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► [An evaluation of the implementation of the objectives of the Licensing \(Scotland\) Act 2005; first interim report summary.](#)

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MacGregor A., Sharp C., Mabelis J. et al.
NHS Health Scotland, 2011.

Scotland's 2005 licensing reforms were of nationwide interest because they placed it in the vanguard across the UK, notably in adding public health to licensing objectives. While staff say other elements are working well, disappointingly this key measure has so far had little impact.

Summary The [Licensing \(Scotland\) Act 2005](#) came fully in to force in September 2009, establishing five licensing objectives, all of which can affect health and wellbeing:

- preventing crime and disorder;
- securing public safety;
- preventing public nuisance;
- protecting and improving public health;
- protecting children from harm.

In January 2010 NHS Health Scotland commissioned the Scottish Centre for Social Research to undertake a three-year evaluation of the implementation of, and compliance with, the objectives of the act. Summaries of the findings from different stages of the evaluation will be published. Reflecting what was very much early days for the new licensing system in Scotland, this first such report drew on telephone surveys of 30 licensing standards officers and [29](#) licensing boards representatives (mainly clerks) from across Scotland during the second half of 2010. [Boards](#) are local decision-making bodies which implement the licensing act and set local policy within the context of the act. Standards officers are employed by local authorities to provide information and guidance on the act, supervise compliance, and mediate disputes. They can also issue notices regarding remedial action to rectify breaches or apply for a review of a licence. They act as the first port of call for most matters pertaining to licensing, often resolving issues without formal proceedings being required.

Main findings

Asked about the overall impact of the act in their areas to date, most officers felt this had been quite large or (a few) very large, while most board representatives said it had been positive. Both commonly felt the act had raised awareness of licensing issues and requirements among the licensed trade and other groups, including the public. Officers thought compliance had improved partly due to a ripple effect from the revocation of some licences, and some said crime rates were falling. The minority of officers who felt the act's impact had been limited said that as yet the off sales sector (not fully subject to promotion restrictions until October 2011) had not been greatly affected, that brewery chains were able to challenge the legislation where it was open to interpretation, and that Scottish drinking culture was too firmly rooted to be affected so quickly. Board representatives said enforcement had been strengthened because boards were now able to immediately suspend licences and standards officers ensured compliance on the ground. Increased dialogue between key stakeholders was also noted. Some however said that the cost of licensing fees had driven some small and inoffensive businesses to withdraw from licensed sales.

Asked about relative success in meeting each of the act's five objectives, both sets of respondents highlighted successes in protecting children and preventing public nuisance and crime and disorder, and most licensing board interviewees also felt their boards had been at least quite successful in promoting public safety. For example, aided by other staff, standards officers could usually quickly resolve complaints about noise and disturbance and were able to actively monitor these issues. Boards had carefully considered children's access to licensed premises and tried to promote family-friendly environments. Examples were given of licences being refused or suspended because of breaches and of local requirements being imposed related to issues such as dispersal from pubs and clubs, limiting times for smoking areas outside licensed premises to reduce noise late at night, curfews, outdoor drinking, CCTV and lighting. Both sets of respondents also agreed that protecting and improving public health had been least successfully addressed. This was because its scope was so wide and it was difficult to define and measure, Scotland's drinking culture was resistant to this objective, there was insufficient guidance on how to address it, staff lacked relevant knowledge and skills, and links with the health service were poor. Standards officers also felt that reducing overall alcohol consumption was outside their remit, and board representatives said they lacked the authority to tackle larger concerns such as supermarkets and pub chains.

Generally seen as particularly valuable was the role of the standards officers, who had been able to build up good relationships with professional groups and resolve most issues without these having to be formally considered by the boards. Board representatives said having knowledgeable officers dedicated to the licensing function had helped create good links between licensed premises and boards and greatly assisted the boards in their work. Relationships between officers and boards and their respective [licensing forums](#) were generally seen as good. Forums monitor the work of the boards and include licensees, police, health, education or social work staff, young people, and local residents. However, there was a more mixed view on whether the forums were working well.

Both sets of respondents said their work had been hampered by difficulties in interpreting the legislation and a lack of national support or guidance. Some board respondents felt boards were relatively powerless in the face of the low price of alcohol and the widespread and culturally embedded nature of alcohol-related problems.



The nationwide interest of this series of reports is that Scotland's licensing reforms placed it in the vanguard of such controls across the UK. How things work out there could influence whether other UK nations follow suit. Most prominently, in Scotland public health was added to the priorities licensing authorities should consider. This is also an ambition in Wales and is being considered for England, which plans to take what may be a step towards it by [giving local health bodies](#) the power to make representations to licensing authorities about new licence applications and to request reviews of existing licences. Once implemented this means they will be able to oblige the authority to consider issues such as the impact of new licensed premises on the local NHS (primarily A&E departments and ambulance services) and more generally the safety of the public within the night-time economy. The experience documented by the featured report suggests that effectively embedding public health as a licensing objective will require far more than simply enabling licensing authorities to consider it. What may be needed are wider and clearer powers, specific guidance and sub-objectives, greater resources, and stronger links with bodies responsible for public health. However, this is the first time such an objective has been set for licensing in Britain; a further report in 2012 and the final report in 2013 will be better able to assess the feasibility of the objective and progress towards it.

Other elements of the reforms targeting not health directly but crime, safety, nuisance and underage drinking seem to be working much better. On these issues Scotland shares with the rest of the UK a major limitation – that licensees are divorced from any responsibility for what happens after their patrons leave. But reforms there did give greater scope for public participation in decisions on particular applications, which anyone can object to or seek to amend, not just immediate neighbours, and on overall licensing policy, the latter via the local advisory forums, many of which seemed yet to have found their feet.

The Scottish reforms also removed some of the limitations elsewhere in the UK on the freedom of action of licensing boards, powers which seem to have been well used and appreciated. Most prominently, in Scotland boards can mount their own reviews of licences and are actually required to proactively identify areas where new premises (or those of a certain kind) will not be allowed in the interests of public order, local amenity, or safeguarding health from the effects of increased drinking, aided by standards officers and other staff.

Elsewhere in Britain government initiatives include '[Public Health Responsibility Deal](#)' agreements with the alcohol industry loosely committing them to implement guidelines on issues such as underage sales, responsible marketing, and labelling. Planned [reforms to licensing laws and guidelines](#) are also intended to give police and licensing authorities greater powers to refuse or curtail licences on grounds of local nuisance and disorder.

Thanks for their comments on this entry in draft to Andy MacGregor of the Scottish Centre for Social Research in Edinburgh. Commentators bear no responsibility for the text including the interpretations and any remaining errors.

Last revised 15 September 2011

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