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**THE MORAY LICENSING BOARD**

**THURSDAY 15 NOVEMBER 2018**

**NOTICE IS HEREBY GIVEN** at the Meeting of **THE MORAY LICENSING BOARD** is to be held within the The Moray Council, Council Chambers, High Street, Elgin on Thursday 15<sup>th</sup> November 2018 at 10.00am.

Alasdair McEachan  
CLERK

7 November 2018

**BUSINESS**

1. Prior Minutes
  - (i) Minutes of the Meeting held on 6<sup>th</sup> September 2018
  - (ii) Minutes of the Special Meeting held on 6<sup>th</sup> November 2018

**The Licencing (Scotland) Act 2005**

2. Applications Section – Appendix 1
3. Licencing (Scotland) Act 2005 – Personal Licence Application Hearing Following Disclosure Of Relevant Conviction On Application (Reference Case Number 1 Of 2018)
4. Licencing (Scotland) Act 2005 – Review Of Statement Of Policy

CLERK:	Alasdair McEachan
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**THE MORAY LICENSING BOARD**

**SEDERUNT**

**COUNCILLOR L LAING**

**COUNCILLOR D BREMNER**

**COUNCILLOR P COY**

**COUNCILLOR PATIENCE**

**COUNCILLOR BROWN**

**COUNCILLOR M MCLEAN**

**COUNCILLOR J ALLAN**

**COUNCILLOR G COWIE**

**COUNCILLOR R EDWARDS**

CLERK TO THE BOARD: Mr A McEachan

**THE MORAY LICENSING BOARD**

**MINUTE OF THE MEETING OF THE MORAY LICENSING BOARD**

The Moray Council Chambers, Council Headquarters, High Street, Elgin on Thursday 6 September 2018

**PRESENT**

Councillors: D Bremner  
G Cowie  
P Coy  
M McLean  
A Patience

**APOLOGIES**

Apologies were intimated on behalf of Councillor J Allan, F Brown, R Edwards and L Laing

**IN ATTENDANCE**

Sean Hoath, Depute Clerk to the Licensing Board

## 1. PRIOR MINUTES

- (i) The Minutes of the Meeting held on 14 June 2018 were submitted and approved
- (ii) The Minutes of the Special Meeting held on 20 August 2018 were submitted and approved.

There were no declarations of interest.

## 2. APPLICATIONS

### (i) Major Variation – Coulard Inn Lossiemouth

The Applicant, Mr Martin, was present. The Depute Clerk introduced the application and advised that all the paperwork was in order and that representations had been received from neighbours. No representers were in attendance. The applicant addressed the Board and answered questions from the Board. The Convenor proposed granting the application and there being no-one otherwise minded it was agreed to grant the application.

### (ii) New Premises Licence – Speyside Whisky Shop Aberlour

The Applicant, Ms Ellis, was present and was represented by Mr Rory Anderson, solicitor. The Depute Clerk introduced the application and advised that all the paperwork was in order and a site visit had been carried out. The Applicant's representative was invited to address the Board and explained the application. There were no questions from the Board. The Convenor proposed granting the application and there being no-one otherwise minded it was agreed to grant the application.

### (iii) New Premises Licence – Aroma Café Lossiemouth

The Applicants, Gayle Johnstone and Amanda Adams were present. The application had been deferred from the previous meeting to allow for planning consent to be granted. The Depute Clerk introduced the application and advised that all the paperwork was in order and a site visit had been carried out. The Applicant's representative was invited to address the Board and explained the application. There were no questions from the Board. The Convenor proposed granting the application and there being no-one otherwise minded it was agreed to grant the application.

### **3. Chief Constable's Annual Report**

There was a report to the Board confirming the Chief Constable had submitted his annual licensing report to the Board for 2017/18 in accordance with Section 12(A) of the Licensing (Scotland) Act 2005. The Board agreed to note the report.

## **MINUTE OF SPECIAL MEETING OF THE MORAY LICENSING BOARD**

**Tuesday 6 November 2018**

### **PRESENT**

Councillors Patience  
Bremner  
Cowie  
Edwards  
McLean  
Brown  
Allan

### **APOLOGIES**

Cllr Laing  
Cllr Coy

### **IN ATTENDANCE**

Sean Hoath, Depute Clerk.

### **1. CONVENING OF MEETING**

The meeting was convened at 1pm at the HQ Car Park, Council Office, Elgin.

### **2. SITE VISITS**

The following premises were visited:

- (i) Major Variation – Drouthy Cobbler, 48a High Street, Elgin
- (ii) Premises Licence – The Deli, 5 Southfield Drive, Elgin
- (iii) Major Variation – Red Lion, 2-6 Tolbooth Street, Forres
- (iv) Provisional Premises Licence – Glenrinnies Distillery, Glenrinnies, Keith

Cllr Patience left the meeting after Red Lion, Forres

### **3. CONCLUSION OF MEETING**

At the conclusion of the foregoing programme of site visits, the meeting concluded at 4.00pm.

Type	Premises	Applicant	Date received	Comments
Major Variation	Red Lion 2-6 Tolbooth Street Forres IV36 1PH	Greene King Brewing and Retailing Limited	17 September 2018	Major variation application to amend the Operating Plan to include various activities out with core hours Site Visit carried out Paperwork in order No objections or representations
Major Variation	Drouthy Cobbler 48a High Street Elgin IV30 1BU	Green King Retailing Limited	4 September 2018	Major variation application to amend the Operating Plan to include 'film' during core hours Site visit carried out Paperwork in order No objections or representations
Major Variation	Archiestown Hotel The Square Archiestown AB38 7QL	Shawfern Limited	17 August 2018	Major variation application to amend the Operating Plan to change core times and increase capacity No site visit required Paperwork in order No objections or representations
New Provisional Licence	Glenrinnes Distillery Glenrinnes Keith AB55 4DB	Glenrinnes Distillery Ltd	4 September 2018	New provisional licence application Site visit carried out Paperwork in order No objections or representations

New Premises Licence	The Deli 5 Southfield Drive Elgin IV30 6GR	The Deli (Elgin) Ltd	3 May 2018	New premises licence application Site visit carried out Paperwork in order No objections or representations
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## Key to Colour Coding of Applications within Appendices to the Agenda of Business for the Moray Licensing Board

All matters are to be heard by the Moray Licensing Board and the Moray Licensing Board has the final decision. However, in accordance with Government Guidance and locally agreed procedure, applications may be submitted to the Board with a general recommendation.

Please note that colour coding may be subject to change given the nature of the licensing procedure. Documents may be received and/or negotiations resolved following publication of the agenda.

RED

Indicates that the application will normally require to be heard, whether by virtue of general procedural rules or as a result of problems arising. This should apply to all new premises/provisional licence applications. There may be ongoing negotiations to resolve problems.

YELLOW

Indicates changing circumstances with the application. It is not ready to be granted at the time of publication but there are not normally major problems e.g. procedural issues or ongoing negotiations. Applications will normally be submitted with recommendation for grant or deferral.

GREEN

Indicates that all is in order with the application. All documents have been received and checked. All procedures have been followed. There are unlikely to be any representations, objections or problems or the same have been resolved. It is being submitted with a recommendation for grant but members are free to make enquiries as they see fit.

# Licensing (Scotland) Act 2005

## Licensing Objectives

Section 4 sets out the licensing objectives:

- “(1) For the purposes of this Act, the licensing objectives are—
- (a) preventing crime and disorder,
  - (b) securing public safety,
  - (c) preventing public nuisance,
  - (d) protecting and improving public health, and
  - (e) protecting children and young persons from harm.”

## Applications for a Premises Licence or Provisional Premises Licence

### Section 20 Application

By section 20 any person (over 18) may apply to the appropriate Licensing Board for a premises licence in respect of any premises.

An application under subsection must—

- (a) contain a description of the subject premises, and
- (b) be accompanied by—
  - (i) an operating plan for the subject premises,
  - (ii) a “layout plan” of the subject premises, and
  - (iii) the certificates required by section 50(1).

### Notice of Application

Notice of the application has been given to—

- (a) each person having a notifiable interest in neighbouring land *i.e. neighbours within 4 metres of the boundary of the premises*
- (b) the community council within whose area the premises are situated,
- (d) the chief constable, and
- (e) the fire service
- (f) the NHS

### Objections / Representations

By section 22 any person may, by notice to the Licensing Board—

- (a) object to the application on any ground relevant to one of the grounds for refusal (detailed below)
- (b) make representations to the Board—
  - (i) in support of the application,
  - (ii) as to modifications which the person considers should be made to the operating plan accompanying the application, or
  - (iii) as to conditions which the person considers should be imposed.

A representation is not an objection to a licence being granted. It means the representer would like to see a changes or changes to the licence or conditions on the licence before it is granted.

Where a Licensing Board receives a notice of objection or representation the Board must—

- (a) give a copy of the notice to the applicant, and
- (b) have regard to the objection or representation in determining the application,

unless the Board rejects the notice as being frivolous or vexatious.

Where a Licensing Board rejects a notice of objection or representation as frivolous or vexatious, the Board may recover from the person who gave the notice any expenses incurred by the Board in considering the notice.

### **Consideration and determination of a Premises Licence Application**

Section 23(4) states that:

“(4) The Board must, in considering and determining the application, consider whether any of the grounds for refusal applies and—

- (a) if none of them applies, the Board must grant the application, or
- (b) if any of them applies, the Board must refuse the application.”

### **Possible Courses of Action**

1. Grant the licence as applied for;
2. Grant the licence with a condition(s) under s.27(6). Determine the licensing objective and how the situation can be improved and the exact terms of a condition.
3. Grant the licence with a modification to the operating plan under s.23(7) which states that  
“(7) Where the Licensing Board considers that—
  - (a) they would refuse the application as made, but
  - (b) if a modification proposed by them were made to the operating plan for the subject premises accompanying the application, they would be able to grant the application,the Board must, if the applicant accepts the proposed modification, grant the application as modified.”
4. Refuse - In section 23(5) of Act:  
(5) The grounds for refusal are—
  - (a) that the subject premises are excluded premises,
  - (b) that the application must be refused under section 25(2) (*licence refused within the last year*), 64(2) (*licence sought for 24 hours continuous*) or 65(3) (*off sale hours outside 10am to 10pm*),
  - (ba) that the Licensing Board consider, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of the premises licence,

- (c) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,
  - (d) that, having regard to—
    - (i) the nature of the activities proposed to be carried on in the subject premises,
    - (ii) the location, character and condition of the premises, and
    - (iii) the persons likely to frequent the premises,the Board considers that the premises are unsuitable for use for the sale of alcohol,
  - (e) that, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises, in the locality.
5. Defer – if for example the Board wanted to arrange a further site visit.

### **Consequences of Refusal**

Section 25 says that where a Licensing Board has refused a premises licence application the Board must refuse any subsequent premises licence application in respect of the same premises before the expiry of the period of one year beginning with the date of the earlier refusal UNLESS at the time of the earlier refusal the Board directed that this provision would not apply or the Board is satisfied that there has been a material change of circumstances.

## **Applications to Vary a Licence**

### **Section 29 Application**

By section 29(1) a premises licence holder may apply to the appropriate licensing Board for a variation of the licence. Such an application must be accompanied by

- (a) the premises licence to which the application relates, or
- (b) if that is not practicable, a statement of the reasons for failure to produce the licence.

### **Meaning of Variation**

Section 29(5) defines a variation as meaning any variation (which includes addition deletion or other modification) of:

- (a) any of the conditions to which the licence is subject (*other than those to which the licence is subject by virtue of section 27(1) which are Schedule 3 mandatory conditions and cannot be changed*);
- (b) any of the information contained in the operating plan contained in the licence;
- (c) the layout plan contained in the licence; or
- (d) any other information contained or referred to in the licence.

Generally a variation that involves a change to the information contained within the operating plan is not a minor variation and it requires to be determined by the Licensing Board.

Any variation that involves:

- (i) a change to the layout plan that does not affect the operating plan
- (ii) a restriction on the access for children/young persons
- (iii) a change of premises manager
- (iv) reduction in the alcohol display area or capacity
- (v) reduction in the core hours

can be considered to be a minor variation which must be granted and so is dealt with under delegated powers.

### **Notice of Application**

Notice of the application has been given to—

- (a) each person having a notifiable interest in neighbouring land *i.e. neighbours within 4 metres of the boundary of the premises*
- (b) the community council within whose area the premises are situated,
- (d) the chief constable, and
- (e) the fire service
- (f) the NHS

Section 22 applies the same as it does to a premises licence application and so any person may, by notice to the Licensing Board object to the application on any ground relevant to one of the grounds for refusal or make representations to the Board concerning the application.

### **Determination of the Variation Application**

Section 30(3) provides that the Licensing Board must hold a hearing for the purpose of considering and determining the application. The Board must consider whether any of the grounds for refusal applies and:

- (a) if none of them applies, the Board must grant the application;
- (b) if any of them applies, the Board must refuse the application;

Section 30(5) provides that the grounds for refusal are:

- (a) that the application must be refused under section 32(2) (*licence refused within the last year*), 64(2) (*licence sought for 24 hours continuous*) or 65(3) (*off sale hours outside 10am to 10pm*);
- (b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives;
- (c) that, having regard to the nature of the activities carried on or proposed to be carried on in the subject premises, the location, character and condition of the premises, and the persons likely to frequent the premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation;  
(d) that the Board considers that if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises (taking account of the variation), in the locality.

Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.

Where the Licensing Board refuses the application the Board must specify the ground for refusal, and where relevant the Board must specify the licensing objective or objectives in question.

### **Subsequent Applications Following Refusal**

Section 32 says that where a Licensing Board has refused a premises licence variation application the Board must refuse any subsequent premises licence variation application in respect of the same premises licence, and seeking the same variation made before the expiry of the period of one year beginning with the date of the earlier refusal UNLESS at the time of the earlier refusal the Board directed that this provision would not apply or the Board is satisfied that there has been a material change of circumstances.



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**REPORT TO: THE MORAY LICENSING BOARD 15<sup>th</sup> NOVEMBER 2018**

**SUBJECT: LICENSING (SCOTLAND) ACT 2005 – PERSONAL LICENCE APPLICATION HEARING FOLLOWING DISCLOSURE OF RELEVANT CONVICTION ON APPLICATION (REFERENCE CASE NUMBER 1 OF 2018)**

**BY: CLERK TO THE BOARD**

**1. Reason for Report**

1.1 This report is to notify the Board:

1.1.1 That notice of a relevant conviction has been disclosed on an application for a personal licence;

1.1.2 The Chief Constable has confirmed to the Clerk that the applicant (reference case number 1 of 2018) has been convicted of relevant offence and the Chief Constable has made no recommendation in respect of the application;

1.1.3 That, as a result, s.74(5A) of the Licensing (Scotland) Act 2005 states the Board may hold a hearing to consider and determine whether the licence should be granted or refused.

**2. Recommendations**

**It is recommended that the Board:-**

**2.1 Note the existence of a relevant conviction and the fact the Board may hold a hearing following confirmation of relevant conviction by the Chief Constable;**

**2.2 Consider whether to hold a hearing and, if so;**

**2.3 Hear from the parties, consider the matter and determine whether to grant or refuse the personal licence having regard to any of the licensing objectives;**

**3. Background**

- 3.1 On 6 September 2018 the applicant submitted an application for a personal licence. Within the application, applicants are asked to confirm whether they have been convicted of any relevant offence(s).
- 3.2 The applicant in this case disclosed an offence. A copy of the application form from the applicant has been circulated separately to members.
- 3.3 The Licensing (Relevant Offences) (Scotland) Regulations 2007 (SSI 2007 No. 513) prescribe which offences are relevant offences for the purposes of the Licensing (Scotland) Act 2005.
- 3.4 The Licensing (Scotland) Act 2005 requires the Board to notify the Chief Constable of the receipt of an application for a personal licence. The Chief Constable then has up to 21 days to respond to the notice of application with notice as to whether the applicant has been convicted of a relevant or foreign offence.
- 3.5 The Chief Constable has confirmed to the Clerk that the licence applicant (reference case number 1 of 2018) has been convicted of a relevant offence and a copy of the Chief Constable's letter has been circulated separately to members.
- 3.6 No recommendation, on behalf of the Chief Constable, has been provided in relation to the application.
- 3.7 This report is to notify the Board that under s.74(5A) of the Licensing (Scotland) Act 2005 may hold a hearing to determine the application as a result of receipt of the Chief Constable's notice.
- 3.8 The Board's scheme of delegation requires that an application for a personal licence where the applicant has been convicted of a relevant offence must be determined by the Board.
- 3.9 The Board should first determine whether to hold a hearing.
- 3.10 If a hearing is to proceed then at the hearing the Licensing Board must, after having regard to the Chief Constable's notice and after giving the licence holder concerned and the Chief Constable an opportunity to be heard:
  - 3.10.1. If satisfied that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence refuse the application; or
  - 3.10.2. If satisfied that it is otherwise necessary for the purposes of any of the licensing objectives, refuse the application; or
  - 3.10.3. If not so satisfied grant the application.



- 3.11 The licensing objectives are:
- 3.11.1. Preventing crime and disorder
  - 3.11.2. Securing public safety
  - 3.11.3. Preventing public nuisance
  - 3.11.4. Protecting and improving public health
  - 3.11.5. Protecting children and young persons from harm

#### **4. Implications**

##### **(a) Moray 2023 A Plan for the Future/Service Plan**

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Moray 2023) in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

##### **(b) Policy and Legal**

Legal implications have been explained above.

##### **(c) Financial Implications**

None

##### **(d) Risk Implications**

The Board is to have regard to any of the licensing objectives, particularly the crime prevention objective and decide whether the risk justifies intervention on such grounds.

##### **(e) Staffing Implications**

None.

##### **(f) Property**

None.

##### **(g) Equalities**

There are no issues in this case.

##### **(h) Consultations**

Consultation is not required.

#### **5. Conclusion**

- 5.1 **It is proposed that the Board note the existence of a relevant conviction and the possibility of holding a hearing following confirmation of the conviction by the Chief Constable;**

**5.2 It is proposed that the Board, having regard to the notice from the Chief Constable, determine whether to hold a hearing and, if so, hear from the parties, consider the matter and determine whether to grant or refuse the licence for the purposes of any of the licensing objectives.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board  
Background Papers: There are no background papers  
Ref: SAH

Signature

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Designation Head of Legal and Democratic Services, Clerk to the Board  
Name Alasdair McEachan



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**REPORT TO: MORAY LICENSING BOARD 15 NOVEMBER 2018**

**SUBJECT: LICENSING (SCOTLAND) ACT 2005 – REVIEW OF STATEMENT OF POLICY**

**BY: CLERK TO THE BOARD**

**1. Reason for Report**

- 1.1 The reason for this report is to advise the Board with regard to the statutory obligation to develop, consult and publish a policy statement setting out the principles they propose to apply to the exercise of their functions under the Licensing (Scotland) Act 2005.
- 1.2 Every Licensing Board must, before the beginning of each relevant period, publish a statement of their policy.
- 1.3 The current period started on the 30<sup>th</sup> November 2013 and is due to expire on the 29<sup>th</sup> November 2018. A revised policy statement must be in place and publicised by then.

**2. Recommendations**

**It is recommended that the Board:-**

- 2.1 **Note the statutory obligation to develop, consult upon and publish a statement of licensing policy and note that a revised policy must be in place by 29<sup>th</sup> November 2018;**
- 2.2 **Note the terms of the draft revised policy as reviewed and developed by the Board following full research and informal consultation produced at Appendix 1.**
- 2.3 **Note the draft policy has been the subject of formal consultation for the period of 29 August 2018 to 26 October 2018 and review the responses to that consultation produced at Appendix 2.**
- 2.4 **Make any changes to the draft policy that the Board deems fit in the light of the consultation responses;**
- 2.5 **Approve a final policy statement for publication.**

### **3. Background**

- 3.1 The Licensing (Scotland) Act 2005 requires the Board to publish a Statement of Policy as to how it proposes to exercise its powers under the Act.
- 3.2 The Statement of Policy must be revised in line with the 5 year cycle of local government elections. A revised statement must be in place and publicised within 18 months of each local government election period. The last revised statement was published in November 2013 and a new revised statement is due to be published before the 29<sup>th</sup> November 2018. The Board may also review the policy at any time within the 5 year period.
- 3.3 The Board is required to consult certain persons/bodies as part of the process of preparing or revising the policy statement. Those are:
- the Local Licensing Forum for the Board's area;
  - if the membership of the Forum is not representative of the interests of all of the persons specified in paragraph 2(6) of schedule 2, such person or persons as appear to the Board to be representative of those interests of which the membership is not representative; and
  - such other persons as the Board thinks appropriate.

### **3.4 Informal Consultation and Drafting**

In order to inform on policy drafting a large volume of data from numerous sources has been collected and analysed as follows:

- 3.4.1 Research and Information Officer Carl Bennett has analysed data from a great many sources including: the police; NHS; Moray Alcohol and Drug Partnership; Census; SALSUS Scottish Schools Adolescent Substance use Survey.; and other online sources. The resultant report went into some detail to inform and support policy matters, in particular an overprovision assessment. A copy of the report is reproduced within the overprovision assessment;
- 3.4.2 A wide ranging community engagement exercise was carried out through the medium of an online survey. The survey was established to ask questions relating to policy and was distributed to a wide audience across Moray. The response results were again analysed by Research & Information Officer Carl Bennett. The results were reviewed by the Board and taken into account in developing the draft policy for formal consultation.
- 3.5 As stated above the Board as a whole met to discuss revision of the policy on 27 June 2018. The key areas for discussion were:
- 3.5.1 Overprovision. As part of the statement of policy the Board has a duty to publish a determination as to whether it considers that there is an overprovision of licensed premises in its area. Pursuant to that duty the assessment of overprovision has been updated and this is one of the most significant areas within the policy document. The Board

concluded from the report that there was no evidence to support a finding of overprovision within Moray.

- 3.5.2 Children in licensed premises. The public opinion survey asked about children in licensed premises and the majority of respondents who gave an answer indicated approval for current policies. The Board were of the opinion that the existing policy was a bit restrictive in relation to for access and so agreed to consult on extending the generally acceptable time to 10pm for access for children and young persons.
  - 3.5.3 Hours in general. The Board meeting did not identify any areas for change within the current policy. The public opinion survey asked about licensing hours. The majority of respondents who gave an answer indicated that licensing hours are acceptable as they are, indicating that no change in policy is required. This was the same in all areas of Moray.
  - 3.5.4 The curfew. The public opinion survey asked about the curfew and the responses were mixed. Opinion was divided on the curfew. The Board noted that in most other Licensing Board areas curfew conditions had been removed. The Board also felt that a mandatory curfew was no longer required and resolved to consult on removal of the mandatory curfew condition but keeping the condition as a possible option where individual circumstances may warrant it.
  - 3.5.5 Social responsibility. The police had made a suggestion for a social responsibility related condition which the Board agreed with and resolved to include within the policy. Consideration will need to be given as to how the Board wishes to introduce such a policy.
  - 3.5.6 The Board maintained the general position that each application should be judged on its own merits and policy matters should assist and guide in that process rather than policy dictating decision making.
- 3.6 Following on from the above the Policy Statement was revised in order to proceed with formal consultation.
- 3.7 It should be noted that as at the time of writing the Scottish Government has been working on updated guidance to Licensing Boards under the Licensing (Scotland) Act 2005 for some years. The guidance was updated and published in relation to preparing a statement of policy only but no further.
- 4. Further Consultation**
- 4.1 The draft revised policy statement was then subjected to a further formal consultation period of approximately 8 weeks from the 29 August 2018 up to the 26 October 2018.
  - 4.2 The results of the formal consultation are produced at **Appendix 2**. The Board is requested to consider those and make any final adjustments to the revised policy as the Board considers necessary or appropriate before final approval.

