority would not be free to make its own decision.

The Circular also states "Other matters are subject to control under separate legislation, yet are also of concern to the planning system. A condition which duplicates the effect of other controls will normally be unnecessary and one whose requirements conflict with those of other controls will be ultra vires because it is unreasonable."

He explained that it had previously been the recommendation of the Law Society to Government that there should be a closer relationship between the two but that this had not been taken further.

1.3.2 Mr Maximilian Crema advised that the Edinburgh University Students Association (EUSA) were participating in a Zero Tolerance of Sexual Harassment Campaign.

1.4 *Updates from Sub-Groups*

1.4.1 The Children's and Young Person's Sub Group

The Children and Young Persons Sub Group meeting ended up being a committee of one. Mr John Loudon put forward a point for the agenda of the Joint Meeting: – *Will the Board make a greater effort to visit premises when applications involving children and young persons, to get a better feel for their suitability for children and young persons.* Inspector Dianne Bruce commented that she had attended and observed the latest Board meeting. She advised that she will be making the recommendation that, where possible, visits are carried out to sites, and added that there is one planned.

Dr Fiona Watson suggested that in terms of evidence for the sub group, she could examine data including JLOs and A&E visits where alcohol is a factor. It was agreed that she and Inspector Bruce would liaise further with regards to this.

1.4.2 The Provision Sub-Group

The Convener advised that no sub-group meeting had yet been held in respect of Provision. He suggested that the thoughts of the Board be noted this afternoon, and a sub-group date be agreed subsequently. There was some discussion regarding over-provision, and it was agreed that the definition of 'capacity' in legislation is poor.

Ms Linda Bowie advised that there was currently no standard across Boards and Forums in terms of 'capacity'. She stressed that what *can* be done in terms of evidence gathering must be identified, rather than what *cannot*. She stated that if there were too many issues around capacity then it would be best to concentrate on useful, meaningful information and revisit capacity at another time.

Mr James Wilkie asked whether or not it could be a condition of a licence that an off sales business must produce records of their alcohol sales, in line with what is expected of on-sales premises. The Convener advised that this would require a change in the law.

1.4.3 Sunday Opening Sub-Group

There was a general discussion regarding Sunday opening hours, in terms of the potential effect of earlier opening hours on churchgoers, and the ability of on-sales premises to cater for sporting events in line with current opening hours.

A meeting had been held and a recommendation agreed, which would be put forward to the Board –

The Forum requests the Board to amend its general policy to allow opening hours on Sunday mornings for those premises that wish to apply for these but still on a case by case basis. That general opening hours be either from 10am or 11am, as the Forum decides, to reflect

expected demand and to provide hospitality during hours already enjoyed by many other licensed facilities in our city.

There was unanimous agreement that the hour put forward should be 11am – whilst maintaining that individual decisions must be made on a case-by-case basis.

1.5 ***AOCB***

No Comments

1.6 ***DONM***

Tuesday 11th June at 9:30 am at The City Chambers – Dunedin Room.