- 4.3 The Board will note that comments appear to be largely in favour of the proposals but that there are some further suggestions for inclusion should the Board consider it appropriate.
- 4.4 Once approved, the final policy statement will ultimately be published on both the Council's web site and at certain premises like Access points and main libraries where the document may be inspected. The publication must be available for inspection by the public free of charge.

## 5. **Implications**

### (a) **Moray 2023 A Plan for the Future/Service Plan**

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Moray 2023) in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

The Licensing Policy Statement sets out how the Moray Licensing Board will exercise its functions under the Licensing (Scotland) Act 2005 and promote the licensing objectives which are:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The licensing objectives closely reflect some of the priorities of the 10 Year Plan.

### (b) **Policy and Legal**

Legal implications are detailed in the report.

### (c) **Financial implications**

None.

### (d) **Risk Implications**

None.

### (e) **Staffing Implications**

Consultation and preparation of revised documents has involved a very considerable amount of staff time across several services. However it is anticipated that no additional resources are required.

### (f) **Property**

None.

**(g) Equalities**

As part of the consultation process this report and the draft policy will be referred to the Council's Equal Opportunities Officer for comment. Previous policies have been assessed for equalities impact and given that there has not been any major changes to policy matters there is not a need for a new assessment.

**(h) Consultations**

Extensive consultation has taken place.

**6. Conclusion**

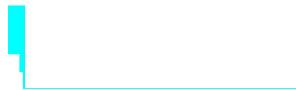
**6.1 It is proposed that the Board note the requirement to develop, consult upon and publish a Statement of Policy as to how it will exercise its functions under the Licensing (Scotland) Act 2005, note the results of the formal consultation, amend the policy as the Board deems necessary or appropriate and instruct the Clerk to proceed to publish the final approved policy.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers: There are no background papers

Ref: SAH

Signature

A redacted signature consisting of a vertical red bar on the left and a horizontal line extending to the right.

Date 7 November 2018

Designation Head of Legal and Democratic Services, Clerk to the Board  
Name Alasdair McEachan

For alternative formats, languages or further information,  
please ask an English speaking friend or relative to:

Phone: 01343 563319

Email: [equalopportunities@moray.gov.uk](mailto:equalopportunities@moray.gov.uk)

Write to: Project Officer (Equal Opportunities)  
Chief Executive's Office  
High Street  
Elgin  
IV30 1BX

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的資訊，請叫一位會說英語的朋友或親屬與我們聯繫：

電話：01343 563319

電郵：[equalopportunities@moray.gov.uk](mailto:equalopportunities@moray.gov.uk)

信件郵寄地址：計劃主任(平等機會)

Project Officer (Equal Opportunities)  
Chief Executive's Office  
High Street  
Elgin  
IV30 1BX



Jeżeli chcieliby Państwo otrzymać informacje w innym formacie, języku lub dodatkowe informacje, mówiący po angielsku znajomy lub członek rodziny może do nas:

Zadzwoń na numer: 01343 563319

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Para outros formatos, idiomas ou para obter mais informações, peça para um amigo ou parente que fale a língua inglesa entrar em contato conosco:

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**The Moray Licensing Board  
Statement of Licensing Policy  
for the Licensing (Scotland) Act 2005  
Effective Period 30/11/2018 to 29/11/2021**

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This is the Statement of Licensing Policy of the Moray Licensing Board (“the Board”) issued under the Licensing (Scotland) Act 2005 (“the Act”).

The Board recognises that licensing is about regulating the sale of alcohol, the premises on which alcohol is sold, and for connected purposes within the terms of the Act.

## 1. Mission Statement

The Moray Licensing Board’s aim is to serve the licensing needs of Moray as quickly and efficiently as possible, striking a balance between the business needs of its customers and the interests of the community as a whole in order to protect the public and further the licensing objectives.

To achieve this aim the Board will:

When deciding on policies, reach out to all parts of society and genuinely reflect their interests through the medium of the Forum;

Encourage an open and honest exchange of information in a customer - friendly setting and make decisions in a fair and reasoned manner based around agreed and published policies; and

Be fair in all matters and in this context fairness includes having regard to and an interest in equality and diversity in all forms.

## 2. Overriding Principle

The overriding principle will be that each matter will be judged on its own merits and each person will have the right to make representations on an application or to seek a review of a licence where such provision has been made in the Act. Applicants wishing to persuade the Board to depart from this statement of policy will need to demonstrate, by means of evidence, good reasons for so doing.

## 3. Introduction

### 3.1 The Moray Area

Moray has a population of 87,000 with three quarters of those living in or around the five main centres of Elgin, Forres, Keith, Buckie and Lossiemouth.

Traditionally there has been a reliance on fishing, farming, food, forestry, textiles and whisky. Service industries, including information services, continue to grow. The Army barracks at Kinloss and RAF base at Lossiemouth contribute greatly to local earnings and bring skilled and qualified staff in the area. Main transport links are via Inverness to the west and Aberdeen to the east, both of which have their own air connections.

### 3.2 The Duty to Consult On & Publish a Statement of Policy

Section 6 of the Licensing (Scotland) Act 2005 requires every Licensing Board to prepare and publish a statement of its licensing policy every five years. The policy must also be kept under review during the three year period and revised as necessary.

Before determining this policy, the Board consulted the persons listed in Appendix I. The Board has had regard to the views of all those listed and the views were given appropriate weight when the policy was determined.

### 3.3 The Board

The Board is made up of 9 members of the Moray Council with a quorum of 5. The Board is supported by a Clerk, Depute Clerks and administrative support staff. From time to time, the Board may also form sub-committee(s) to perform certain functions.

For details of the Board's scheme of delegation see paragraph 11 below.

### 3.4 Contacts

The Clerk to the Board is Alasdair McEachan however for daily enquiries the Depute Clerk is Sean Hoath:

Moray Licensing Board  
Council Offices  
High Street  
Elgin  
IV30 1BX  
01343 563077  
[sean.hoath@moray.gov.uk](mailto:sean.hoath@moray.gov.uk)

### 3.5 The Forum

The Moray Council has established a Local Licensing Forum ("the Forum") for the area of Moray. The Forum is representative of the community and will advise the Board on general matters of policy only. The Forum will not advise on or discuss individual cases.

Members of the Forum include (where relevant\*) persons resident within the Moray area, holders of premises and personal licenses and persons having functions relating to health, education and social work. After the period of transition, 2009, the Forum will meet at least four (4) times per year and once a year with the Board.

The Board will have regard to the views of the Forum and will give reasons should it decide to depart from those views.

\*The business of the Forum is not invalidated by the absence of one or more such persons.

### 3.6 Other Responsible Authorities

In formulating this statement of policy the Board has had regard to the views, if any, expressed by the following bodies:

- Planning and Building Standards Departments
- Environmental Services Department
- The Police
- The Fire Authority
- The NHS
- The Moray Local Licensing Forum
- The Scottish Tourist Board

### 3.7 Tourism

The Moray area is well known for its whisky trails and coastal scenery and as such is a popular tourist destination. Tourism contributes greatly to the local economy and is welcomed.

Accordingly, the Board will welcome measures in operating plans that actively seek to promote tourism and stimulate the local economy.

### 3.8 Transport

Main transport links are via Inverness to the west and Aberdeen to the east, both of which have their own air connections.

Guidance requires this policy statement to identify any arrangement between the LSO and the Police for reporting views/concerns to the local Transport Committee. There are currently no such arrangements.

## 4. Objectives

### 4.1 Licensing Objectives

The Board will seek to promote the following 5 licensing objectives set out in the Act within this statement of policy and its decision making processes:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

### 4.2 Measures to Promote the Objectives

Set out below are general measures that the Board has decided will help to promote the five licensing objectives. The Board has found it helpful to ask other public bodies for sector specific guidance to include with this statement. Where such additional guidance has been made available, it can be found in the Appendices.

It should be noted that Licensing law is not the primary mechanism for the control of nuisance and antisocial behaviour by individuals once they are no longer on the licensed premises and beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.

## 5. General Communication

### 5.1 Communication

In general communication will be accepted by letter sent by post or document exchange (to the addresses above), by facsimile (to the number above) or by electronic mail addressed to [licensing@moray.gov.uk](mailto:licensing@moray.gov.uk)

All communication should be addressed to the Clerk to the Moray Licensing Board.

If a party has made representations and wishes to withdraw the same then that party should indicate this to the Clerk of the Board in writing no later than 7 days before the hearing. If all representations are withdrawn then, in some cases, the hearing may be cancelled and the application may be considered under delegated powers. Otherwise the application may be considered as unopposed.

If an objection / representation is not withdrawn and so must be heard then if the Board decides to reject the notice of objection / representation as frivolous or vexatious, the Board may recover from the person who gave the notice any expenses incurred by the Board in considering the notice.

Except where otherwise provided, a requirement to give a notice (or to notify) is a requirement to give notice in writing; and for that purpose, a message sent by facsimile transmission or electronic mail must be treated as a notice given in writing.

## 5.2 Information Sharing

As part of application processing and/or pursuant to promoting the licensing objectives information may be exchanged with and/or sought from partner organisations such as those detailed in paragraph 8.1 below.

## 5.3 FOI publication scheme

See section 12.2 below

## 5.4 Data Protection

Licensing applications contain a lot of data, some of which may be personal data or event sensitive personal data.

Personal data is anything relating to an individual who can be identified from the data or a combination of the data and other information held.

Sensitive personal data is defined by reference to a list of particular information including, amongst other things, details of past convictions for offences.

The data controller is the Moray Council.

Please see the Moray Council's website [www.moray.gov.uk/licenisng](http://www.moray.gov.uk/licenisng) for details of the licensing privacy notice.

The data controller exercises functions under the Licensing (Scotland) Act 2005, the Gambling Act 2005 and associated legislation for the purposes of regulation, the administration of justice and other functions of a public nature in the interest of the public.

## 5.5 Irregularities / Mistakes

The Board may disregard any irregularity resulting from a failure to comply with a procedural provision where that irregularity comes to its attention prior to it making a determination of the matter in hand.

If the Board considers that any person may have been prejudiced by any such irregularity, it must take such steps that it considers necessary to remedy the consequences of the irregularity, before reaching its determination.

The Board may correct clerical mistakes in any document recording a determination of the Board, or errors arising in such a document from an accidental slip or omission.

## 5.6 Translation

Please see the start of this policy for statements regarding translation services. Translations are available upon request.



## 6. General Considerations

### 6.1 Social Responsibility

The Moray Licensing Board fully supports the idea of social responsibility in relation to licensed premises. The Board therefore considers it appropriate and proportionate to include a condition on all licences as follows:

"The licence holder must have in place a duty of care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication. The purpose of this policy is to reduce vulnerability through intoxication, however attained.

All staff must have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication. This should include use of material such as the ' Who are You ' video ([whoareyou.nz](http://whoareyou.nz)) or similar.

All related training should be recorded and such records available for inspection by Police and Licensing Standards Officers."

### 6.2 Children in Licensed Premises

It is a licensing objective that children and young people should be protected from harm. The Act defines "a child" as a person under the age of 16. A "young person" means a person aged 16 or 17. The protection of children from harm is an important consideration for the Board and the Board will welcome measures from applicants to increase accessibility for families, where appropriate, including provision of facilities suitable for children and young persons.

In general applicants are free to choose whether to allow access for children and young persons including the terms of such access, the ages to be allowed, the times for access and the places to which access will be granted. Detailed arrangements should be made very clear in the operating plan.

The Board will generally make a site visit to inspect the premises both in respect of new premises licence applications as well as applications to vary the provisions for access for children/young persons.

The Board has decided that it will not automatically add conditions to a premises or occasional licence where children and young persons are to be allowed access.

Instead, once particular area(s) have been identified the onus will be on applicants to demonstrate to the Board that those areas are suitable for children and/or young persons. Applicants should consider doing this through the medium of the risk assessment. This again emphasises the importance of applicants completing the risk assessment document. If the pro-forma document itself is felt to be inadequate then applicants are free to supplement the same with as much information as possible.

The Board will take into account the local knowledge of members about particular premises and may call applicants to a hearing to be questioned on the suitability of access for children and young persons.

The Board will naturally be more concerned about children and young persons potentially entering a vertical drinking establishment. In traditional "bar" type premises or areas the general atmosphere is less likely to be suitable for under 18's as adults tend not to moderate their behaviour. Problem indicators would include:

- General culture of drinking and/or vertical drinking
- Absence of substantial food
- General absence of tables/chairs
- TV screens e.g. televised sport
- Pub games like pool and darts that are not separated (e.g. in another room) from the main bar area
- General adult atmosphere or areas e.g. unsuitable language and/or behaviour

In addition the Board is concerned with ensuring that wherever possible children and young persons are not required to pass through unsuitable areas in order to reach the toilets.

Of less concern will be those premises that establish a family friendly atmosphere with facilities designed to cater for families, including children and young persons. This may include areas such as:

- Areas set aside specifically for use by families or children or young persons (note such areas should be identified on the layout plan in accordance with Regulations)
- Dining areas
- Designated function halls
- Bars with more of a traditional lounge bar atmosphere e.g. tables, chairs, carpets

Whether or not designated play areas exist, where applicants detail areas to which they intend to allow access for children and young persons it would be helpful for applicants to detail the sorts of facilities that will be available in those areas.

Applicants should pay particular attention to matters set out below when addressing the suitability of areas for children/young persons:

- Times for access. Suitability will be derived from a combination of information detailed in the operating plan. An essential element of this is the times as to when children/young people will be allowed access. Times will be examined in detail by the Board and times will need to be justifiable in terms of suitability. Traditionally 8:00pm (20:00) has been considered as a suitable terminal hour for younger children. However the Board recognises that changes in lifestyles and attitudes mean it is more common for families to eat later in the evening. It is noted that tourists are often accustomed to later dining hours. Therefore the Board considers 8pm to be unduly restrictive and is of the opinion that 10pm (22:00) is a suitable terminal date reflecting liberal international practice and the wish to promote family and family friendly environments and eating and drinking cultures.
- The Board recognises that certain activities like functions may justify later access. Particular attention will be paid to applications that appear to request persistent late night access for under 18's.
- Applicants should consider the suitability of children having access to gaming machines. Gambling is regulated by the Gambling Act 2005 and for gaming purposes children are considered to be all under 18's. Under that Act applicants have a duty under the Gambling Act 2005 to ensure that children do not access gaming machines above category D (as specified in the Gambling Act 2005). Licensed premises may have both Category C and Category D gaming machines and applicants should consider siting Category C machines (or possibly all machines) away from family-friendly areas, especially where no, or no satisfactory, measures in place to deny children access.
- The Board recognises that it is becoming more common for families to want to play games such as pool together. The Board is of the opinion that pool (or similar) tables may be suitable for children or young persons to access under the

right circumstances/conditions. Again applicants should consider the proximity of any bar area and the potential for vertical drinking creating an unsuitable atmosphere. Applicants should also address in the risk assessment the desirability of moving tables away from such areas or at least decommissioning them at certain times.

- Dart boards or any such similar game(s) equipment are generally not suitable to be deployed and used in areas of licensed premises at times when children may have access. Where applicants wish to do so then they should address the issues in the risk assessment. The Board considers that access for young people to these facilities should be explained in the risk assessment. This will be particularly true where young people may be taking part in darts leagues where the presence of adults in a vertical drinking atmosphere may render access unsuitable.
- Families are often welcomed into licensed premises for the purpose of dining and a dining room will generally be one of the more suitable areas for access for children and young persons. Where catering facilities are offered applicants should consider the desirability of making children's portions and/or specific food suitable for children available.

To address the above, where the Board considers that inclusion of a particular item within child-friendly areas is not consistent with the licensing objectives and where it appears necessary to the Board to promote the licensing objective of protecting children from harm, in areas and at times to which children have access to licensed premises the Board may consider adding conditions as follows:-

- Category C machines (or possible all gaming machines) should be cited away from child-friendly areas and measures should be put in place to the satisfaction of the Moray Licensing Board to ensure that children and young persons are denied access.
- Pool tables / dart boards / similar game(s) or equipment should be moved away from areas where children and/or young persons have access and/or measures should be put in place to the satisfaction of the Moray Licensing Board to ensure that children and/or young persons are denied access.
- Children's portions and/or specific food suitable for children should be made available at times when children and/or young persons are present and catering facilities are on offer.

Each case must be judged on its own merits. Therefore this list is not, and cannot, be an exhaustive one. The Board reserves the right to add further conditions in specific cases.

### 6.3 Baby changing

It is a mandatory condition attached to all premises licences where alcohol is sold for consumption on the premises and to which children under the age of 5 are to be admitted that there must be facilities for baby changing which are to be accessible to either gender.

There is no definition of what constitutes baby changing facilities. Usually customers would expect to have somewhere to go as a safe environment to change a baby. Many premises have facilities incorporated into a disabled toilet. Alternatively there are specially designed, portable baby changing tables / trolleys.

Members' Clubs are exempt from this premises licence condition.

### 6.4 Outdoor Areas

Outdoor areas will normally form part of the licensed area of the premises and should be clearly defined on the layout plan. This is essential in places that are the subject of a byelaw against drinking in public places.

Where an outdoor area is not part of the licensed area of the premises then it can only be used for the consumption of alcohol where the premises has the facility to sell alcohol for consumption off the premises and where no byelaw is in place.

The Moray Council Environmental Health section can provide advice regarding smoking shelters.

Use of pavement areas for outdoor drinking facilities is subject to permission from the Council's Roads department, which should be obtained separately. Particularly for pavement areas, applicants should give consideration to the following matters and where appropriate some or all of these matters may be the subject of conditions on the licence:

- the outside area will be delineated for patrons in accordance with the layout plan, this may include the use of barriers
- use of the outside area for consuming food and alcohol will normally be subject to patrons being seated and therefore use will be limited by the number of seats available
- the maximum number of seats available should be stated so as to ensure that no patron strays outside of the licensed area
- patrons should not normally be allowed to take any drinks (including alcohol) or food outside the premises (which expression includes the outside area) other than off sales sold on the premises
- the licence holder will provide adequate signage in appropriate places to advise patrons of the terms of use of the outside area and particularly to warn patrons that consumption of alcohol outside of the premises (inclusive of the outside area) will be an offence if there is a byelaw against drinking in public places
- the terminal hour for the consumption of food and alcohol within the outside area shall generally be 22:00 (10:00pm) after which food and alcohol will not be allowed in the outside area
- consideration should be given as to when children and young persons will be allowed in the outside area – perhaps up to 22:00 (10:00pm)
- the tables, chairs and associated furniture/removeable items will be removed from the outside area immediately following closure of the outside area and the area will be cleared by 22:30 (10:30pm). Tables, chairs and associated furniture/removeable items will not be placed outside before 08:30 (8:30am)
- the outside area will be suitably monitored (along with the remainder of the premises) at all times it is in use whether for eating, drinking or smoking for example by the use of CCTV, and staff (including door staff whether employed or contracted for) for compliance with all conditions
- the outside area should be controlled and reasonable efforts must be made so as to minimise potential noise and/or light nuisance to neighbours and no music amplified or otherwise will be permitted in the outside area
- the premises will provide suitable receptacle(s) for patrons to dispose of rubbish, particularly that related to smoking, and will ensure that the outside area remains clean and tidy at all times

#### 6.5 Members' Clubs

Members' Clubs that are qualifying clubs enjoy certain exemptions/privileges. Those include reduced fees, no requirement to have a premises manager etc.

For a club to qualify, its constitution must contain a whole list of matters as set out in the Clubs Regulations. In turn the club must comply with its constitution. It is also an essential element of any Members' Club/Voluntary Organisation that it is established and run otherwise than for financial gain. A club must not be conducted for the purpose of making a profit.

Clubs will be asked to provide a copy of their constitution with any application. Clubs should also keep the Board advised of changes to the constitution.

If all the required provisions are not in the constitution, then it does not prevent the club being a club or even holding a licence. It will mean, however, that all the exemptions like reduced fees will be lost. Similarly, if the provisions are in the constitution but are not being complied with then again it will mean the loss of all privileges or even the loss of the licence itself if the Moray Licensing Board decides to hold a review hearing.

Two key requirements for a qualifying club mean that anyone who is to be supplied with alcohol on the premises must be:

- a member or genuine guest of a member or a member of another qualifying club; AND
- for guests properly signed in.

There is no obligation to sign in persons who are not supplied with alcohol but in practical terms it would seem easier just to sign everyone in. Otherwise clubs will need to be very sure that such persons will not be supplied with alcohol. It is also the case that where a non member is to be supplied with alcohol then:

- he/she must be on the premises at the invitation of a member and must be accompanied by that member; AND
- he/she must be signed in.

There is no definite answer to the question of how many people can be signed in? The answer may be stated in the club's constitution. If not then the natural limit will be the number of people that the member can reasonably accompany. It would not generally be acceptable, for example, for members to sign a blank visitors' book and leave anyone and everyone to simply sign their name underneath. If a member is inviting a guest then the member should really know everyone who is there at his/her invitation.

Another privilege enjoyed by clubs is the ability to apply for an occasional licence, even where a premise licence is currently in force. This is a very important entitlement because the normal members and guests and signing in rules are suspended when an occasional licence is in force. This means that a club can admit members of the public in general and can supply them with alcohol without having to sign them in, by obtaining an occasional licence for that particular occasion/event.

By virtue of it being a very generous provision, clubs are limited in the number of occasional licences that can be obtained. So the entitlement must be used but must also be used wisely. The limit is:

- not more than 4 occasional licenses each having effect for a period of 4 days or more; and
- not more than 12 occasional licences each having effect for a period of less than 4 days

provided that, in any period of 12 months, the total number of days does not exceed 56.

## 6.6 Hours

The overriding principle is that each application will be considered on its individual merits.

The Board expects that customers be given adequate notice about opening hours in general and advanced warning of last orders and time. This may be in the form of signage as well as announcements. In terms of the adequacy of an advanced warning, what is adequate will vary with circumstances but applicants may consider 30 minutes as reasonable in this regard.

To assist applicants the Board has given the following general indications with regard to opening hours:

### 6.6.1 General Operating Hours

Licensed hours must be detailed in the operating plan of every premises.

The Board will generally consider applications for up to 15 hours in any 24 hour period as being reasonable. Any application for licensed hours for more than 15 hours will be the subject of additional scrutiny and applicants may be expected to justify their requests.

The Board does not wish to unnecessarily inhibit the development of a thriving and safe evening and night-time local economy, which is important for investment, employment, and tourism.

### 6.6.2 Off Sale Hours

The Board must refuse an application for off sales that would result in alcohol being sold before 10.00 a.m., after 10.00 p.m. or both on any day.

However, this does not automatically mean that applicants requesting an off-sales licence for the whole of the time from 10.00 a.m. to 10.00 p.m. will automatically be granted the same. The Board will still have regard to the licensing objectives.

### 6.6.3 24 Hour Opening

The Board observes the presumption against routine 24 hour opening of licensed premises. The Licensing Board must refuse the application unless they are satisfied that there are exceptional circumstances for justification.

In this context limited exceptional circumstances will only be justified by a specific event of very high local, national or international importance.

### 6.6.4 Early and Late opening Hours

#### 6.6.4.1 Early Opening

Early opening will be considered as any premises that wish to open before 11:00 a.m. Where such an application is made the Board is of the opinion that it would be more consistent with the licensing objectives for the operational emphasis to be on food or tourism as opposed to vertical drinking establishments. The Board will expect applicants to demonstrate measures that promote the licensing objectives. The Board further considers that it would be difficult for any application to justify the sale of alcohol prior to 9:00 a.m. unless there are exceptional circumstances.

#### 6.6.4.2 Late Opening

The national position is that late opening will be considered as any premises that wish to remain open after 1:00 a.m. Such premises will be subject to mandatory late opening conditions and the Board may attach further conditions. The later a premises wishes to open, the more the Board will expect applicants to demonstrate measures that promote the licensing objectives and justify the request for late hours. The Board further considers that it would be difficult for any application to justify the sale of alcohol after 3:00 a.m. unless there are exceptional circumstances.

The Board will continue to support local Schemes such as Pub Watch, Safer City Centre Initiatives and Door Safe Schemes. The Board recognises that Voluntary Schemes amongst licensees can reduce public disorder and nuisance offences taking place within local communities. Where appropriate, the Board will encourage membership of such Schemes.

#### 6.6.5 Curfew

Certain late opening premises have traditionally been subject to a curfew in Moray. The curfew is designed to prevent customers intending to drink past 1:30 a.m. from drifting between premises and/or remaining on the streets to possibly be the source of antisocial behaviour, public nuisance or public disturbance. It also staggers leaving times for certain premises thus reducing the overall numbers of people on the streets at any one time.

The Board considers that the curfew is no longer an effective and proportionate means of promoting licensing objectives and such a condition should not automatically be attached to any premises licence. The Board may consider such a condition (in accordance with wording below) to be appropriate in response to a particular application or set of circumstances, however it will no longer be automatically added to licences.

It is understood that applicants can take their own view on the use of curfews in respect of their own premises and set curfews as they consider appropriate.

This is a sample of the curfew condition:

##### *Curfew*

*The premises will be subject to a curfew at any time when the premises will be open after 01:30 (1.30am), including seasonal variations. A curfew will apply at 00:30 (12.30am) such that the premises must deny entry to patrons (except residents) after 00:30, including re-entry to those patrons (except residents) that leave the licensed area of the premises for any reason after 00:30.*

#### 6.6.6 Seasonal Hours

This section should include details of all hours in respect of regular/special events that can be anticipated.

Christmas and New Year are obviously special occasions but given that they occur every year on the same dates allowance should be made for opening hours within operating plans.

The Board issues Christmas and New Year guideline hours and applicants that include reference to those guideline hours within their operating plan will be allowed to trade to those hours if they wish.

Licensing hours required outside of those detailed in the operating plan would have to be the subject of an extended hours application.

#### 6.6.7 Drinking Up

Drinking up time is 15 minutes under normal circumstances and 30 minutes where alcohol was sold for consumption with a meal.

Premises should consider a winding down policy and measures within such a policy to promote the licensing objectives through effective dispersal of patrons.

#### **6.6.8 General Extension of Hours**

On occasions of national, local or possibly international significance the Board has the authority to apply a general extension of licensing hours.

The Board will notify those affected of the granting of any general extension of hours. Such grants will always be posted on the Licensing Section of the Moray Council's website. In addition, in respect of either sector or local specific grants, the Board will notify premises individually. The Board may also publish details in local newspapers as it sees fit.

#### **6.6.9 Duty to Trade**

The information provided in operating plans will enable the Board and the Licensing Standards Officer to determine if a breach of the operating plan and/or the licence conditions has occurred. Where this is the case the Licensing Standards Officer or the Board may initiate a review of the licence.

Applicants should note that the Act allows anyone to apply to the Board for a review of the licence on any of the grounds set out in section 36 of the Act.

Applicants should not, for example, grossly overestimate their trading hours "just in case" they may be required.

The Board recognises that there may be circumstances that would reasonably cause a temporary reduction in the trading hours given in the operating plan. Such circumstance will not ordinarily be considered a breach of the operating plan.

The Board also recognises the need for businesses, especially in a rural environment, to remain economically viable when faced with a lack of demand. Licensed premises may wish to close early owing to a lack of customers and, therefore, not trade for their full complement of licensed trading hours. In this regard there is not considered to be a duty to trade and this will not ordinarily be treated as a breach of the operating plan.

However, in considering such issues, the Board will give particular attention to whether these "un-used" hours are preventing new entrants into the market. If so, it may be appropriate to review and/or amend the operating plan of the premises concerned.

#### **6.6.10 BST**

Section 66 of the Licensing (Scotland) Act 2005 states that the beginning or, as the case may be, ending of British Summer Time is to be disregarded for the purpose of determining the time at which that period of licensed hours ends and, accordingly, the period ends at the time it would have ended had British Summer Time not begun or ended.

Traditionally the time for changes to the clock is 1:00 a.m. Greenwich Mean Time.

Start of BST



On such date as is prescribed as the date in the Spring when the clocks go forward to mark the change over to British Summertime at 1:00 a.m. GMT clocks go forward to 2:00 a.m. BST.

Licensees who enjoy licensing hours beyond 1:00 a.m. GMT will be judged by reference to the number of hours after midnight when their operating plan authorises them to be open rather than by the actual time shown on the clock. This will mean that licensees who enjoy hours until 3:00 a.m. will have 3 hours beyond midnight. The clocks will move forward at 1:00 a.m. to 2:00 a.m. At that point the terminal hour will be when the clock shows 4:00 a.m. (assuming immediate alteration of the clock).

#### End of BST

On such date as prescribed as the date in the Autumn when the clocks go back to mark the changeover from BST back to GMT at 2:00 a.m. BST clocks go back to 1:00 a.m. GMT.

Licensees who enjoy licensing hours beyond 1:00 a.m. will similarly close according to the number of hours after midnight which they are authorised by the Licensing Board to be open rather than the actual time shown on the clock. Therefore premises licensed until 3:00 a.m. will close 3 hours after midnight, when the clock should again show 3:00 a.m. (assuming immediate alteration of the clock).

Any Licensee who enjoys hours up until 1.00 a.m. is unaffected by the change of clocks. The Board does not accept that those licensed until 1.00 a.m. gain an additional hour on the changeover to British Wintertime.

### **6.7 Byelaws**

The Moray Council has introduced bye-laws prohibiting the consumption of alcohol in designated public places. These bye-laws in terms of the Local Government (Scotland) Act 1973 currently apply to Elgin, Forres, Buckie, Keith and Lossiemouth.

The effect of the bye-laws is that any person who consumes alcoholic liquor in a designated public place shall be guilty of an offence. Licensed premises and Registered Clubs are exempt from the bye-laws. The bye-laws also state that they shall not have effect on 31 December from 6:00 p.m. until the end of that day and on 1 January until 6:00 a.m.

As licensed premises are exempt from any byelaw it is in the interests of applicants to take care to clearly mark on layout plans where external areas are to be counted as part of the licensed premises, for the purpose of outdoor drinking. Applicants within areas affected by a bye-law should also take all reasonable steps to exercise control over the outside area, notify customers of the existence of the bye-law and the obligation not to consume alcohol in public.

### **6.8 Underage Drinking**

The Board strongly supports the use of the Access Moray Young Persons Card, which bears the Proof of Age Standards Scheme logo (PASS logo) available free to all young people under 26. To protect children and young persons and avoid crime the Board strongly urges licence holders and their staff to require the production of valid identification cards on a “no ID – no sale” basis.

Licensees are therefore strongly urged to practice due diligence to avoid underage sales. Due diligence will include:

- complying with the requirement to have an identification/challenge policy, i.e. to require ID if a customer appears under 25. This should also include clear signage to leave customers in no doubt as to the policy;

- training staff in the policy;
- ensuring that staff and customers comply with the policy; and
- keeping records regarding compliance including refusals.

This list is only illustrative and is not exhaustive.

### **6.9 Irresponsible Promotions**

Protecting and improving public health is a licensing objective and the Board will view actions that encourage binge drinking as a serious matter.

Measures to tackle irresponsible drinks promotions will be welcomed.

The Board will require clear evidence linking the sale of alcohol to an inducement to the consumer to immediately drink to excess before a promotion will be considered as possibly irresponsible.

Initially complaints should be dealt with at a local level by the Licensing Standards Officer, who will mediate between the licensee and the Board to agree whether or not any promotion breached the mandatory licence conditions. In most cases it is hoped that these cases can be resolved in discussion between the LSO and the licensee without any sanctions being applied by the Board.

However, where the Board feels that further action is appropriate, it may instigate a review hearing to determine what action, if any, needed to be taken against the licensee concerned.

### **6.10 Overprovision**

Section 7 of the Licensing (Scotland) Act 2005 requires each Licensing Board to include in its policy statement: a statement as to the extent to which the Board considers there to be an overprovision of:-

- (a) licensed premises, or
- (b) licensed premises of a particular description, in any locality within the Board's area.

The Moray Licensing Board has undertaken a recent assessment of overprovision and a copy of that assessment is included at Appendix II. The Board has also considered the report of Alcohol Focus Scotland, April 2018 "Alcohol Outlet Availability and Harm in Moray"

For reasons given within the assessment it has not been possible to identify any locality within Moray where data supports a robust and compelling argument that the prevalence of licensed premises has reached, or is close to reaching, saturation point.

Therefore there is no presumption against the granting of new licences within any locality within Moray. Nevertheless, the Moray Licensing Board recognises that each application for a premises licence is still to be judged on its own merits.

## **7 Licensing Standards Officer (LSO)**

The LSO for the Moray area can be contacted at The Moray Council, PO Box 6760 , Elgin IV30 9BX or via [licStandardsOfficers@moray.gov.uk](mailto:licStandardsOfficers@moray.gov.uk)

The LSO cannot provide legal advice on particular issues and advice should be sought from a solicitor.

The Board will work with the Police, LSO, Fire Authority, and other Council departments for the targeting of agreed problem and high-risk premises. Lower risk premises which are well managed and well maintained will be subject to less regular inspections.

## **8 Other Regulation**

The Moray Licensing Board will not be used as an enforcement agency for other regulatory regimes.

Accordingly the Board will avoid, so far as possible, duplicating the roles of other regulatory regimes. Licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are no longer on the Licensed Premises and beyond the direct control of the licence holder. The Board encourages applicants to consult with other relevant bodies when preparing their operating plans and any risk assessment.

Responsibility lies with applicants to comply with other regulatory regimes provided for by other Acts and Regulations. Applicants should make themselves aware of the requirements of other regimes and enforcement bodies and comply with the same. Complainants that come to the Moray Licensing Board regarding matters that could more properly be dealt with by other enforcement bodies will automatically be directed to the appropriate person(s).

Applicants should also be mindful of the duty of Social Responsibility described above.

The Board has a duty to promote the licensing objectives and, in this regard, will view certain matters as particularly serious and as having an impact on the regulation of the sale of alcohol, the premises on which alcohol is sold and connected purposes within the terms of the Licensing (Scotland) Act 2005. Examples of particularly serious matters are included at Appendix III.

### **8.3 Partners**

#### **8.3.1 Police**

The Board has asked the Police as a responsible authority to prepare a note on possible scenarios relating to licensed premises for door stewards to consider, for example search and seizure procedures.

The Moray Council and the police also operate in partnership in respect of local CCTV. Guidance on the specification and use of CCTV appears on the Licensing Board's website pages and is subject to updating from time to time.

Both of these documents have been produced on the Moray Council website and should be referred to by applicants.

#### **8.3.2 Environmental**

The Board has also asked The Moray Council Environmental Services Department as a responsible authority to prepare useful information and applicants will find at Appendix V a guide to preventing noise nuisance from licensed premises.

#### **8.4 Relationships**

Matters raised in relation to any application must be on relevant grounds and must relate to the sale of alcohol. Inevitably there will be a cross over between the licensing objectives and matters relevant to other regulatory regimes e.g. noise, planning, smoking, unsafe premises, fire prevention etc. Matters under these headings all relate to the licensing objectives. However they are also covered by other legislation and other regulators.

Where it is considered that objectors or representers are merely using the licensing system to their own ends rather than addressing the licensing objectives then matters raised may be rejected as vexatious.

#### **8.5 Extra Information for Partner Organisations**

Please refer to section 10.1.1 below.

Where further information is sought then applicants are strongly advised to provide the same with their application. In the absence of information that may be required by consultees/partner organisations to meaningfully comment the application may be delayed by objections/representations that will need to be addressed (by additional information) before the application can proceed.

### **9 Types of Licence & Applications**

For application processes please see section 10 below.

There are several types of Licenses and Applications:

#### **9.1 Premises**

The operating plan should set out clearly the applicant's proposals including the activities that would be undertaken on the premises, proposed opening hours and their policy in relation to access for children.

The Moray Licensing Board will welcome accessibility for families including children and facilities suitable to cater for children.

The Board should be able to determine with certainty the kind of operation which would be permitted in terms of the licence, and be assured that the premises will continue to operate on that basis once a licence is granted.

#### **9.2 Personal**

Every premises will require one or more personal licence holders.

The personal licence is intended to ensure that anyone managing premises is suitably capable of doing so. Whilst the Act requires every sale to be "authorised" by a personal licence holder, such authorisation can be a general one.

The Board will expect the terms of any general authorisation for the sale of alcohol to be specific, available for inspection by any Licensing Standards Officer, brought to

the attention of and signed by all parties involved and enforced by the premises manager.

The Board does not consider that a personal licence holder is required to be on the premises at all times. However where a personal licence holder is not present they are not removed from all responsibility. This should be addressed in the terms of the authorisation

### **9.3 Occasional licence**

An occasional licence will be subject to the mandatory conditions as set out in Schedule 4 of the Licensing (Scotland) Act 2005. An occasional licence may also be subject to the following:

- The Board's condition regarding a curfew if appropriate for which see section 6.5.5 above
- The mandatory condition regarding first aid as contained in Schedule 3 to the Licensing (Scotland) Act 2005
  - The Board will take any consultee response into account when granting a licence and before making a final decision may seek agreement from the applicant as to whether the applicant agrees certain conditions. The Board may publish a list of possible conditions to which the licence may be subject from time to time.
- NB where stewards are required applicants are advised to review the requirements for stewards to have appropriate SIA registration at
- <http://sia.homeoffice.gov.uk/Pages/home.aspx>

The following matters are also relevant to occasional licences:

- Occasional licenses authorise the sale of alcohol only and the issue of a licence is not to be taken as any endorsement of the event or other arrangements e.g. those related to building standards, fire safety or food hygiene. It is always up to the organisers to undertake their own risk assessments and organisers remain responsible for public safety. Licences may be issued with a disclaimer to that effect.

### **9.4 EU SD & Electronic Applications**

Applications can be accepted in electronic format, paper format or a combination of the two.

## **10 Applications Processes**

### **10.1 General Pre Application Matters**

Information & Documents Required

Risk Assessment

The Board strongly recommends that applicants complete a risk assessment in respect of the premises and to provide a copy of this to the Board with the application and operating plan. Licensees are reminded that all activity directly connected to their premises, both inside and out, should be considered.

Adopting a risk assessment approach will mean that applicants should better understand what steps are required to complete the operating plan in a manner which enables the Board and Responsible Authorities and Interested Parties to assess how they will seek to promote the licensing objectives. A risk assessment is

as individual as an operating plan and will vary according to the nature of the business.

The Board recognises that applicants best understand their business and it is for applicants to decide what is appropriate in each case.

If a risk assessment is not completed then applicants should be demonstrating how these matters have been addressed through the operating plan provided.

Applicants are particularly directed towards the section regarding children in licensed premises (at 11.2) as the risk assessment will be particularly important in this regard.

The pro-forma risk assessment can be found at Appendix VI.

#### **10.1.1.1 Operating Plan**

The operating plan for the premises should comply with regulations. Every operating plan must set out clearly the applicant's proposals including the activities that would be undertaken on the premises, proposed opening hours and their policy in relation to access for children.

Operating plans will encourage a flexible licensing regime. They must make clear to the Board how the premises are to be run, including full details of all activities to be undertaken on the premises and the times they will be undertaken. This will include seasonal variations. Operating plans must be provided with each application in a prescribed format and should be particular to each premises and not completed in general terms.

The operating plan should include detailed information and, in turn, the information provided will enable the Board to make an informed decision and later determine if a breach of the operating plan and/or the licence conditions has occurred.

The Board recognises that it is not always possible for licence holders to predict customer demand and requirements. However a balance must be struck between vague references to potential activities and definite details of actual activities. Matters that cannot be predicted when formulating an operating plan can be the subject of an occasional licence, an occasional extension or, for regular activities, a variation to the operating plan.

Where a material breach of the operating plan has occurred, the Licensing Standards Officer or the Board may initiate a review of the licence. The Act allows anyone to apply to the Board for a review of the licence.

#### **10.1.1.2 Layout Plan**

The layout plan of the premises should comply with Regulations.

Where applicants wish to depart from the prescribed scale then plans that are line drawings will be accepted on a scale of 1:50.

Only 3 additional layout plans are required for licence applications.

Applicants are requested to pay particular attention in plans to area(s) where alcohol will be sold, seating arrangements and area(s) suitable for children, beer gardens, outdoor seating areas and smoking areas.

Where the premises cover more than one floor then there should be a layout plan for each floor.

The Board expects plans as far as possible to be of good quality. Inadequate and/or illegible plans may be rejected. Plans will be accepted in paper or electronic format.

For ease of distribution and security applicants are requested to note that wherever possible electronic format should be **.pdf**. Other types of specialist application, like **.cad**, or general applications prone to manual alteration should not be used as they may hinder processing and delay issue of any licence.

In addition electronic format files should be under 4 megabytes in size. This is owing to physical limitations of the current computer systems that support the Board's functions. Applicants are warned that file sizes over this limit may not be delivered at all and may not, therefore, be processed.

#### **10.1.2 Guidance**

Guidance is available on the Moray Licensing Board's web pages (at [www.moray.gov.uk/licensing](http://www.moray.gov.uk/licensing)) or upon request (see contact section 3.4 above).

#### **10.1.3 Forms and Fees**

Forms and details of fees are also available on the Moray Licensing Board's web pages (at [www.moray.gov.uk/licensing](http://www.moray.gov.uk/licensing)) or upon request (see contact section 3.4 above).

### **10.2 General Processing Application**

#### **10.2.1 Timescales**

Attached at Appendix XI is a list of application types and their respective processing target dates.

The Moray Licensing Board aims to process all applications within the target dates and in many cases processing times will be significantly shorter than those quoted.

Tacit consent will not apply to the types of applications listed as it is a criminal offence to sell alcohol without the correct licence in place.

#### **10.2.2 Hearings**

The Moray Licensing Board has produced a standard set of hearing procedures that are set out in full in Appendix IX.

The Moray Licensing Board will always endeavour to ensure that the rules of natural justice are observed.

Hearings will generally be conducted in public although The Moray Licensing Board may deliberate in private.

In exceptional circumstances, for example to protect a particular commercial interest, a party may request that a hearing be conducted in private. Consideration will be

given to this having regard to the interests of natural justice, fairness and potential prejudice to other parties.

In general a hearing will take the form of a discussion led by The Moray Licensing Board and in particular the Convenor. The Moray Licensing Board wishes to create, as far as possible, a less formal and more relaxed atmosphere so as not to intimidate parties.

Each party will have the opportunity to address the Board and present evidence.

### **10.2.3 Conditions**

The Board when considering any premises licence whose operating plan states that they wish to operate after 1:00 a.m. may find it appropriate to supplement the mandatory late opening conditions with other conditions. Sample additional conditions can be found in Appendix VII.

### **10.3 General Post Application**

All licences issued are subject to a disclaimer.

Personal licences will be issued with a credit card style badge as evidence that the holder has a personal licence. The badge does not take the place of the paper licence. It is merely issued for convenience so that the holder can carry evidence of the licence without having to carry the licence at all times. The police and the LSO have agreed to accept the badge as evidence that a licence is in place but they may still require production of the paper licence itself.

Where first aid is required as part of a mandatory or discretionary condition on any licence, the Moray Licensing Board has decided that the training standard set by the Health and Safety Executive for either the Basic First Aid at Work (FAW) or the newer Emergency First Aid at Work (EFAW) certificate will be adopted as suitable for the purpose of the mandatory condition.

The standard adopted is equivalent to emergency first aid being a 6 hour one day course designed to meet the needs of persons appointed to be first aiders in the work place which covers those aspects of first aid required to meet emergency situations such as bleeding, breathing and resuscitation. The HSE runs an accreditation scheme for first aid training providers and currently publishes a list of training organisations approved by the HSE to deliver First Aid at Work courses. HSE first aid certificates expire after 3 years and towards the end of that period the certificate holder needs to undergo a refresher first aid course in order to renew the certificate. This will be a requirement of continuing to hold a valid certificate.

## **11 Scheme of Delegation**

Attached at Appendix VIII is a copy of the Board's scheme of delegation.

## **12 Other Board Policies**

### **12.1 Gambling 5.9**

Attention is drawn to the Board's Statement Of Licensing Policy under the Gambling Act 2005 which can be accessed by following this link:

<http://www.moray.gov.uk/downloads/file101295.pdf>



## 12.2 Equalities

The Board has equality schemes in respect of race, disability and gender. The schemes can be found on the Moray Council's website at the following link:

[www.moray.gov.uk/licensing](http://www.moray.gov.uk/licensing)

## 13 Complaints Procedure

The LSO will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which the licensing Board has responsibility. In the first instance, complainers are encouraged to raise the complaint directly with the licensee or business concerned to seek a resolution.

The Moray Licensing Board will expect all complaints to go through the mediation process before being referred to the Board.

Where a matter is not resolved by mediation, the Board will give each party the chance to make written submissions and comments on the other party's submissions before making a decision based on the facts. The Board may also choose to hold a hearing and will give the parties reasonable notice if they do so. If a hearing is to take place, procedures regarding the conduct of hearings can be found in Appendix IX.

The Board will consider the activities listed in Appendix III to be particularly serious matters when considering enforcement of the licensing objectives.

A full copy of the Complaints Procedure is also included at Appendix X.

The Board has adopted a freedom of information scheme under section 23 of the Freedom of Information (Scotland) Act 2002. A copy of this scheme can be accessed on the Moray Council website – [www.moray.gov.uk/licensing](http://www.moray.gov.uk/licensing)

## **DRUGS POLICY FOR LICENSED PREMISES WITHIN ABERDEEN CITY**

Everyone in every community has a part to play in tackling drug misuse. It is important to tackle the 'drug problem' and to ensure that licensed premises within Aberdeen remain 'drug free'. Illegal substance must not be allowed to be supplied or consumed within licensed premises.

The contents of this Drug Policy should allow all staff employed in licensed premises to have a better understanding of the law in relation to drugs and drug related incidents. It will provide systems and procedures to ensure that all drugs related incidents are dealt with consistently and safely.

We will work towards achieving this through:

- communication with our customers;
- providing our employees with guidance, information, training and procedures to assist them in identifying drugs, the effects of taking them and appropriate action;
- complying with our legal responsibilities;
- working closely with local authorities and Police Scotland.

### **Classes of Drugs**

The Misuse of Drugs Act 1971, classifies drugs as follows:

#### **Class 'A'**

Includes Cocaine, Crack Cocaine, Heroin, Ecstasy (powdered and crystal MDMA), Cannabis Oil (Class B) and LSD

#### **Class 'B'**

Includes Cannabis, Cannabis resin, Cannabis Shatter (Honey Butane Oil), Amphetamine, M-Kat and Ketamine.

#### **Class 'C'**

Generally tend to be prescribed drugs which are abused, the most popular include Temazepam, Diazepam, Steroids, Etizolam, Alprazolam (Xanax).

### **The Law**

The Misuse of Drugs Act 1971 creates a number of offences to control the misuse of illegal drugs. It is not an offence to possess Steroids, Dihydrocodeine or NPS.

### **Common Offences Possession**

It is an offence for a person to have a controlled drug in his/her possession.

### **Possession with Intent to Supply**

It is an offence for a person to have a controlled drug in his/her possession whether lawfully or not with intent to supply it to another.

### **Supply**

It is an offence for a person to supply or offer to supply a controlled drug to another person.

### **Concerned in the Supply**

It is an offence for a person to be concerned in the supply of a controlled drug to another person.

### **Section 8 of the Misuse of Drugs Act 1971**

It is the responsibility of the licensee and staff of licensed premises to prevent drug dealing and the use of controlled drugs within licensed premises.

To knowingly permit or suffer any drug related activity on the premises is an offence.

### **Searching**

All licensees should introduce the use of searches as a condition of entry to their premises.

Signs required to be clearly displayed regarding this and a 'Zero Tolerance' Policy in relation to drugs within licensed premises.

### **Power of Search**

Only the Police have power to search people without their consent.

Can a customer wishing to enter the premises be searched?

Yes, if it is clearly advertised as a condition of entry that customers are required to allow a search of their person.

Searches can only take place with the permission of the person concerned. A witness should always be present during any search to provide corroboration and prevent any allegations. If they decline to be searched, entry can be refused.

Always remember your rights to refuse entry or to ask someone to leave your licensed premises. If an individual refuses, the Police should be contacted for assistance.

### **What can be searched?**

The search should be restricted to outer clothing or pockets and should include bags etc. Great care must be taken whenever you are searching a person in relation to drugs. Never put your hand straight into someone's pocket without first asking the person if they have any sharp objects and patting the outside of the pocket. It may be

preferable to ask the person to empty their own pockets and show you the contents. You should then ask if the pocket is empty and pat it from the outside. This may be sufficient to establish if there is anything in the pocket. Great care must be taken so that an exposed needle for example, does not cause injury. You should also ask the individual to empty any bags and watch carefully whilst this is done. Again this may be sufficient to establish whether any drugs are present. Obviously if the premises in which you are, are particularly busy, you do not want to take too long to carry out your search. Thoroughness should not however be sacrificed for speed. You should attempt to put your customer at ease and make them as comfortable as possible in these circumstances.

#### Can a customer within the premises be searched?

Yes, however, it is not recommended. If a customer is searched prior to entry, there should be no need to do a further search. However, if it is still felt necessary to carry out a further search once on your premises, a sign should be clearly displayed setting out the Search Policy. It is of vital importance that licensees and staff are aware of the limitations on their power of search. Searches can only take place with the permission of the person concerned to be searched. The search should not take place in a public area of the premises. Again, corroboration during searches is essential.

If the individual does not agree to a search, you have no legal powers to do it. If a subject withdraws consent during a search, you have no legal powers to continue, you must stop immediately and consider contacting the Police. Again you also have the right to require someone to leave your licensed premises.

#### Can a male search a female?

No. A male should only search a male and a female should only search a female to prevent allegations of indecency/sexual assault. A witness should always be present to provide corroboration and help to prevent any allegations. The witness can be either male or female. If possible, carry out the search within the range of CCTV cameras if you have them.

#### What to do if drugs are found whilst searching a customer?

The person who has agreed to being searched and who has agreed to remain with you must be handed over to the Police as soon as possible. However, you have no power to force them to remain with you. If you find something which you think is a controlled substance, you should keep this safe and contact the Police immediately.

#### Can force be used to search a customer?

No. The customer must always grant permission to be searched. There are no circumstances in which force may be used to carry out the search.

#### Power of Detention

You have no power to detain a person for offences under the Misuse of Drugs Act 1971. The person(s) must agree to remain with you and must be handed over to the Police as soon as possible. If a person commits a Common Law offence such as an assault on a customer or member of staff, or is committing a Breach of the Peace on the premises, then he/she can be detained but only for the Common Law offence. Again the Police should be notified as soon as possible.

### **Drugs Seized or Found on the Premises**

**If you find anything that appears to be an illegal drug, put it in a plastic bag or envelope and seal it: This must be signed by the finder and witnessed by another member of staff; Enter the details of the drugs found in the appropriate drugs register; If any member of staff or management finds drugs on the premises, they must immediately inform the most Senior Manager on duty. The Police must be advised at the earliest opportunity (be cognisant of the statutory defence under MDA 1971 and the requirements to comply).**

### **Drugs Information**

**Do not automatically think that because you know, the Police will know too. The Police can only act if they have information/intelligence to act upon. YOUR information may be the key to success. If you have any information about drug activities you should notify the Police immediately.**

**Be aware of NPS legislation (not an offence to possess). Persons might use NPS packaging to hold controlled drugs therefore any such item recovered/seized should be treated as if it were a controlled substance.**

**The Moray Licensing Board Scheme of Delegation  
for the Licensing (Scotland) Act 2005**

**Effective Date: 10<sup>th</sup> June 2017**

Delegation of functions is provided for within paragraph 10 of Schedule 1 to the Licensing (Scotland) Act 2005 as follows:

A Licensing Board may authorise (whether generally or specifically) any member, committee, clerk or member of staff to exercise on behalf of the Board any of the Board's functions under the Act, other than the following:

- (a) determining the Board's policy for the purposes of a licensing policy statement or supplementary licensing policy statement,
- (b) determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality,
- (c) determining a premises licence application,
- (d) determining a premises licence variation application where the variation sought is not a minor variation,
- (e) determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence,
- (f) determining a personal licence application or renewal application where the applicant has been convicted of a relevant offence or a foreign offence,
- (g) conducting a hearing under this Act (including the resulting steps like issuing a warning, suspending or revoking the premises licence, varying the licence, suspending, revoking or endorsing the personal licence)
- (h) making a closure order,
- (i) refusing an application for confirmation of a provisional premises licence.
- (j) granting/refusing an occasional licence application where there is a notice of objection or representations in relation to the application, or a notice from the appropriate chief constable recommending refusal of the application.

Therefore the above functions will be undertaken by the Moray Licensing Board. All other functions may be carried out by any member of the Board, committee of the Board, clerk or member of staff. In particular the following will apply:

	<b>Nature of Application</b>	<b>Function</b>	<b>Discharged By</b>
1	Premises licences	Determining a premises licence application subject to the proviso that the Clerk may submit lists of certain pre-approved applications to the Board for determination.	Board or a sub committee
2	Premises licence minor variation	Dealing with an application under section 29 of the 2005 Act for a minor variation such as is described in subsection (6)(c) of that section including any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager)	Clerk or person appointed to assist the Clerk
3	Premises licence variation	Determining whether to cite an Applicant to a hearing for a premises licence variation application where the variation is not a minor variation	Clerk or person appointed to assist the Clerk

4	Premises licence transfer	Determining an application under section 33 or 34 of the 2005 Act being any application to transfer a licence (other than such an application as is described in paragraph 10(2)(e) of schedule 1 to the Act which is determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence)	Clerk or person appointed to assist the Clerk
5	Premises licence confirmation	Confirm a provisional premises licence under section 46	Clerk or person appointed to assist the Clerk
6	Premises licence review proposal	Whether to make a premises licence review proposal under section 37(1)	Clerk or person appointed to assist the Clerk
7	Premises licence reviews	To exercise the powers under section 38(5) and (6) for the purpose of a review hearing to obtain further information, request any person to attend to provide information and/or request production of any document at a review hearing	Clerk or person appointed to assist the Clerk
8	Premises licence production	To exercise the power under section 49(3) to require a premises licence holder to produce the premises licence	Clerk or person appointed to assist the Clerk
9	Premises licence fees	Determining what category a premises falls within in terms of the fees Regulations	Clerk or person appointed to assist the Clerk
10	Personal licences	Determining a personal licence application including renewal applications where the applicant has been convicted of a relevant offence or a foreign offence	Board or a sub committee
11	Personal licences	Determine a personal licence application including renewal applications where the applicant has not been convicted of a relevant or foreign offence	Clerk or person appointed to assist the Clerk
12	Personal licences	Revoke a personal licence under the mandatory provision in section 87(3) if the licence holder fails to comply with the provisions as regards training in section 87(1)	Clerk or person appointed to assist the Clerk
13	Occasional Licences	Refuse to accept for processing an application where it appears likely, in the opinion of the Clerk, that insufficient time will be available for statutory consultation and where it appears, in the opinion of the Clerk, there is no valid reason to use the statutory short notice procedure in para 15 below.	Clerk or person appointed to assist the Clerk
14	Occasional Licences	Refuse to accept for processing any "late application", defined as one that is received with less than 28 days' notice of the event to be licensed unless: <ul style="list-style-type: none"> <li>- It is for a funeral tea, wake or similar</li> <li>- It is from an individual or organisation who has already submitted an application (in the correct time) or already holds a licence for another venue and the other venue cannot be used for reasons beyond the applicant's control, for example fire damage.</li> </ul>	Clerk or person appointed to assist the Clerk

15	Occasional Licences	Determine whether to permit applications for occasional licences to be considered at short notice (i.e. being a period less than 28 days but not less than 24 hours) contrary to the policy in section 14 above.	The Licensing Board
16	Occasional licences	Grant an occasional licence application where there is notice of objection or representation and or notice from the chief constable recommending refusal in relation to the application	Convenor and Vice Convenor of the Board acting in agreement, failing which reference will be made to any third member for a majority decision. If the Convenor and/or Vice Convenor is not available then reference can be made to any other member(s) of the Licensing Board.
17	Occasional licences	Grant an occasional licence application where there is no notice of objection or representation and no notice from the chief constable recommending refusal in relation to the application (or where any such objection, representation or notice has been withdrawn)	Clerk or person appointed to assist the Clerk
19	Occasional Licence conditions	To impose conditions under section 60 in respect of an occasional as necessary or expedient for the purpose of any licensing objective	Clerk or person appointed to assist the Clerk
20	Extended Hours	Determine whether to permit applications for licences for extended hours to be considered at short notice (i.e. being a period less than 10 days but not less than 24 hours).	Convenor of the Board, whom failing the Vice Convenor, whom failing any other member of the Licensing Board.
21	Extended Hours	Accept and application for extended hours at short notice (i.e. a period less than 10 days but not less than 24 hours) where the application is in respect of a funeral tea, wake or similar.	Clerk or person appointed to assist the Clerk
22	Extended hours	Grant an extended hours application where there is notice of objection or representation and or notice from the chief constable recommending refusal in relation to the application	Convenor and Vice Convenor of the Board acting in agreement, failing which reference will be made to any third member for a majority decision. If the Convenor and/or Vice Convenor is not available then reference can be made to any other member(s) of the Licensing Board.



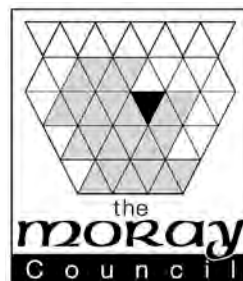
23	Extended hours	Grant an extended hours application where there is no notice of objection from the chief constable under section 69(2) and no adverse report from the LSO under section 69(3)	Clerk or person appointed to assist the Clerk
24	Extended hours	To impose conditions under section 70A in respect of an occasional as necessary or expedient for the purpose of any licensing objective	Clerk or person appointed to assist the Clerk
25	Power to Relieve Procedural Errors	The power under section 135 to relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if the failure is due to mistake, oversight or other excusable cause, and it is considered appropriate in all the circumstance to relieve the failure.	Clerk or person appointed to assist the Clerk

All powers that are delegated are subject to the proviso that where it appears to the clerk or person appointed to assist the clerk that, as regards a particular case, it is appropriate that a function specified above be discharged by the Board or by a member or particular members of the Board, that officer is to remit the case appropriately.

## Target Dates for the Processing of Applications

<b>Application</b>	<b>Timescales</b>	<b>Target Date</b>
<b>Premises Licence</b>	Notify interested persons within 21 days from date of receipt 21 days from date of notice is last date for responses 119 days from last response date to get to hearing Total 161 days from date of receipt	Date of Receipt + 161 days
<b>Premises Licence Major Variation</b>	Notify interested persons within 21 days from date of receipt 21 days from date of notice is last date for responses 119 days from last response date to get to hearing Total 161 days from date of receipt	Date of Receipt + 161 days
<b>Premises Licence Minor Variation</b>	Delegated – must grant – no set timescale – self imposed target date of 14 working days from date of receipt	Date of Receipt + 14 days
<b>Premises Licence Transfer</b>	Notify chief constable within 7 days of date of receipt Chief constable has 21 days from receipt of notice to reply (possible small discrepancy here without allowing for delivery time) 42 days from the chief constable's notice if a hearing is to be held. Simple grant if no hearing.	Date of Receipt + 70 days
<b>Personal Licences</b>	Notify chief constable within 21 days of date of receipt Chief constable has 21 days from receipt of notice to reply (possible small discrepancy here without allowing for delivery time) No set timescale for a hearing if one is to be held. Simple grant if no hearing. Self imposed target date of 14 days from date of receipt of	Date of Receipt + 56 days

	police notice.	
<b>Occasional Licences</b>	<p>Notify chief constable/LSO/public within 7 days of date of receipt</p> <p>Chief constable &amp; LSO have 21 days to respond to notice</p> <p>If a hearing is to be held it is to be within 42 days of date of receipt of application. If no hearing then self imposed target date of 7 days from date of receipt of all responses</p> <p>Really the target date is grant licence prior to the event but this is not realistic if application is made at short notice</p>	Date of Receipt + 42 days
<b>Extended Hours</b>	<p>Notify chief constable/LSO within 7 days of date of receipt</p> <p>Chief constable &amp; LSO have 10 days to respond to notice</p> <p>If a hearing is to be held it is to be within 42 days of date of receipt of application. If no hearing then self imposed target date of 7 days from date of receipt of all responses</p> <p>Really the target date is grant licence prior to the event but this is not realistic if application is made at short notice</p>	Date of Receipt + 42 days



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**The Licensing (Scotland) Act 2005**  
**The Moray Licensing Board Pro-Forma Risk Assessment Document**

This document is designed to provide advice and assistance to licence holders with regard to carrying out a risk assessment exercise.

The Moray Licensing Board in its statement of Licensing Policy has indicated that a risk assessment is highly recommended and should be undertaken before any application is made to the Board for a premises licence. The results of that risk assessment should then be exhibited to the Board when making the application for a premises licence under the Licensing (Scotland) Act 2005. By requesting applicants to undertake a risk assessment the Moray Licensing Board is promoting the licensing objectives. Applicants will also promote the licensing objectives through any actions taken in response to their assessment.

The Moray Licensing Board does not consider this to be too onerous a task. Risk assessments are already commonplace and action is not necessarily required under every heading.

In preparing this document the Moray Licensing Board has sought to give applicants as much assistance with the process as possible. Each matter detailed in this document is by way of information and recommendation. Each premises is unique and not all matters will be relevant to each premises. A risk assessment is as individual as an operating plan and will vary according to the nature of the business. Applicant's best understand their business and it is for applicants to decide what is appropriate in each case.

In case of doubt applicants should seek advice from a solicitor.

There are five basic principles to bear in mind when carrying out a risk assessment, namely;

1. Identify potential hazards in the premises.
2. Decide who (e.g. employees, visitors) might be in danger where a risk does materialise.
3. Evaluate the risks arising from the hazards and decide whether your existing measures are adequate or whether more should be done to get rid of the risks or to control the risks.
4. Record your findings and details of the action you took as a result. Tell your employees about your findings.
5. Keep the assessment under review and revise it when necessary.

Applicants should have due regard to the matters listed but risk may then be assessed on a scale as follows:

High Risk  Medium Risk  Low Risk

The higher up the scale a matter comes, the more it demands action in response. Matters assessed at No Risk will not require action.

Applicants should be clear about giving reasons for their assessment of the risk for each matter listed.

Where applicants adopt a particular policy as a result of the risk assessment then the policy should be put in writing, should be brought to the specific attention of all staff members, should be enforced, should be reviewed at regular intervals in the light of changes of circumstance or incidents and should be made available for inspection by either Grampian Police, a representative of the Moray Licensing Board or the Moray Council or the Licensing Standards Officer.

The completed risk assessment will provide valuable information to the Board and demonstrate that applicants have taken these matters into account and are actively promoting the licensing objectives. It encourages voluntary participation in best practice and should mean that applicants will face less adverse representations from responsible authorities and the public.

This in turn should reduce the need for the Board to: (a) be too prescriptive in its statement of policy; and (b) hold detailed hearings and possibly attach conditions to premises licences.

**The licensing objectives are:**

- 1. Preventing crime and disorder**
- 2. Securing public safety**
- 3. Preventing public nuisance**
- 4. Protecting and improving public health**
- 5. Protecting children from harm**

This assessment document is designed to assist you in carrying out your risk assessment, as such the headings follow the order of the licensing objectives.

1.	Licensing Objective Prevent Crime and Disorder	High Risk	Med Risk	Low Risk	Reasons for Assessment	Action Taken
	<b>Entry and Exit</b>					
1.1	Applicants should consider whether door supervisors or other security staff are required in respect of the venue and the licensable activity proposed.					
1.2	<p>In the event that door supervisors are used by the applicants premises:</p> <ul style="list-style-type: none"> <li>▪ such persons must hold the relevant qualifications under the Private Security Industry Act 2001;</li> <li>▪ should be properly trained and sufficient in number, both inside and outside the premises according to the nature and extent of the licensable activities carried on;</li> <li>▪ should be required to vet, regulate and control persons entering or leaving the premises and to seek to ensure the prevention of crime and disorder but also to safeguard public safety and internal security at premises;</li> <li>▪ should be trained in, have regard to and comply with the Guidance for Door Stewards issued by Grampian Police available from Grampian Police and from the Board on request.</li> </ul>					

1.3	External duties should include in particular the exclusion of persons who appear to have had too much to drink and/or who appear inclined to disorder. Duties inside the premises should include the monitoring of persons on the premises for excessive consumption of alcohol and/or who exhibit the potential for disorder.					
1.4	In the event that door supervisors or other security staff are used, applicants should make appropriate arrangements for a daily register of staff and the recording of incidents in an approved incident log.					
1.5	The daily register and incident log should be open to inspection by authorised officers of the Moray Licensing Board, the Moray Council and Grampian Police on request.					
1.6	Applicants should consider whether measures should be put in place to prevent the use or supply of illegal drugs or weapons, such as the searching of customers for offensive weapons or drugs on entering the premises. Please refer to Police Guidelines on this matter in Appendix VIII					
1.7	Where such measures are in place applicants will also be expected to make arrangements to record the search of individuals and the seizure of any property which may be required for evidential purposes. Applicants will also be expected to provide a suitable receptacle for the safe retention of illegal substances and to inform the Police so that appropriate disposal can be arranged.					
1.8	Applicants should also consider discouraging the use of illegal substances or weapons by displaying notices in and at entrances to licensed venues which clearly define the policy of the venue and should state that criminal offences will be reported to Grampian Police.					
1.9	For city/town centre venues the Moray Licensing Board recommends the Safer Clubbing Guide, found at the following link: <a href="http://www.drugs.gov.uk/publication-search/young-people/safer-clubbing-guide.pdf?view=Binary">www.drugs.gov.uk/publication-search/young-people/safer-clubbing-guide.pdf?view=Binary</a> Applicants should confirm that the Guide has been considered and measures implemented where necessary.					



1.10	Applicants should consider whether a means of communication with other premises and the police is required. This is likely to be particularly relevant in town centres. The Moray Licensing Board recommends the existing Pub Watch scheme as an example of good practice.					
1.11	Applicants should consider whether a personal licence holder and/or the premises manager should be a member of a recognised licensees association or other representative body such as a pubwatch scheme.					
1.12	Applicants should also note the advantages of consultation with the police particularly where events are of a character that is not usually held in that particular venue. Minimising any risk of disorder in this way is an example of good practice and is likely to lead to fewer requests to review licences.					
1.13	Applicants may consider the use of exclusions of known troublemakers from their premises to minimise the risk of disorder. In certain cases organisations of licensees may consider the operation of an exclusion or banning scheme so that known troublemakers are refused entry to all licensed premises in a particular vicinity. If such a scheme is in force locally, applicants should consider whether to become part of it. In exceptional cases applicants may seek to refer a particular case to the police for consideration of an Anti Social Behaviour Order (ASBO) to enforce an exclusion.					
1.14	Applicants should consider policies on managing groups of people, particularly larger, single sex groups.					

1.15	Applicants should consider a policy in to prevent the sale of alcohol to persons that appear to be drunk. This also promotes the objectives of preventing public nuisance and protecting public health. There is no legal definition of drunk and it is up to staff to decide whether to serve a particular person or whether that person is too drunk. Staff should be made aware, in a written policy, of the signs that a person is too far under the influence of alcohol and when service should be refused e.g. the first signs are loss of inhibition, impairment of judgment and emotional effects, followed by impairment of speech and movement and loss of memory followed by acute alcohol poisoning evidenced by impairment of automatic functions like breathing and heart rate. Applicants are encouraged to keep a refusals book and make the same available for inspection.					
	Applicants should consider whether to adopt a dispersal policy in respect of the premises. This would set out the steps the venue will take at the end of the trading session to minimise the potential for disorder and disturbance as customers leave the premises. If such a policy is adopted by the venue it may be agreed with Grampian Police and steps should be taken to ensure that all staff (including door staff) are familiar with the policy. Examples of steps to take might include: only serving single measures at last orders; turning music down or off and turning lighting up in the run up to closure; providing adequate signage and or warnings of closure times; free lollipops when it is time to leave; and consideration of provisions in respect of transport away from the premises.					
1.16	Applicants should consider adopting a policy to ensure patrons are not put in vulnerable situations after leaving e.g. allowing the phoning of a taxi and waiting in a specific area within the premises. Any policy should be in writing, advised to all staff members, where appropriate made clear to customers, available for inspection, reviewed regularly and a detailed record of reviews maintained.					

	<b>Proof of Age</b>					
1.17	It is strongly recommended that all applicants adopt and adhere to a policy on requesting proof of age for all persons who appear under the age of 21. The Retail of Alcohol Standards Group (RASG) has useful downloads that are free to all the trade at the Wine and Spirit Trade Association's website at: <a href="http://www.wsta.co.uk/index.php?option=com_content&amp;task=view&amp;id=61&amp;Itemid=69">http://www.wsta.co.uk/index.php?option=com_content&amp;task=view&amp;id=61&amp;Itemid=69</a>					
1.18	Proof of age may be a valid passport, a valid EU photocard driver's licence or an approved card with the 'PASS' logo / hologram. Proof of age means requesting proof, checking that the proof is valid, check the proof of ID belongs to the person producing it and has no obvious signs of tampering.					
1.19	It would be good practice for licensees to include the prominent display of details of the Moray Council Trading Standards Service initiative whereby proof of age for all those under 26 can be obtained, for free, in the form of an Access Moray Young Persons Card. For verification purposes the card has the young person's photograph and date of birth. This card displays the 'PASS' logo / hologram.					
1.20	Applicants are encouraged to keep a refusals book and make the same available for inspection.					
	<b>Glass and Bottles</b>					
1.21	Glasses and bottles may on occasion be used as weapons in and near licensed premises and can and do cause serious injury. Applicants should note that glass and bottles can impact upon public safety and cause a public nuisance in addition to the crime and disorder implications.					
1.22	Applicants are expected to take reasonable steps to prevent the removal of glasses and opened bottles from premises (including authorised pavement seating areas).					

1.23	Applicants should also consider policies which provide that, on appropriate occasions, all drinks are dispensed into toughened glass wear or plastic containers and that at certain times during late hours of operation and or when significant numbers of people are on premises there is exclusive use of toughened glass wear or plastic containers including dispensing all bottled drinks into such vessels. Applicants should assess the potential risk of crime and harm and adopt an appropriate policy.					
1.24	Applicants should have consider adopting written procedures for a system of regular glass/bottle/container collection and cleaning as tidy areas that are regularly cleaned and monitored benefit customers and encourage better behaviour.					
<b>Byelaws on Alcohol in Designated Places</b>						
1.25	Where such orders are in force applicants will be expected to take reasonable steps to inform customers of the existence and effect of such an order. These may include the display of a notice to that effect at exit points from the building.					
<b>2.</b>	<b>Licensing Objective Securing Public Safety</b>					
2.1	Applicants may provide evidence that such matters have already been addressed within an existing health and safety risk assessment, fire risk assessment or similar in which case a separate risk assessment for these purposes is not required.					
2.2	Applicants may have a capacity limits imposed on the premises through fire or building standards regulations. However applicants should note that the Licensing Board might seek to impose capacity conditions where there are no such limits on safety grounds, following representations on safety grounds. The Moray Licensing Board may also seek to impose capacity figures which are lower than the safety figure on crime and disorder grounds.					

2.3	Applicants should demonstrate how they intend to control and maintain the agreed occupancy levels within the venue.					
2.4	Applicants should consider adopting procedures for evacuation procedures;					
2.5	Applicants should consider adopting procedures for accident/incident reporting.					
2.6	Applicants should consider adopting procedures for routine maintenance of the venue and daily inspections, with a record log.					
2.7	Applicants should consider adopting procedures for checking of all exit routes and signage.					
2.8	Applicants should consider adopting procedures for removal of obstructions and security devices to exit routes and doors, prior to the occupation of the building.					
2.9	Applicants should consider the installation, testing, maintenance and certification of fire and alarm systems, electrical equipment including emergency lighting, music and music cut out systems, fire retardant systems. Record logs should also be maintained.					
2.10	Applicants should consider the regular inspection and maintenance of the building structure.					
2.11	Applicants should consider adopting written procedures for the inspection and maintenance of furnishings and fabrics, guarding to stairs, balconies, landings and ramps, general condition of floor surfaces (e.g. trip hazards, non-slip surfaces), provision of safety glazing in critical locations, suspended decorations, lights, and amplification systems, guarding to fires, candles and open flames.					
2.12	Applicants should consider safety measures when hot food and drink is prepared in close proximity to the public, to save any risk of burns and scalding.					

2.13	Applicants should provide details of the first aid facilities and the treatment available on the premises, including details of the numbers of trained first aid staff. Consideration should also be given to the treatment of any person who appears unwell, including those affected by drugs or alcohol.						
2.14	Applicants should demonstrate the safety measures to be implemented during the use of any special effects (like strobe lighting or smoke machines) on the premises, including the arrangements for prior notification to customers. The proposed use of pyrotechnics should be advised to the Fire Authority.						
2.15	Applicants should be aware of the requirements in respect of facilities and access for people with disabilities. Applicants may wish to address the needs of people with disabilities operating plan. This may include physical and managerial methods for the safe evacuation of disabled persons. It may also identify trained members of staff to implement emergency egress plans and clarify whether equipment such as lifts are safe to be used.						
<b>3.</b>	<b>Licensing Objective Prevention of Public Nuisance</b>						
3.1	Applicants should determine and implement steps to prevent noise, vibration, smells or other nuisances escaping both from sources within the premises and from external sources under the control of the applicant such as: amplified and non-amplified music levels, singing and speech, disposal to waste and bottle bins, plant and machinery (including extraction systems), food preparation, the cleaning of premises and equipment.  External doors should also be kept closed, except where necessary for access and egress i.e doors should not be secured open and will be fitted with self closers if necessary.						
3.2	Steps to be taken may include: the installation/adoption of soundproofing, air conditioning to allow windows to be kept closed, sound limitation devices, use of lobby doors, cooling down period with reduced music levels						

	at the end of the night, adopting hours of operation appropriate to the activities in question and the location, adopting a schedule for the disposal and collection of waste at times appropriate for the locality.					
3.3	In considering applications from pub, clubs and similar premises and activities the Moray Licensing Board expects licensees to have regards to any guidance published such as the Good Practice Guide on the control of noise from pubs and clubs published by the Institute of Acoustics (available at: <a href="http://www.ioa.org.uk/publications.asp">http://www.ioa.org.uk/publications.asp</a> ).					
3.4	Particular care should be taken where the noise source is in the open air, e.g. smoking area, beer garden, play area, car park, access road, temporary structure or queue. Smokers should be discouraged from taking drinks out to smoking areas particularly in areas close to residential properties where increased noise levels from continued outdoor socialisation promotes public nuisance. Speakers should not be positioned outside at any time.					
3.5	Applicants should consider any special measures that should be adopted in premises located near sensitive premises such as nursing homes, hospitals or places of worship.					
3.6	Applicants should determine and implement steps to prevent excessive or ill designed external lighting to premises, outdoor areas and car parks (including lighting intended specifically for public safety and security) intruding upon the comfort and amenity of nearby residents to such an extent as to be a nuisance.					
3.7	Nuisance by smell is commonly attributable to the commercial preparation of hot food in kitchens with no or inadequate or poorly maintained filtration and extraction equipment. Applicants should determine and implement steps to prevent smells causing a nuisance to local residents and businesses.					
3.8	The provision of hot food at and from premises after 11pm is often associated with the litter of paper containers and food discarded onto the streets and onto private property in the vicinity of premises. Applicants					

	should determine and implement steps to prevent additional litter (e.g. food waste and food packaging, cans, bottles) in the vicinity of the premises. Such steps may include an agreed cleaning schedule in respect of litter in and in the vicinity of the premises.					
3.9	The Moray Licensing Board will not tolerate the detrimental impact on the amenity of those living and working in an area caused by fly posting and the irresponsible distribution of advertising flyers or other materials such as stickers. Therefore the Board expects applicants to determine and implement steps to prevent fly posting and other unauthorised advertising and to consider measures necessary to control the litter that can be produced by the irresponsible distribution of flyers and other advertising materials.					
3.10	Applicants should consider the steps to be taken to prevent disturbance by customers arriving at or leaving the premises, including the considerations that have been given to the cumulative effect of this in areas with other licensed premises in the immediate vicinity. This will be more important between 11 p.m. and 7 a.m. than at other times.					
3.11	Applicants should consider the steps to be taken to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be formed away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction, for example, making provision for queuing inside the premises.					
3.12	Applicants should consider the steps to be taken to ensure staff leave the premises safely and quietly. This will be of greater importance between 11 p.m. and 7 a.m. than at other times of the day.					
3.13	Applicants should consider the arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents including the slamming of vehicle doors, vehicle horns, vehicle stereos, noise from engines idling, and vehicle exhaust fumes.					
3.14	Applicants should consider whether there is sufficient provision for public					



	transport with regard to the proposed opening hours (including taxis and private hire vehicles) for patrons. Failure to do so may result in nuisance and this will be considered a serious failure.					
3.15	Applicants should consider whether the service of the premises by licensed taxi or private hire vehicles is likely to disturb local residents and take reasonable steps to prevent disturbance from this source. Examples of actions that can be taken include the provision of an indoor waiting area, arrangements for door staff to advise customers that their transport has arrived (rather than taxis beeping) and phones in entrance lobbies perhaps linked directly to a private hire company.					

<b>4.</b>	<b>Licensing Objective Protecting and Improving Public Health</b>					
4.1	Licensees should have regard to the Wine and Spirit Trade Association Social Responsibility Standards for the production and Sale of Alcoholic Drinks in the UK available at: <a href="http://www.wsta.co.uk/index.php?option=com_content&amp;task=view&amp;id=59&amp;Itemid=104">http://www.wsta.co.uk/index.php?option=com_content&amp;task=view&amp;id=59&amp;Itemid=104</a>					
4.2	Applicants should consider whether the provision made for alternatives to alcoholic drinks adequately protects and promotes public health, particularly in terms of reasonably priced alternatives to alcohol i.e. soft drinks, tea and coffee, food and non-alcoholic substitutes (with an ABV below 0.5%). This is especially important for drivers.					
4.3	Applicants should consider security arrangements to prevent tampering with unattended drinks.					
4.4	Applicants should consider promoting public health by educating customers through the display of information on the number of units of alcohol for different types of alcoholic drinks available. This might be through the use of leaflets, posters, simple signage or free unit calculators etc. Information may also be displayed about the effects of alcohol on the body, which may be beneficial as well as detrimental.					
<b>5.</b>	<b>Licensing Objective Protection of Children from Harm</b>					
5.1	The Moray Licensing Board expects that employers will make careful checks where premises or entertainment is specifically targeted towards children to ensure all persons employed or involved with the supervision or management are deemed appropriate persons to be engaged in the activity. An example of such a check would be the completion of a Disclosure Scotland check to the appropriate standard.					

5.2	The Moray Licensing Board commends the Portman Group Code of Practice on the naming packaging and promotion of alcoholic drinks. Where applicants intend children to be present on licensed premises or where the sale of alcohol takes place the Code of Practice should be given due regard and addressed in this assessment. The code can be found at: <a href="http://www.portmangroup.co.uk/?pid=1&amp;level=1">http://www.portmangroup.co.uk/?pid=1&amp;level=1</a>					
5.3	In the case of 'children only' events, for example, an under 18 disco, production of play, a pantomime or similar event applicants should consider what would be an acceptable ratio of adult supervisors to children on the premises for the activity.					
5.4	In the case of premises giving film exhibitions licensees or clubs should include in their operating plan arrangements for restricting children from viewing age restricted films, classified according to the recommendation of the British Board of Film Classification or the licensing authority itself.					
5.5	Where children are to be allowed onto licensed premises Applicants should consider the arrangements made for children including: the siting of the toilets and whether children will have to pass through what might be unsuitable areas to reach a toilet, where food is available having a children's menu, siting games and gaming including machines, pool tables, darts etc away from areas where children will be present.					
5.6.	Applicants should consider appropriate signage where children are to be allowed onto licensed premises. The Licensing (Scotland) Act 2005 introduces mandatory requirements for signage. Applicants should also bring to the attention of parents any conditions under which children will be allowed access including supervisory requirements.					
5.7	Applicants should consider controlling stock to promote the objective of protecting children from harm. This will include keeping stocks of alcohol away from areas where there may be other products attractive to children e.g. placing alcopops near ordinary fizzy drinks. It will also include assessing the likelihood of children attempting to buy alcohol and where the risk is high, removing those products most attractive to children and young					

	persons, like vodka, cider, fortified/tonic wine, alcopops etc. This is especially true of those types of products sold in half, pocket style bottles with screw caps.						
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<b>RECORD OF FINDINGS TABLE</b>			
<b>SIGNIFICANT HAZARDS</b>	<b>PEOPLE/GROUPS OF PEOPLE WHO ARE AT RISK FROM HAZARD</b>	<b>EXISTING CONTROLS AND RISKS WHICH ARE NOT ADEQUATELY CONTROLLED</b>	<b>WHAT FURTHER ACTION IS NEEDED -BY WHEN? -BY WHOM?</b>



**Moray Licensing Board**  
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**The Licensing (Scotland) Act 2005**  
**The Moray Licensing Board**  
**Sample Additional Conditions**

This document contains a pool of sample, additional conditions that the Moray Licensing Board could consider addition to a particular premises licence:

1. The premises must have written policies concerning evacuation and the prevention of the misuse of drugs on the premises. The policy must be advised to all staff members, where appropriate made clear to customers, available for inspection, reviewed regularly and a detailed record of reviews maintained.  
*As part of the staff training it would be expected that staff would be aware of these policies and how to implement them. Advice on developing a drugs policy can be found in the guidance issued by the Home Office on 'Safer Clubbing'.*
2. The premises must install to the satisfaction of the appropriate Chief Constable a CCTV system. Any system installed must meet with the requirements of the Data Protection Act 1998 and codes/guidance issued by the Information Commissioner. The use of CCTV must be detailed in a written policy which must be advised to all staff members, where appropriate made clear to customers, available for inspection, reviewed regularly and a detailed record of reviews maintained.  
*A premise required to have CCTV as a condition of its premises licence would be in breach of that licence if they were to operate without the CCTV system in good working order.*
3. The premises must check their toilets on a regular basis to ensure the safety and wellbeing of people using these facilities and keep a record of those checks. This must be the overall responsibility of at least one member of staff however the condition does not require that this must be their only duty.
4. The premises should be signed up as an active membership of any Radiolink or Pubwatch or similar type of scheme where it exists locally. In considering this option the Boards will consider whether any scheme has the resources to support an influx of members.

5. Participation in any 'Best-Bar None' schemes which aim to promote safer premises.
6. The premises must have a Closure Policy eg the last 30 minutes of music must be slow and considerably quieter. The written policy must be advised to all staff members, where appropriate made clear to customers, available for inspection, reviewed regularly and a detailed record of reviews maintained.
7. The premises will be subject to a curfew.  
*In the interests of furthering the licensing objectives of preventing crime and disorder, securing public safety and preventing public nuisance the Board may consider it appropriate to impose a different curfew on particular premises. If an applicant does not wish to have this condition imposed then the applicant will be expected to give good reasons to support a different position.*
8. The premises must have staff present who have undertaken Advanced First Aid training.
9. The premises must have a written policy for regular glass collections. The written policy must be advised to all staff members, where appropriate made clear to customers, available for inspection, reviewed regularly and a detailed record of reviews maintained.
10. To advance the objectives of preventing crime and disorder and securing public safety the premises must use plastic or toughened glass at ... certain times throughout the premises/at all times throughout the premises ... and all bottled drinks must be dispensed to the customer in such a container.
11. To advance the licensing objectives of securing public safety and preventing public nuisance, the premises must agreed times for the disposal of glassware with the Board. Disposal of glassware should be made at a reasonable time as agreed by the Licensing Board.
12. The premises must detail all active steps taken and to be taken in order to minimise noise leakage for the premises including consulting with the Environmental Health Department of the Moray Council.
13. The premises must have a written staffing policy. A personal licence holder must be nominated as being in charge at all times and to be on the premises, each bar must be supervised by a personal licence holder. The written policy must be advised to all staff members, where appropriate made clear to customers, available for inspection, reviewed regularly and a detailed record of reviews maintained. The member of staff in charge should be clearly identified to other staff and customers.

14. The premises must keep a register of staff maintained by the nominated person in charge each day and or at shift handover times which shall be available for inspection.
15. The premises must have a door control policy. The written policy must be advised to all staff members, where appropriate made clear to customers, available for inspection, reviewed regularly and a detailed record of reviews maintained. Consideration will be given to best practice used throughout the industry and again to which premises such measures are applied. Options may include:
  - 15.1 Door supervisors wearing yellow reflective tabards.
  - 15.2 Door stewards being able to communicate with each other.
  - 15.3 A minimum ratio of door stewards to customers.
  - 15.4 Ensuring no bottles or glasses are removed by customers leaving the venue.
  - 15.5 Applying a search policy. This may be a blanket policy or one appropriate to trading conditions, perhaps following consultation with the police.
16. Category C machines (or possible all gaming machines) should be cited away from child friendly areas and measures should be put in place to the satisfaction of the Moray Licensing Board to ensure that children and young persons are denied access.
17. Pool tables/dart boards/similar game(s) or equipment should be moved away from areas where children and/or young persons have access and/or measures should be put in place to the satisfaction of the Moray Licensing Board to ensure that children and /or young persons are denied access.
18. Children's portions and/or specific food suitable for children should be made available at times when children and/or young persons are present and catering facilities are on offer.





**CCTV AT LICENSED PREMISES**

## ASSESSOR

John Souter, Sergeant, Public Space CCTV, Aberdeen.

## CRITERIA

Provide sufficient external CCTV coverage of the premises to meet the requirements of Grampian Police. Consider internal CCTV.

## AREA SUBJECT TO CCTV COVERAGE

Area immediately outside the main access for patrons and at any other egress routinely used. Internal CCTV.

## OPERATIONAL REQUIREMENT

1. Target To Be Observed

Persons and groups of persons.

2. What Activity Is Of Concern

Antisocial behaviour, violence against staff, violent confrontation between patrons, patrons and staff. Persons entering or leaving area of coverage.

3. Purpose Of The Observation

To identify individuals within all areas of coverage. To evidence all above conduct and actions within the area of observation.

4. Picture Quality/Factors Required To Achieve Success

To record the actions of all persons in colour at 25 FPS in all areas at least 1 CIF. Picture quality should be sufficient for evidential purposes. May change to monochrome in low lighting levels.

5. Other Factors

The system will mitigate threat to staff and patrons by recording the conduct and actions of all persons within the area covered. Disorderly conduct will be reduced, safety will be improved, members of the public and staff will be protected against malicious accusations.

6. Result of Successful Response To The Activity

Staff and patrons will be reassured. Suspects will be identified and innocent parties protected from false allegations. Information and evidence will be gathered to assist in the subsequent prosecution of offenders. Enquiry time will be reduced.

2.

7. The Response

The response will be by appropriate staff or Police dependent on the nature of the incident.

8. Timescale Of Response

Hours (in relation to footage obtained).

9. When Is The Observation Required

24 hours per, day every day, in daylight, darkness and artificial light.

10. Conditions Required To Be Effective

In all likely conditions, at all times, with up to 16 simultaneous video inputs of same priority, able to cope with changing light levels down to low lux levels but subject to enhanced lighting if required. The system will be capable of expansion should additional public access be provided.

11. Observer Response

Follow set procedures.

12. Observer Reaction Based On

Threat level, past experience, culture. Formal and informal training.

13. Observer - Speed Of Reaction

Immediately.

14. Who Is The Observer?

Staff and Retrospectively Police, Aberdeen City Licensing Board, Courts.

15. Where Will The Observations Take Place?

Office within premises or other suitable site deemed suitable by the board and Grampian Police.

16. Stake Holders

Licence holder, staff, public, Police, Aberdeen City Licensing Board, Scottish Judicial System.

17. Priority Assigned

Essential.

3.

18. Activity

Continuous threat.

19. How Effective?

Right first time every time.

20. Benefits

Enhanced security. Safer prosecutions, better evidence gathering. Staff and Police credibility, quality of staff response, policing and public safety enhanced, investigation time reduced, public confidence increased. Fear of crime reduced and complaints dealt with effectively.

**ADDITIONAL REQUIREMENTS**

The system will record digitally within the designated area on site. The recording system will be capable of simultaneous playback and recording. Access to recorded information will be capable of random access on a time and date basis. Monitoring facilities will be provided on-site and readily accessible by staff and stake holders.

Cameras will be mounted externally and any vulnerable cabling will be contained within metal conduit. Access to recorded information will be retrievable locally. Interference, loss of function of the cameras and audio recording facilities will be recorded and indicated by means of an effective alarm system. VMD may be used as a basis to record images but this must record all activity two minutes pre and post event in real time (25 frames per second). Notwithstanding, there must be sufficient storage to enable all relevant images over the seven day period to be retained and recovered.

All video recordings will be retained for seven days. Raid data storage and recovery facilities may be incorporated in the system. Time synchronisation and display will be embedded in the recording and visible on the on-site monitor. Updates on time and date will be automatic.

Export to DVD on site will exist. The ability to produce a WORM DVD-R capable of playback on a standard DVD player is preferred. If this is not the case then embedded software will be provided with the recording.

The system will be installed in such a way that provisions relating to ECHR and the Data Protection Acts will not be compromised. This will be the responsibility of the licensee.

**ADDITIONAL INFORMATION**

The equipment should be user friendly and based on a tested, reliable and widely available operating system. The system must be approved by Grampian Police. The licensee should consider the benefits of CCTV within the premises. The system internally should cover all bars

4.

and blind spots not easily observable at all times by staff. Camera cover should also extend to the area inside the main door as evidence and history indicates that this is the area most likely to host antisocial behaviour and assaults. An lip synchronised audio feed should be available for the camera or cameras covering the area inside the front door. Colour cameras should be used but may change to monochrome in low lighting levels if necessary. Colour footage should be recorded wherever possible. It is recommended that these cameras record in real time but no less than 12 images per second should be considered.

## CONCLUSION

The System if installed will probably exceed that offered by an installer, which can often be ineffective. By specifying the equipment as above a uniform, but not cost prohibitive standard will be achieved. Equipment of this standard is affordable and practical. It is recommended that 25 fps and two cameras per each external access door are adopted as the normal acceptable standard. A camera or cameras should also be installed to cover any exit doors routinely used.

Attention should be paid to the quality of the cameras and good quality units installed.

Internal cameras which meet the afore mentioned criteria should record at 25 images per second if this is not feasible the frame rate should not fall below 12 images per second. This is to be commended and should be recommended by the board. The camera inside the front door should also have a lip synchronised audio feed. Licensees should consider the benefits of installing internal CCTV which will yield benefits identical to external CCTV.

It is recommended that the assessor carry out a final inspection to ensure that all criteria are met.

Note that other premises will have different requirements and there may be the need to install a substantial number of cameras to provide the necessary cover, this will also affect the memory required to sustain the frame rate over the seven day period with a proportionate increase in cost to the Licensee/Company.

SVHS and VHS recording facilities should not be considered suitable for new systems as indications are that these machines are soon to become redundant.

John Souter  
Sergeant No G7731  
August 2007



# **CCTV SPECIFICATION**

# **LICENSED PREMISES**

## **1.0 INTRODUCTION**

Amendments to the Liquor Licensing Act in Scotland came into force in February 2008. A condition of regular extended hours beyond 0100 hours now includes mandatory CCTV provision to the satisfaction of the Chief Constable in certain defined, late night opening premises.

- 1.1 This specification documents the minimum requirements for CCTV systems to meet licensing requirements in the Grampian Police area. This specification does not preclude additional cameras or features that may be added to the CCTV system as the management of the premises sees fit, as long as these additional features comply with relevant legislation.
- 1.2 Grampian Police recognises that the area of CCTV is a dynamic one and that due to advances in technology this specification will require to be reviewed on a regular basis. This is to ensure the ongoing sufficiency of minimum standards set out herein and that these standards continue to uphold the Licensing Objectives of Preventing Crime and Disorder, Securing Public Safety and Preventing Public Nuisance.

## **2.0 REFERENCES**

- 2.1 Within this specification, reference is made to Home Office and Information Commissioner Documents, these should be read in conjunction with this specification (see Section 11).

## **3.0 DATA PROTECTION ACT**

- 3.1 Notwithstanding any of the requirements contained in this document, systems **MUST** comply with the requirements of the Data Protection Act. It is the responsibility of the premises owner to ensure this requirement is complied with.

## 4.0 CAMERA POSITIONS

- 4.1 **Required:** All points of entry to or exit from the premises must be captured by at least 1 *fixed* CCTV camera.
- 4.2 **Required:** The cameras should be either tamper resistant or mounted in a way that makes them tamper resistant.
- 4.3 **Required:** Such cameras (Points 4.1 and 4.2) must have lip-synched audio capture capability.
- 4.4 **Advised:** Further CCTV cameras are installed to cover external areas where patrons may be required to wait in line or congregate adjacent to points of entry. Audio capture is not mandatory for these additional cameras, however should be considered for the protection of staff and as an evidence gathering tool where operational requirements dictate.
- 4.5 **Advised:** CCTV cameras to cover other internal areas of high footfall and low supervision, including customer/staff interaction areas, i.e. bars, counters etc. Audio capture should be considered where needs dictate for the protection of staff and as an evidence gathering tool.
- 4.6 **Information:** All cameras covering areas of high footfall or customer staff interaction areas should give clear 'identifiable' images of all persons as defined in the 'Home Office CCTV Operational Requirements Manual'. The CCTV coverage of these advisable areas is **not** mandatory, but recommended.

## 5.0 LIGHTING

- 5.1 **Required:** Lighting of sufficient luminance must be installed to fully support CCTV cameras at points of entry/exit.
- 5.2 **Required:** At points of entry or exit the lighting must be sufficient (preferably white light) so that the perception of colour is relatively accurate (a minimum value of 60 on the Colour Rendition Index is advised).
- 5.3 **Advised:** Flat consistent illumination to reduce shadowing.



## 6.0 RECORDING

- 6.1 **Required:** All CCTV cameras are to be recorded on digital video CCTV recorder(s).
- 6.2 **Required:** Good quality CCTV images must be captured with a minimum image capture rate of 12 frames per second and a minimum resolution of 2CIF.
- 6.3 **Required:** The recorder must be capable of continued recording when replay of images takes place.
- 6.4 **Required:** Images must be retained for a period of 7 to 14 days and should then be overwritten. Where evidence is retained for use by a Law Enforcement Agency this period may be longer. It is recommended that any footage transferred to disc (or other media) be tested **before** handover to Officers.
- 6.5 **Advised:** If a greater retention period is chosen it should reflect the organisations' own purposes and should be the shortest possible based on experience (Reference: The Information Commissioner's CCTV Code of Practice).
- 6.6 **Advised:** A system of loss-less compression should be considered and would be recommended (Reference: Home Office CCTV Operational Requirements Manual).

## 7.0 IMAGE RETRIEVAL

- 7.1 **Advised:** Crown Office and Procurator Fiscal Service (COPFS) has stipulated that the acceptable standard for presentation of digital evidence in Court is PAL DVD compatible. Though not mandatory, it is recommended that systems are able to output to this format.
- 7.2 **Required:** If the requirement of 7.1 above is not possible, retrieval of images from the digital video recorder must meet the following requirements:
1. *The evidence must be able to be exported from the digital video recorder to one or more of the following media:*
    - *USB2 hard drive*
    - *DVD*
    - *CD*

2. *The evidential image file must be accompanied on the export media (Hard drive, DVD or CD) by its playing software to be viewed in the format in which it was originally recorded.*
3. *The playing software must be licence free.*
4. *The playing software must be playable on the Windows XP operating system.*
5. *The playing software and evidence must be playable from the media (Hard drive, DVD or CD) on which it is recorded and must not require installing, or any component part, on the PC on which it is played.*
6. *The playing software must not require access to the registry of the computer on which it is played.*
7. *The evidence must be saved without password protection.*

## **8.0 IMAGE VIEWING**

- 8.1 **Required:** The CCTV system must include a method for viewing and reviewing images. This should be a 17" CCTV monitor or better, which can be switched to view each CCTV camera individually.
- 8.2 **Required:** The set-up and performance of each entry/exit camera must be easily confirmed.
- 8.3 **Required:** All point of entry or exit cameras must give clear 'identifiable' images of all persons as defined in the "Home Office CCTV Operational Requirements Manual".
- 8.4 **Required:** All images captured must be clear, easily viewed and of sufficient quality to be used as evidence in Court.
- 8.5 **Advised:** The layout of the door entry arrangements should be such as to provide Pinch Points that will assist the CCTV system achieving consistent 'identifiable' images. These Pinch Points must **not** be achieved at the expense of Health and Safety considerations.

## 9.0 TRAINING

- 9.1 **Required:** Sufficient staff must be trained in the operation of the CCTV system, and at least one member of staff who is able to retrieve images for evidential purposes should be on duty at all times. This is necessary to comply with the terms of the Data Protection Act and failure to comply may invalidate insurance.
- 9.2 **Advised:** An easy use procedural flowchart for the use of the CCTV should be displayed within easy reach of the system.

## 10.0 MAINTENANCE

- 10.1 **Required:** All faults must be rectified within a maximum of 7 days.
- 10.2 **Required:** A maintenance log must be kept reporting faults, their rectification and the systems maintenance schedule.
- 10.3 **Required:** The system must be tested on all business days to verify that all cameras are working satisfactorily. The result of the test should be logged daily.
- 10.4 **Required:** Reference manuals for all parts of the CCTV system should be held locally.

## 11.0 REFERENCES:

1. Home Office CCTV Operational Requirements Manual:  
<http://tna.europarchive.org/20100413151426/http://scienceandresearch.homeoffice.gov.uk/hosdb/publications/cctv-publications/55-06 - CCTV Operational Re2.pdf?view=Binary>
2. The Office of the Information Commissioner's CCTV Code of Practice:  
[http://www.ico.gov.uk/upload/documents/library/data\\_protection/detailed\\_specialist\\_guides/ico\\_cctvfinal\\_2301.pdf](http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/ico_cctvfinal_2301.pdf)



**Licensing Services**

# Alcohol Policy Review 2018

## Analysis of data and trends – Impact on Moray

**XX<sup>st</sup> May 2018**

## 1. INTRODUCTION

Licensing boards are required by Scottish Government legislation to publish a licensing policy statement explaining how they propose to exercise their functions under the Licensing (Scotland) Act 2005. The current Moray Council licensing policy statement expires in November 2018 and work is now underway to prepare the policy that will come into force after that date. The policy has to take into account the requirements of the act, which attempts to balance the rights of those who drink responsibly against the need to protect communities from nuisance and crime associated with alcohol misuse. The act contains 5 licensing objectives:

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

The licensing policy statement is also required to include a statement about the extent to which the licensing board considers there to be an over-provision of licensed premises, or licensed premises of a particular description, in any locality within the board's area.

This report gathers data from a variety of sources to provide a picture of Moray's relationship with alcohol, and how Moray compares with other authorities. Data is presented on the following topics:

- drinking habits of Scottish adults, and how they are changing over time
- mortality rates associated with alcohol misuse, nationally, across Moray, and in intermediate zones within Moray
- the health impacts of alcohol, including the work of the Moray Alcohol and Drug Partnership
- the impact of violent and antisocial behaviour across Moray as a whole
- the location of licensed premises (on- and off-sales)
- and also the economic impact of Moray's extensive whisky industry .

Note that the drink-driving limit in Scotland was reduced on 5 December 2014.<sup>1</sup> The current limits are:

- 22 mcg of alcohol in 100 ml of breath (the 'breath limit')
- 50 mg of alcohol in 100ml of blood (the 'blood limit')
- 67 mg of alcohol in 100 ml of urine (the 'urine limit')

In addition, on 1 May 2018 the Alcohol (Minimum Pricing) (Scotland) Act 2012 came into force across Scotland with a minimum unit price of 50p.<sup>2</sup>

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<sup>1</sup> The Road Traffic Act 1988 (Prescribed Limit) (Scotland) Regulations 2014

<sup>2</sup> <https://www.mygov.scot/minimum-unit-pricing/>

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## 2. SUMMARY OF FINDINGS

At a national level the Scottish Government has set a goal of reducing alcohol-related hospital admissions. Additionally, NHS Scotland has 2 local delivery plan standards relating to alcohol: targets for drug and alcohol waiting times and targets for alcohol brief interventions. In 2009 the Scottish Government published a “Framework for Action” to reduce the misuse of alcohol.

The statistics for Scotland, and for Great Britain as a whole, indicate a reduction in the frequency of drinking, and the amount drunk, until 2014 when the proportion of people in Scotland drinking on more than 5 days in a week increased and the proportion of people exceeding the recommended amount on their heaviest drinking day levelled off. There are higher proportions of males in most age groups who drink more often, and in larger quantities, than females. However, in 2016 the proportion of females in the 16-24 year age group who drank more than the recommended 3 units exceeded the proportion of males drinking more than the recommended 4 units on their heaviest drinking day. For all age groups the proportion of “binge” drinkers in Scotland was less than for Great Britain as a whole, and particularly so for females living in Scotland.

There is evidence to suggest that Scotland is achieving one of the four areas for sustained action identified in the “Framework for Action”; reduced alcohol consumption.

Scotland has a higher alcohol-related death rate amongst males compared to other nations within the United Kingdom (around 3% of deaths), but rates have gradually been reducing since 2006. For females the rate is much lower at below 1.5% of all deaths, and is much closer to the figures for England & Wales and Northern Ireland. Moray has a lower proportion of wholly alcohol-related deaths compared to Scotland, although there was a slight upturn during the 5-year period 2012-2016. The highest proportion of alcohol-related deaths in Scotland amongst males was between the ages of 40 and 49 years old, but recently has changed to be the 45 to 54 year old age group (approximately 12% of all deaths).

Moray has the 14<sup>th</sup> highest alcohol-related death rate of the 32 local authorities in Scotland, with between 15 and 19 of the approximately 1,000 deaths recorded in Moray each year being attributed to alcohol-related conditions. Looking at different areas of Moray there is evidence that more deprived areas (using the Scottish Index of Multiple Deprivation (SIMD) criteria published in 2016) tend to have a greater level of alcohol-related mortality. While not an exact correlation, the intermediate zones in Moray containing a greater proportion of more deprived data zones tend to have higher rates. There are some exceptions to this general trend however, so care must be taken not to over-generalise.

The number of active service users engaged in Moray Alcohol and Drug Partnership (MADP) services for alcohol issues has remained relatively constant over the past 6 quarters and has reduced since the peak in the summer of 2016. The MADP area has a lower rate of alcohol-related hospital stays compared to NHS Grampian and nationally and the rate has been fairly constant since 2014. There are only 4 intermediate zones within Moray that have higher than national rates for this measure. According to NHS Information services Division data the number of patients in hospital with alcohol-related conditions has reduced over the last 10 years.

There are significant differences between the rate of alcohol-related hospital stays between the most- and least- deprived data zones in Moray using the SIMD criteria once more, although there has been a marked improvement from 2012 to 2016. In 2012 the highest rate was three times the national rate, but in 2016 it had reduced to double the national rate. Generally Moray fared better for alcohol-related hospital stays compared to Scotland, but there is a wide range between the intermediate zone with the highest rate of alcohol-related hospital stays (Elgin Cathedral to Ashgrove and Pinefield with a rate twice that of the national average) and the one with the lowest (Rafford, Dallas, Dyke to Dava with a rate one-quarter of the national average). It is worth noting that between 2011 and 2016 there has been a 9% reduction in the rate of alcohol-related hospital stays in both Moray and Scotland.

Data on drinking habits at a local level in Moray have not been found, but for NHS Grampian the proportion of males and females exceeding the recommended weekly limits is half the proportion nationally. Problem drinking<sup>3</sup> in NHS Grampian is similar to national levels with around one-quarter of males being identified as problem drinkers and 11% of females. Note, however, that the proportion of males and females in Moray who drink in excess of 14 units per week (classed as hazardous/harmful drinking) are 35% and 17% respectively, which would suggest problem drinking in Moray may be higher than in NHS Grampian.

During the period 2009-2015 the Moray Alcohol and Drug Partnership (ADP) area has consistently recorded a lower rate of attempted murder & serious assault, common assault, vandalism, and breach of the peace compared to Scotland. In most years the Moray ADP rates have been lower than NHS Grampian as well apart from slightly higher rates of attempted murder/serious assaults in 2009, common assaults in 2015, and vandalism in 2014.

Similarly, Police Scotland data indicates that serious assaults remain a fairly infrequent occurrence in Moray, while the number of common assaults has reduced since the peak in November 2015. Threatening and abusive behaviour incidents increased steadily from April 2014 to October 2017, but since then the number of such incidents reported has reduced markedly.

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<sup>3</sup> Problem drinking is defined by Scottish Public Health Observatory (ScotPHO) as a score of 8 or more on the Alcohol Use Disorders Identification Test (AUDIT)



### 3. NATIONAL CONTEXT

#### ***National Performance Framework<sup>4</sup>***

The Scottish Government has health as one of the strategic objectives within the National Performance Framework, and there is a National Indicator which measures the reduction in alcohol-related hospital admissions annually.

- **Strategic Objective – Healthier**

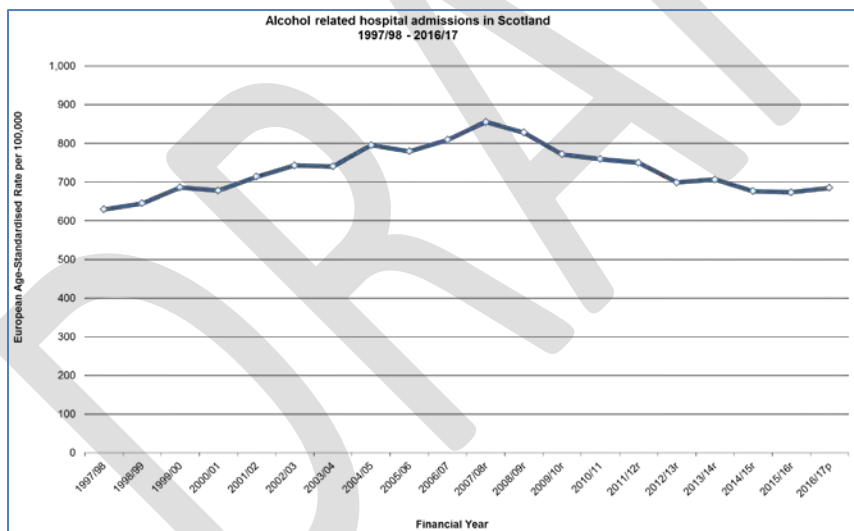
Help people to sustain and improve their health, especially in disadvantaged communities, ensuring better, local and faster access to health care.

- **National Outcome**

We live longer, healthier lives.

- **National Indicator**

Reduce Alcohol Related Hospital Admissions



**Figure 1: Alcohol related hospital admissions per 100,000 population in Scotland (Source: Information Services Division Scotland)**

- **Indicator Measure**

The number of general acute inpatient and day case discharges per 100,000 population with an alcohol-related diagnosis

- **Current Status**

<sup>4</sup> <http://www.gov.scot/About/Performance/purposestratobjts>

The rate of alcohol-related hospital admissions in 2016/17 was 685.2 per 100,000 population. This was 12 per 100,000 (1.8%) higher than the 2015/16 figure of 673.2 per 100,000. As the change was more than 10 per 100,000 the current status changes from 'Performance Maintaining' to 'Performance Worsening'. Prior to this there had been a steady decline in alcohol-related admissions since a high point in 2007/08.<sup>5</sup>

Alcohol-related hospital admissions are around three times more common in males compared to females. The rate of hospital stays in 2016/17 was 989.1 per 100,000 for males compared to 381.4 per 100,000 for females. Males accounted for 71% of alcohol-related hospital stays in 2016/17.

### ***Scotland Performs: NHSScotland<sup>6</sup>***

NHS Scotland has developed a number of Local Delivery Plan (LDP) Standards, which were issued during the 2015/16 financial year. Two of the standards are linked to alcohol:

- **Drug and Alcohol Treatment Waiting Times**

The LDP Standard is that 90% of clients will wait no longer than 3 weeks from referral received to appropriate drug or alcohol treatment that supports their recovery. For the quarter ending September 2017, 93.8% of patients were seen within 3 weeks of referral. For NHS Grampian the figure was 95% for the same period.

Nationally the proportion of patients being seen with 3 weeks of referral has gradually reduced each quarter since September 2015 (over 95%) to the end of September 2017 (just below 94%). However, the target of 90% is still being exceeded nationally (Figure 2). NHS Grampian recorded the 7<sup>th</sup> highest percentage for the quarter ending September 2017, while 5 of the NHS boards failed to meet the standard.

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<sup>5</sup> <http://www.gov.scot/About/Performance/scotPerforms/indicator/alcohol>

<sup>6</sup> <http://www.gov.scot/About/Performance/scotPerforms/NHSScotlandperformance>

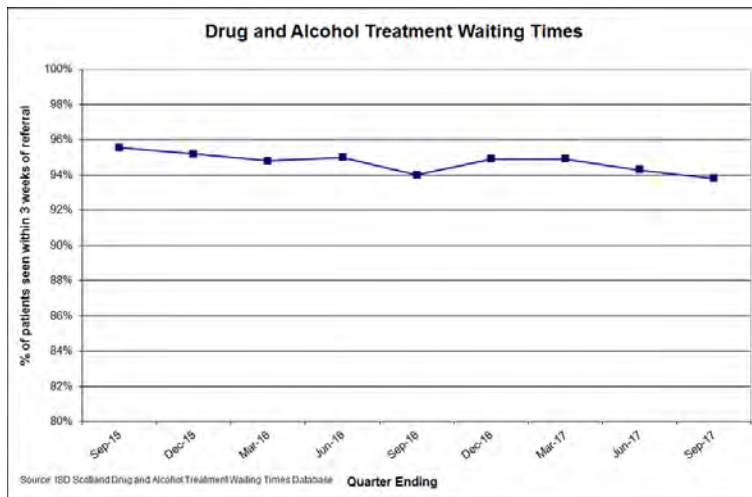


Figure 2: Drug and alcohol treatment waiting times - NHS Scotland (Quarter ending September 2015 - September 2017) (ISD data)<sup>7</sup>

Note that the Moray Alcohol and Drug Partnership (Moray ADP) has consistently exceeded this target in recent quarters. Figure 3 illustrates that from the quarter ending 31 December 2015 for most quarters all clients receive treatment within 3 weeks. During 2016 this reduced to 98.3% for the lowest quarter. This would suggest that Moray ADP has adequate resources to cope with the demand for its services, and the trend is in stark contrast to the national position.

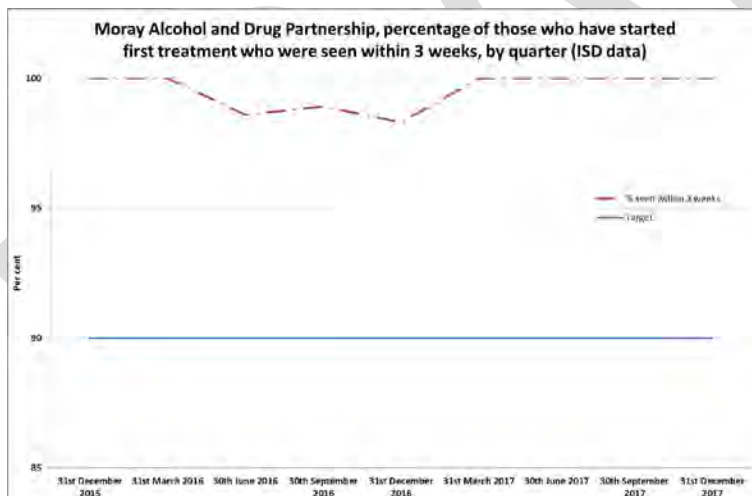


Figure 3: Moray ADP percentage of alcohol misuse clients starting treatment within 3 weeks

- **Alcohol Brief Interventions**

The standard is that NHS Boards and their Alcohol and Drug Partnership (ADP) partners should maintain the same total level of target delivery of ABIs as under the HEAT H4 target for 2011-12

<sup>7</sup> <http://www.gov.scot/About/Performance/scotPerforms/NHSScotlandperformance/DATWT-LDP>

(i.e. 61,081 ABIs nationally). It is expected that at least 80% of delivery (i.e. a minimum of 48,865 ABIs) will continue to be in the priority settings.

For the financial year 2016/17, 86,560 interventions were delivered, equivalent to 142% of standard. Of these, 55,950 were delivered in the 3 priority settings, equivalent to 92% of the priority standard. The number of ABIs delivered in Scotland fell for the third consecutive year to 86,560 from a peak of 104,356 in 2013/14 (Figure 4).

In NHS Grampian there were 7,204 interventions, exceeding the target of 6,658.

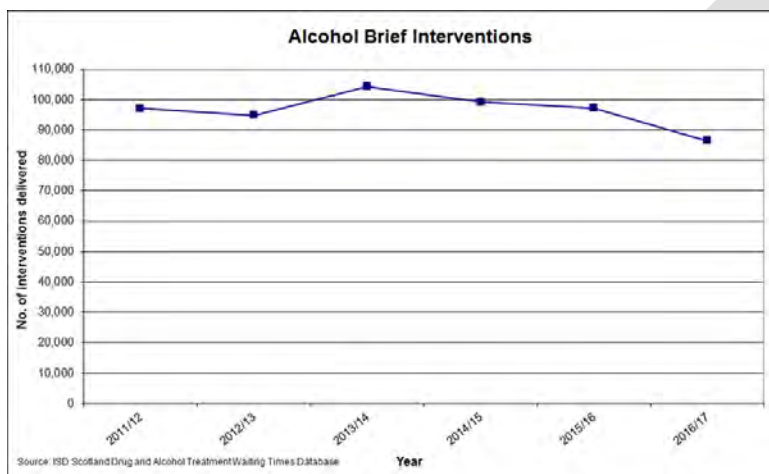


Figure 4: Alcohol Brief Interventions - NHS Scotland (2011/12 to 2016/17) (ISD data)<sup>8</sup>

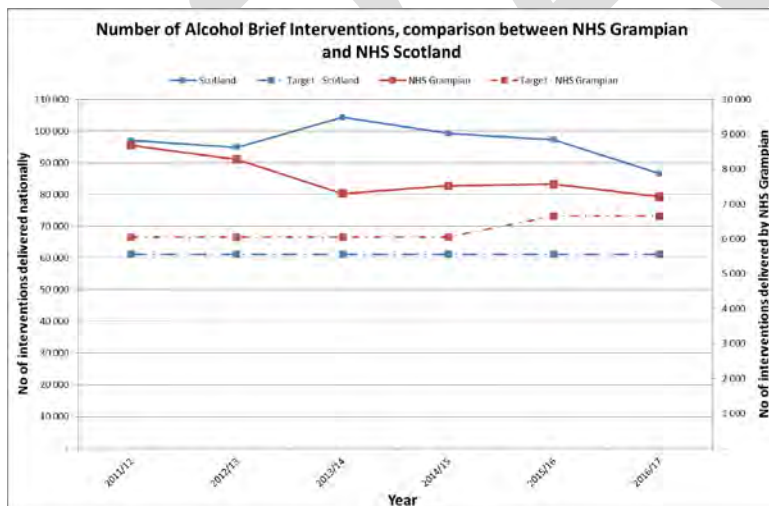


Figure 5: Alcohol Brief Interventions - NHS Scotland and NHS Grampian (ISD data)

<sup>8</sup> <http://www.gov.scot/About/Performance/scotPerforms/NHSScotlandperformance/ABI-LDP>

Data has not been found for this measure for Moray, or the Moray ADP, but as Figure 5 illustrates, although the number of interventions has reduced since 2011/12 the number still exceeds the agreed target for NHS Grampian.

#### 4. RELATIONSHIP WITH ALCOHOL

##### Scotland

Data from the 2016 Scottish Health Survey has been analysed to reveal the extent of drinking in Scotland by males and females, and the differences in habits for various age groups. The data cover the period 2003 to 2016, so include the period leading up to the publication of the Scottish Government's "Framework for Action" in 2009, which aimed to introduce measures to reduce the misuse of alcohol<sup>9</sup>.

Since 2003 there has been a gradual decline in the average weekly consumption of alcohol in Scotland. For men the average has reduced from almost 20 units per week to 13.5 while for females the average has reduced from 9 units per week to 7.4, with a rise in 2014 from the 2013 data (Figure 6).

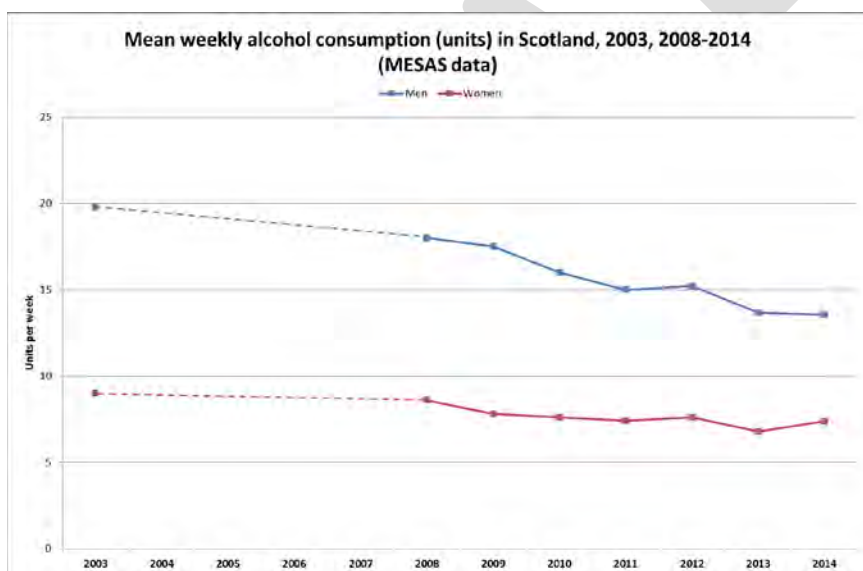


Figure 6: Mean weekly alcohol consumption in Scotland 2003, 2008-14 (MESAS)<sup>10</sup>

Charts with the data for the following measures showing the difference between male and female drinking, over time, and by age groups are attached at Appendix 2. The following summarises the findings:

- People who reported drinking on more than 5 days in previous week

<sup>9</sup> Changing Scotland's Relationship with Alcohol: A Framework for Action (2009)

<sup>10</sup> Monitoring and Evaluating Scotland's Alcohol Strategy (<http://www.healthscotland.scot/health-topics/alcohol/monitoring-and-evaluating-scotlands-alcohol-strategy>)

From 2003 until 2014 there was a steady decline in the percentage of males in Scotland who reported drinking on more than 5 days in the previous week (from 20.4% to 11.4%). However, since 2014 the trend has reversed and the proportion of males drinking more than 5 days in a week rose to 15.4% (Figure 7). The data for females shows a similar trend, with a gradual drop from 2003 to 2015 (13.1% to 8.2%), but with a rise to 10.4% in 2016. There are fewer, regular female drinkers compared to men; the proportion of females is between 60-75% of the regular male drinkers.

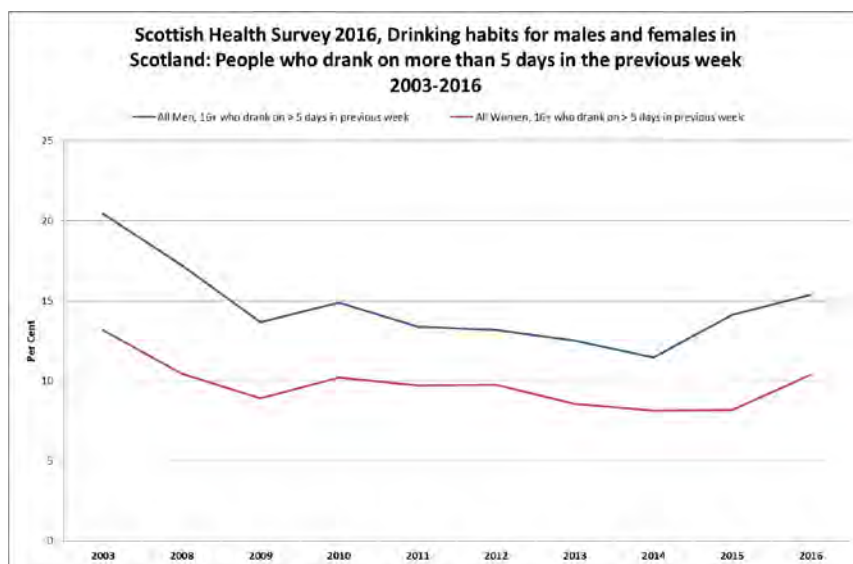


Figure 7: People in Scotland reporting drinking on more than 5 days in the previous week

However, what the above does not show is the large difference between the age groups that are drinking more regularly. The detailed charts are at Appendix 2, but the following 2 charts illustrate the age groups with the lowest and highest rates of regular drinking (Figure 8).

The highest rate, by some margin, is the over 75s with around 40% of men and 30% of women having had a drink on more than 5 occasions in the previous week. The lowest rate is for the 16-24 age group. Until 2016 the rate for males had dropped to just 2%, and for females to 1%. However, the figures for 2016 have shown a significant rise to around 10% for both men and women; the reason for this rise is not clear.

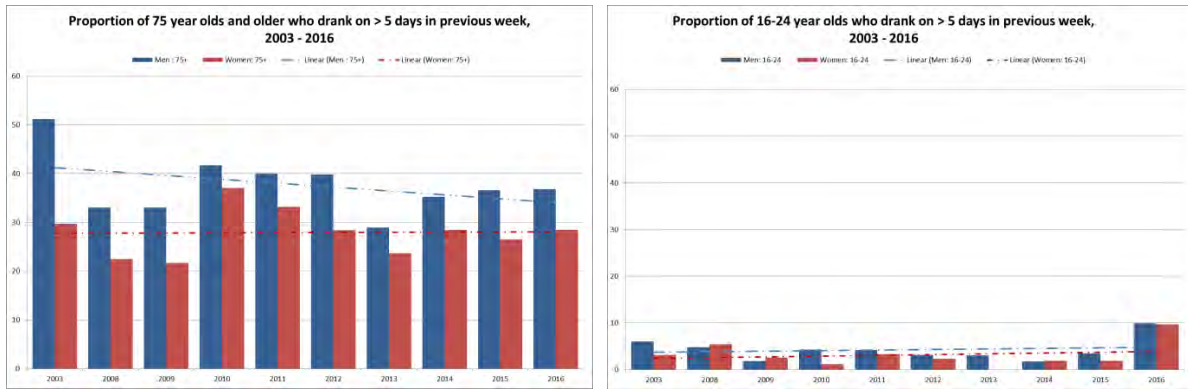


Figure 8: Comparison of 75 year olds and over drinking on more than 5 days in the previous week with 16-24 year olds

Apart from the rise observed in the 16-24 year old age group in 2016, the overall rise in the proportion of people drinking on more than 5 days in a week appears to be due to increases in: males and females aged between 45 and 54 years old; males aged 55-64 years old; and, to a lesser extent, males aged over 75. All these groups have shown a steady increase in the past 3 years.

- On heaviest drinking day drank 4 units/8 units (males); 3 units/6 units (females)

The next set of charts illustrates the proportion of males and females residing in Scotland who exceeded the daily recommended amount of alcohol on their heaviest drinking days. The proportion drinking double the daily recommended amounts are also included (Figure 9).

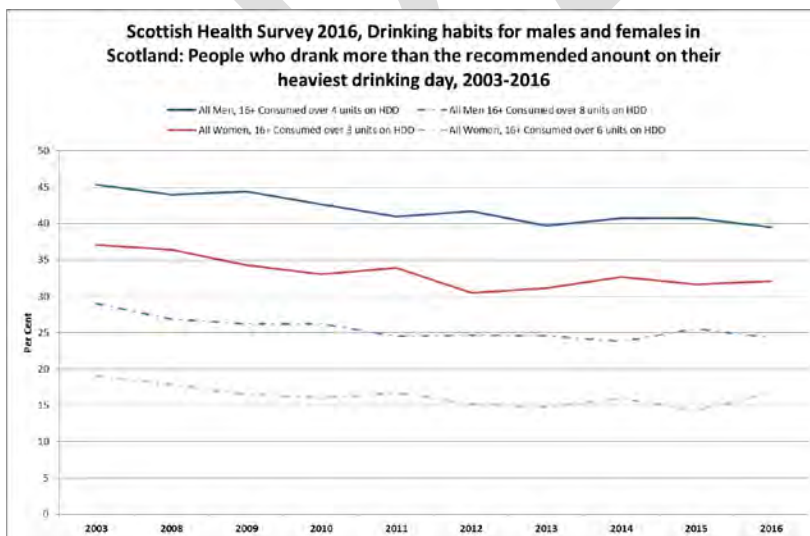


Figure 9: People exceeding recommended drinking levels, and double the recommended drinking levels on their heaviest drinking day

The groups drinking the most amount of alcohol on their heaviest drinking day were exactly the reverse of the groups who reported drinking on more than 5 days in the previous week. Approximately, 40-45% of the 16-24 year old group drinks more than the recommended number of

units (with a greater proportion of females than males in 2016), while relatively few over 75s, who are the most regular group of drinkers, drink over the recommended limits. Indeed, almost no females in the age group drink double the recommended daily limit of 6 units (Figure 10).

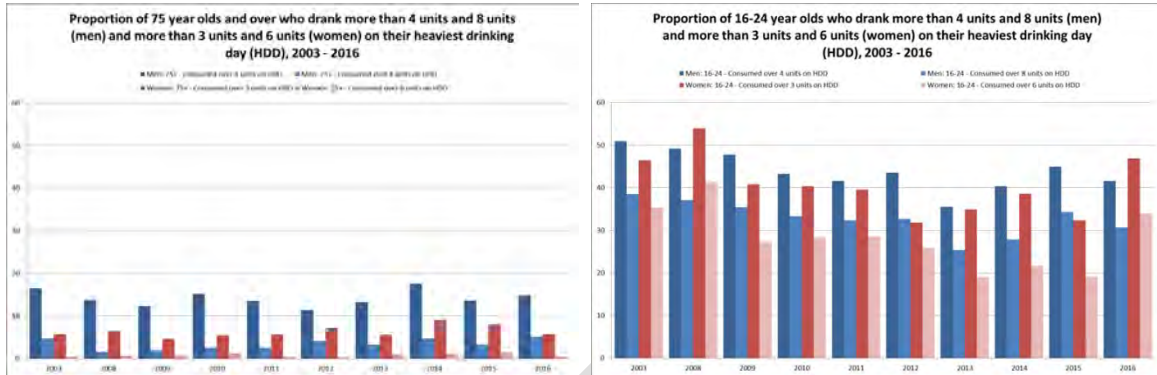


Figure 10: Comparison of 75 year olds and over drinking over the recommended limits, or double the recommended limits with 16-24 year olds

Between 40 -50% of males aged from 25–64 years old are drinking more than 4 units a week, although the trend in all age groups is reducing, except for those aged 55-64 years old, where the proportion is showing a slight increase over time. Females in the same age range drink less than males, and also exhibit a downwards trend, apart once more from the 55-64 year olds where there has been an 8% rise since 2003.

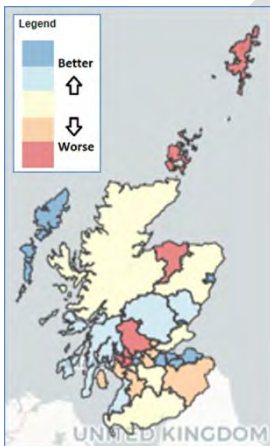


Figure 11: Proportion of S4 pupils who are weekly drinkers - 2013 (ScotPHO)

Given the habits of the 16-24 age group with a rising proportion drinking on more than 5 days a week, and a growing proportion drinking above safe limits when they do, it is worth noting that Moray ranks 5<sup>th</sup> highest in Scotland for S4 pupils who stated in the 2013 Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) that they drank weekly.

The rate for Moray was 15% compared to the lowest rate of 5.7% recorded by Midlothian and Aberdeen City, and above the Scottish average of 12.2%.

- Percentage reporting Hazardous/Harmful drinking (> 14 units / week)

The proportion of both males and females drinking more than the weekly safe limit guidelines for alcohol has shown a steady reduction since 2003. However, since 2013 the rates have levelled-out for males at around 35% and have risen slightly for females to 17% (Figure 12).



For comparison, responses to a survey undertaken in England<sup>11</sup> during 2015 showed that 31% of men and 16% of women drank over 14 units in a usual week.

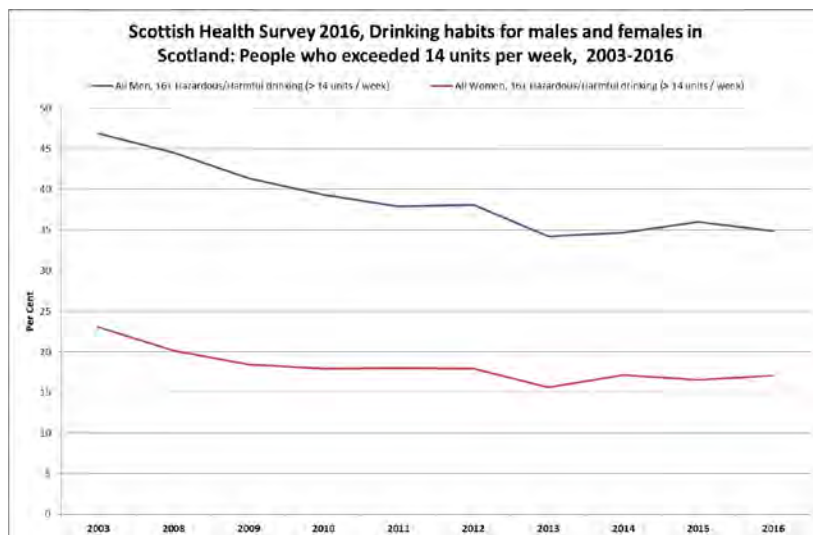


Figure 12: Residents in Scotland over 16 drinking more than 14 units per week

In 2016 males aged between 55 and 64 years old had the highest proportion of people drinking more than 14 units per week, with a figure of 40%. For females in this age group 23% drank at this level, with the highest proportion (25%) of females drinking harmful levels being the 16-24 year old age group (Figure 13).

Males aged between 55 and 64 were also the largest group drinking over 4 units per week (47% of the age-group). However, the largest proportion of males drinking over 8 units per week were 16-24 and 25 – 34 years old, with both groups reporting 31% drinking at these levels on their heaviest drinking day (Figure 14).

Female drinking levels are generally lower than male levels, except in the 16-24 year old age group with 47% drinking over 3 units on their heaviest drinking day compared to 42% of men drinking more than 4 units. Similarly, 34% of females in this age group reported drinking more than 6 units, compared to 31% of men drinking over 8 units. Females aged between 55-64 years old were the second highest group consuming more than 3 units on their heaviest drinking day at 40% (Figure 15).

<sup>11</sup> Health Survey for England, 2015 (<http://digital.nhs.uk/catalogue/PUB22610>)

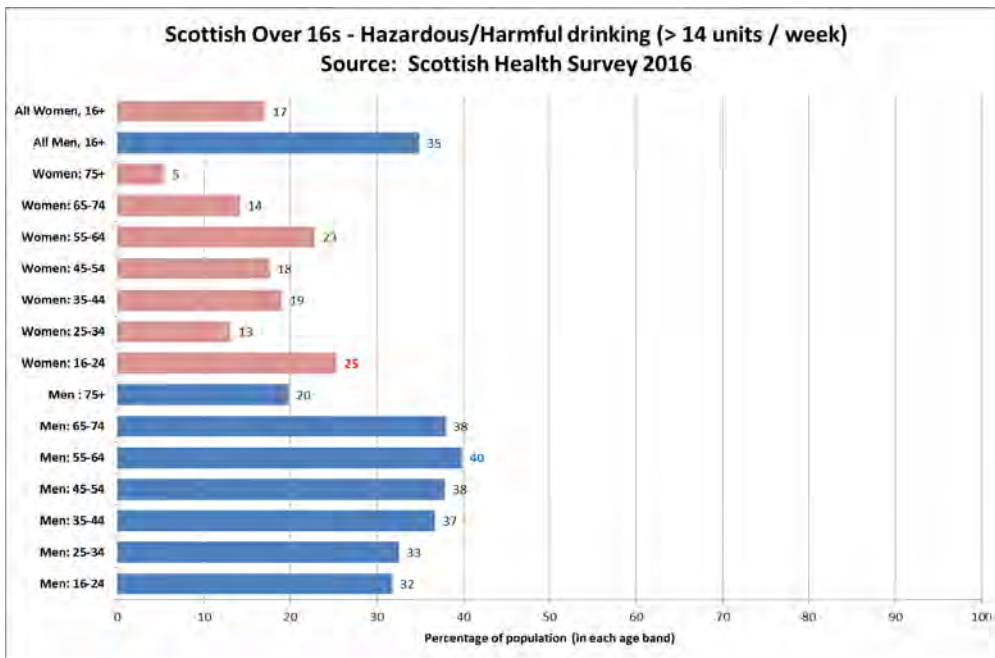


Figure 13: Scottish over 16 year olds drinking more than 14 units per week by age-group and gender (2016)

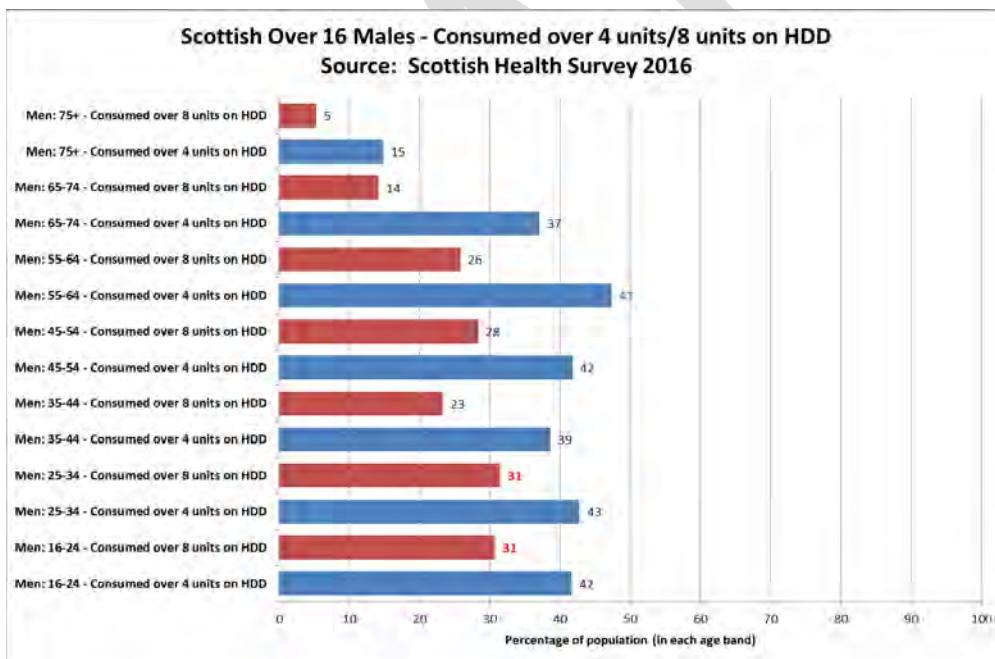


Figure 14: Scottish males over 16 year olds drinking more than 4 and 8 units per week by age-group (2016)

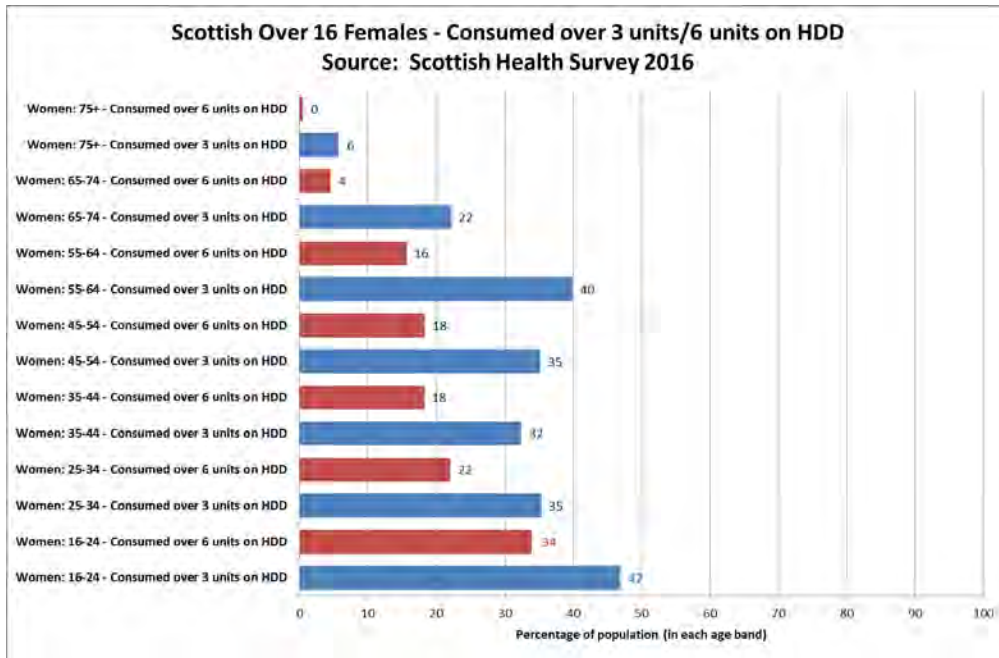


Figure 15: Scottish females over 16 year olds drinking more than 4 and 8 units per week by age-group (2016)

Great Britain – Habits

Since 2005 there has been a gradual reduction in the proportion of Great Britain residents drinking on more than 5 days in the week prior to the survey (Figure 16). Until 2014 residents of Scotland were showing a similar trend, but in the last 2 years the proportion has started to increase as discussed in the previous section. If this change becomes a long-term trend then it would appear to be unique to Scotland rather than England and Wales. From the previous section the issue appears to lie with the older age-groups tending to drink more regularly, but fewer of them drinking above safe guidelines. Indeed, when comparing “binge” drinking, that is males who drink more than 8 units in one session, and females drinking more than 6 units, Scotland has lower proportions in each age group compared to Great Britain as a whole (Figure 16), particularly for females aged 25 years old and over. As with the Scottish data the group with the highest proportion of “binge” drinkers are females aged between 16 and 24 years old.

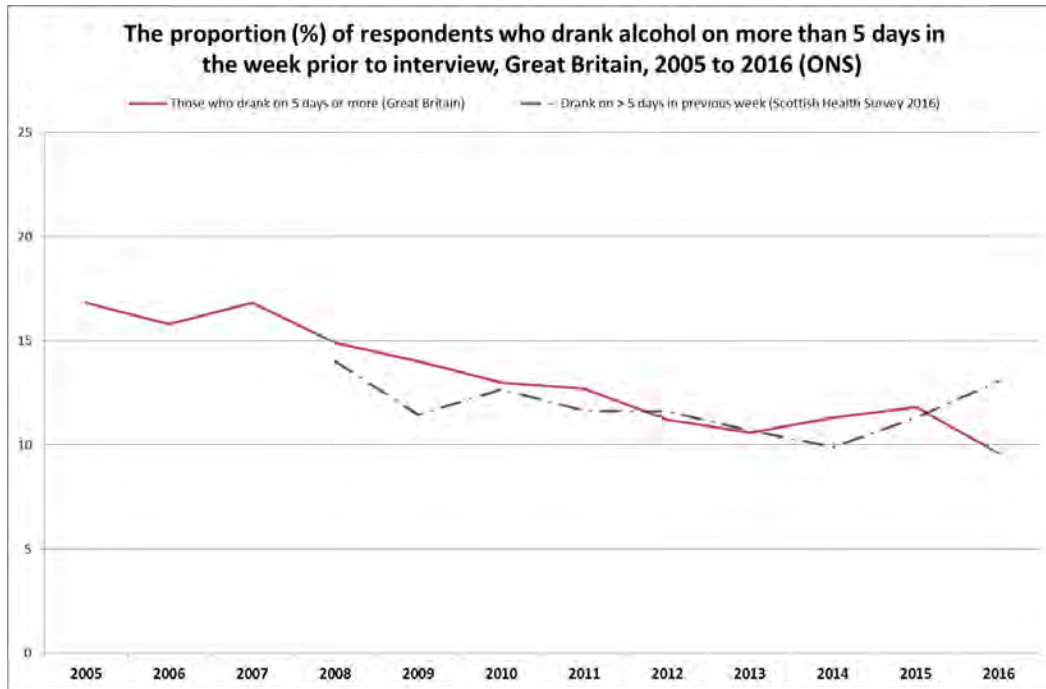


Figure 16: Proportion of residents who drank alcohol on more than 5 days in previous week – Great Britain and Scotland comparison

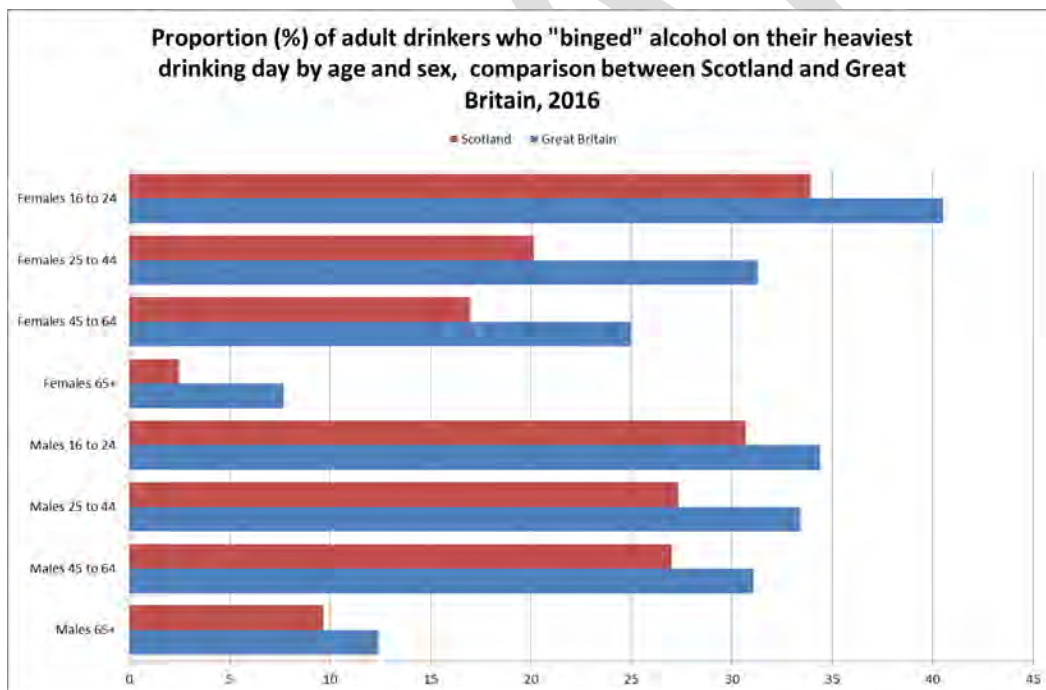
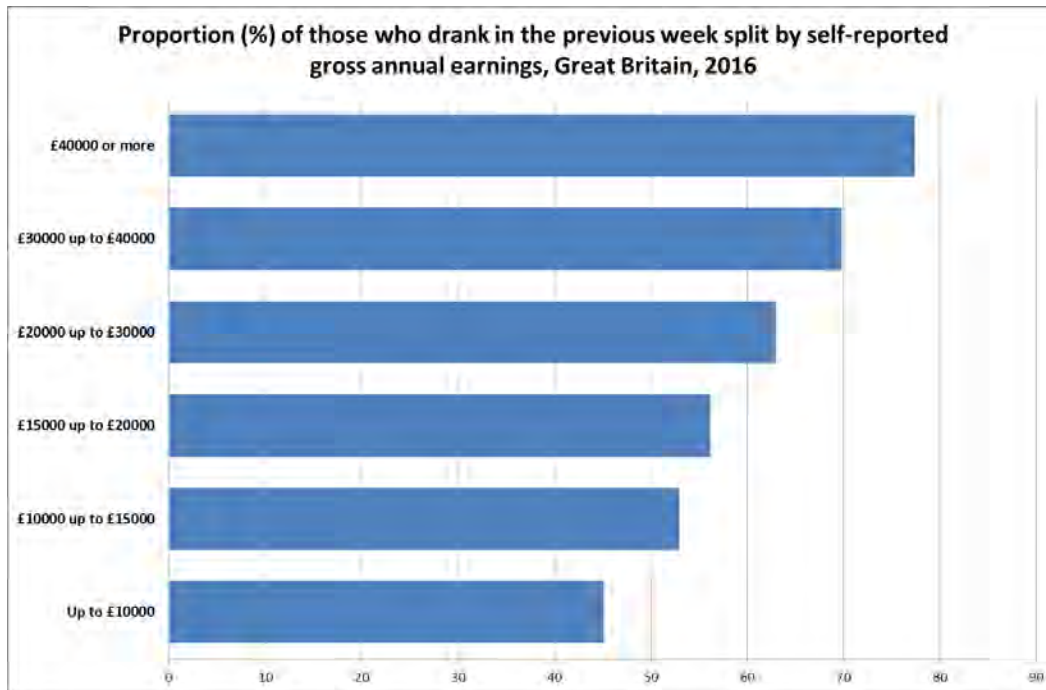


Figure 17: Proportion of residents who “binged” alcohol on their heaviest drinking day by age and sex – Scotland compared to Great Britain (2016)

According to the ONS statistical bulletin ‘Adult drinking habits in Great Britain: 2005 to 2016’ the majority of male “binge” drinkers (67.1%) drank normal strength beer; while for females wine was the most popular choice (70%). However, the 16 to 24 year old age-group was more likely to drink spirits

and liqueurs than any other age group. Among binge drinkers aged 45 years and above, wine was a more likely choice of alcoholic drink.

An analysis of the preferred alcoholic drink for “binge” drinkers in Scotland, and also for Moray, has not been found.



**Figure 18: Proportion (%) of those who drank in the previous week split by self-reported gross annual earnings, Great Britain, 2016**

According to ONS a greater proportion of people in the higher income brackets across Great Britain reported drinking in the previous week compared to people in lower income groups<sup>12</sup>; 76% of higher earners compared with just 45% of lower earners (Figure 18). However, as the previous section indicates regular drinking does not necessarily imply excessive drinking. Similar information has not been found for Scotland, but the next section looks at the differences in drinking habits between the most and least-deprived areas in Scotland. While not a direct correlation with Figure 16 there were a higher proportion of non-drinkers in the most-deprived areas, and fewer in the least-deprived (Figure 19).

<sup>12</sup> Adult drinking habits in Great Britain: 2005 to 2016, ONS Statistical Bulletin

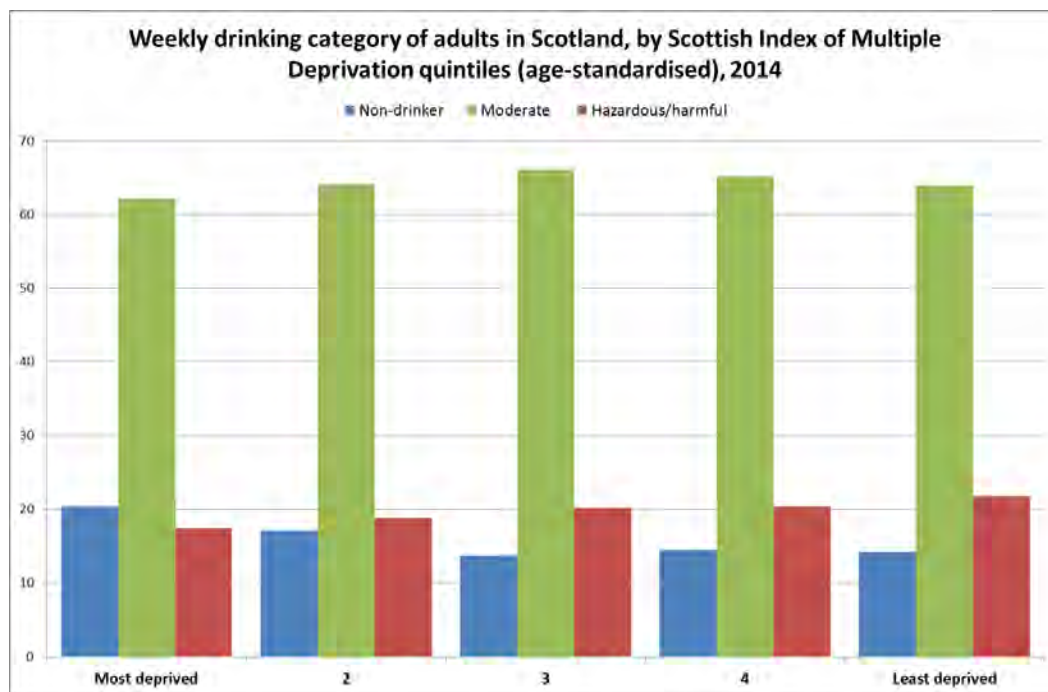


Figure 19: Weekly drinking category of adults in Scotland, by Scottish Index of Multiple Deprivation quintiles (age-standardised), 2014 (Monitoring and Evaluating Scotland's Alcohol Strategy data)

In Scotland in 2014 there were 6% more non-drinkers from data zones in the most deprived quintile for Scotland compared to those from the least deprived quintile. Conversely, there were 5% more people from data zones in the least deprived quintile drinking at hazardous and harmful levels than from the most deprived quintile. Between 62 and 66% of residents across all deprivation quintiles drink in moderation (men up to and including 21 units per week/women up to and including 14 units per week)<sup>13</sup>.

This chart makes an interesting comparison with Figure 45 (page 38), which demonstrates that hospital admissions across Scotland due to alcohol-related illnesses are considerably higher for residents from more deprived areas.

Data for drinking habits at the SIMD<sup>14</sup> data zone level has not been found for Moray.

#### Summary of Scottish drinking habits:

- Most people aged 16 years old and over living in Scotland drink on 5 or fewer days per week (85% of males, and 90% of females, based on 2016 data)<sup>15</sup>.

<sup>13</sup> <http://www.healthscotland.scot/publications/mesas-final-report>

<sup>14</sup> Scottish Index of Multiple Deprivation 2016

<sup>15</sup> Scottish Health Survey, 2016

- Similarly, the majority of Scottish residents (aged 16 years old and over) drink less than the recommended amount on their heaviest drinking day: 60 percent of males and over 65% of females (2016 data).
- Males, generally, drink more frequently than females and a higher proportion of males drink above the recommended limits compared to females.
- While those drinking at hazardous and harmful levels (greater than 14 units per week) have declined since 2003 there has been little change in the proportion of Scottish residents in this category since 2013. Again male rates are higher than female rates, with 35% of males drinking more than 14 units per week, and 17% females drinking this amount.
- There are significant differences between age groups, with the highest proportion of regular drinkers (more than 5 days per week) being in the 75 years old and over age group, and the lowest in the 16-24 year old age group. However, a larger proportion of younger age-groups drink above the recommended limits.
- In 2016 there was a larger proportion of 16-24 females consuming more than 3 units of alcohol on their heaviest drinking day, compared to males drinking more than 4 units.
- Feedback against “*Changing Scotland’s Relationship with Alcohol: A Framework for Action, 2009*”
  - reduced alcohol consumption;
    - **Was on track, but figures for 2013/14 suggest a plateauing in the rates for men, and a slight increase for women.**
  - supporting families and communities:
    - **No data to indicate if this happening.**
  - positive public attitudes, positive choices;
    - **Not clear how this is being measured.**
  - improved treatment and support.
    - **This is covered in section 6.**

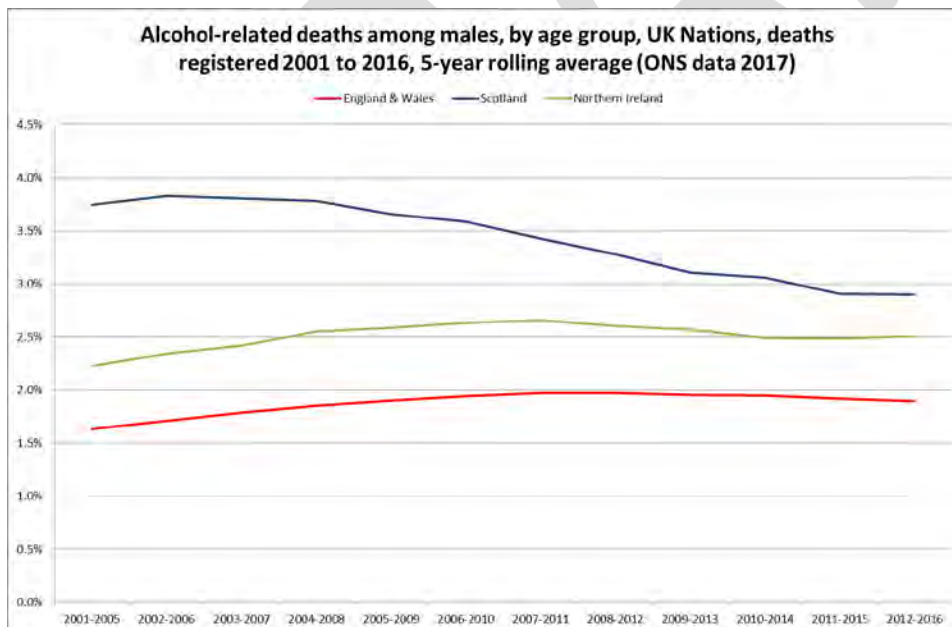


## 5. DEATHS DUE TO ALCOHOL

### Comparison of data for Scotland with rest of UK

The Office for National Statistics (ONS) provides annual data on the number of alcohol-related deaths each year for the constituent countries of the United Kingdom. The figures are broken down by gender and age with the 2017 publication providing data for the period 2001 to 2016. ONS (in conjunction with the National Records of Scotland and the Northern Ireland Statistics and Research Agency) also provide data in a similar format for the total number of deaths by age and gender, but with the data for England and Wales combined. These 2 sources of data have been used to derive a comparison of the proportion of deaths each year that were related to alcohol for both males and females, comparing Scotland with England & Wales, and Northern Ireland.

To remove spikes caused by random variation within years the data have been averaged over 5-years. Male alcohol-related deaths in Scotland (Figure 20) are approximately double the rate for females in England & Wales and between 2.3 to 2.4 times higher in Scotland and Northern Ireland (Figure 20). Alcohol-related deaths are higher than in both England & Wales and Northern Ireland, but the gap between the countries is reducing. Since 2001 the proportion of alcohol-related deaths compared to all deaths in Scotland has gradually reduced from a high of 3.8% to 2.9%, while over the same period the rates for England & Wales and Northern Ireland, after an initial rise, and have plateaued around 1.9% and 2.5% respectively.



**Figure 20: Proportion of alcohol-related deaths (Males) 2001-2016**

The data for females in Scotland show a similar downwards trend, but from a much closer starting point. In 2001-2005 the proportion of alcohol-related deaths in Scotland was 1.5%, but this had reduced to 1.3%



for the period 2012-2016. The figures for England & Wales show a rise from 0.8% in 2001-2005 to 1% in 2012-16, with Northern Ireland rising from 1% to 1.2% over the same period.

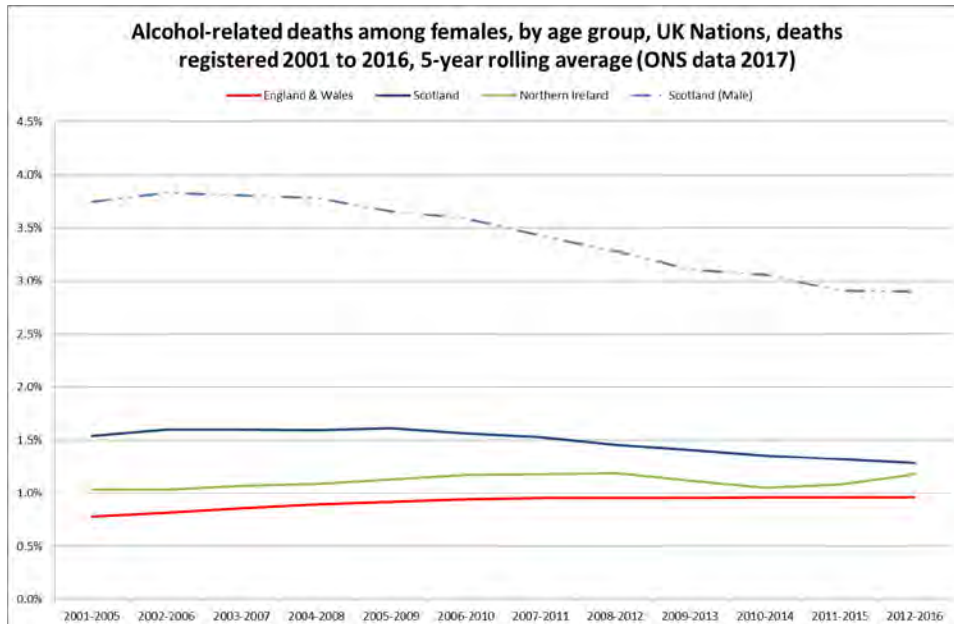


Figure 21: Proportion of alcohol-related deaths (Females) 2001-2016 – Rate for males in Scotland shown for comparison

The data for Moray are not available by age group or gender, but as Figure 22 illustrates the overall proportion of deaths in Moray related to alcohol has consistently been lower than the national rate. Note, however, there has been a slight rise during the most recent 5-year period.

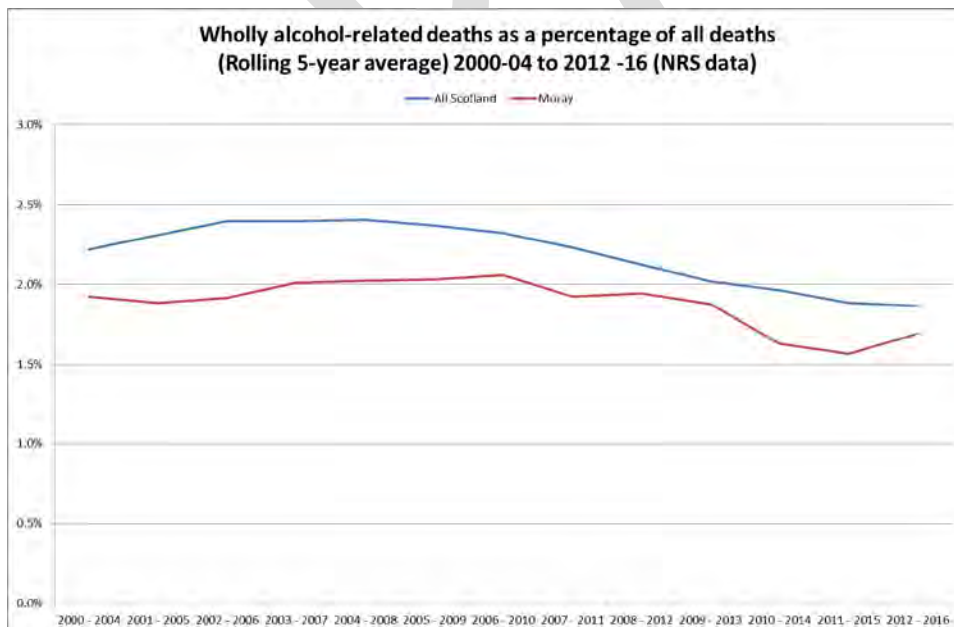


Figure 22: Wholly alcohol-related deaths - Moray 2000 - 2016

Alcohol-related deaths – changes by age group over time

The peak age group for alcohol related deaths for males in Scotland is 45-49 years old, but the rate amongst this age group has declined from a peak of 21.3% in 2005 to 11.9% in 2016. For most age groups the proportion of alcohol-related deaths in men has reduced since 2001. For men aged 60 years old and above, the rates for each 5-year age-group has remained reasonably static (Figure 23).

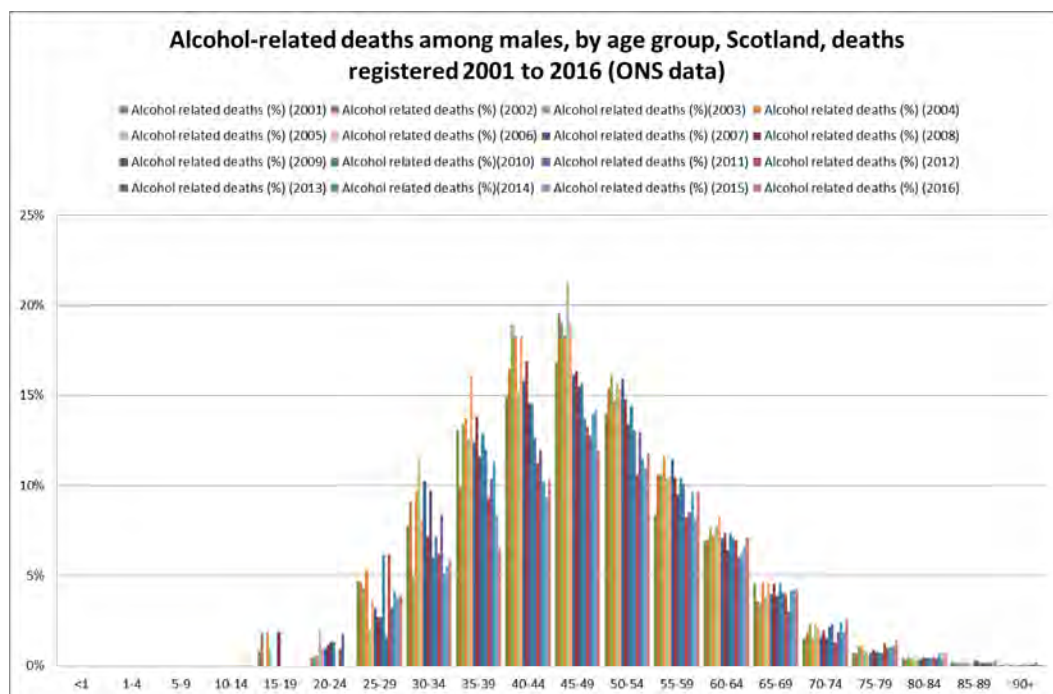


Figure 23: Alcohol-related deaths among males, by age group - Scotland

This contrasts sharply with the situation in England & Wales where deaths due to alcohol in the groups 50-54 years old through to 70-74 years old have all shown an upwards trend since 2001. There are some similarities with Scotland with the largest proportion of alcohol-related deaths occurring in the 40-44 and 45-49 age ranges (Figure 24). To put this in context, the overall peak age group for male deaths from all causes is in the 80-84 age group in both England & Wales and in Scotland (Figure 25).

Figure 23 also illustrates that for the 25-29 year old age group there has been a reduction in the proportion of alcohol-related deaths in males in Scotland from 4.6% in 2001 to 3.9% in 2016. However, the rate has fluctuated between a high of 6.2% and a low of 1.6% since 2001. This fluctuation may in part be due to the relatively small sample sizes, where a small change in numbers can disproportionately affect the percentage. In England & Wales, with a much larger population sample in this age range, the trend is clearer (Figure 24). Since peaking in 2011 the proportion of males aged between 25 and 29 years old dying from alcohol-related conditions has halved from 4.4% to 2.2% in 2016.

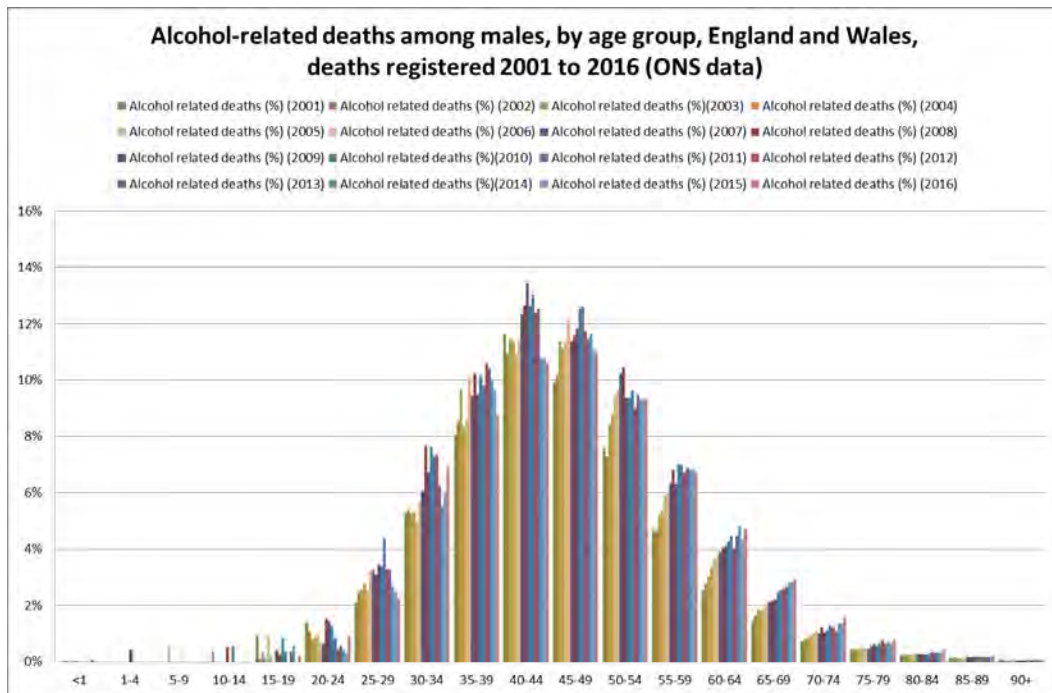


Figure 24: Alcohol-related deaths among males, by age group – England & Wales

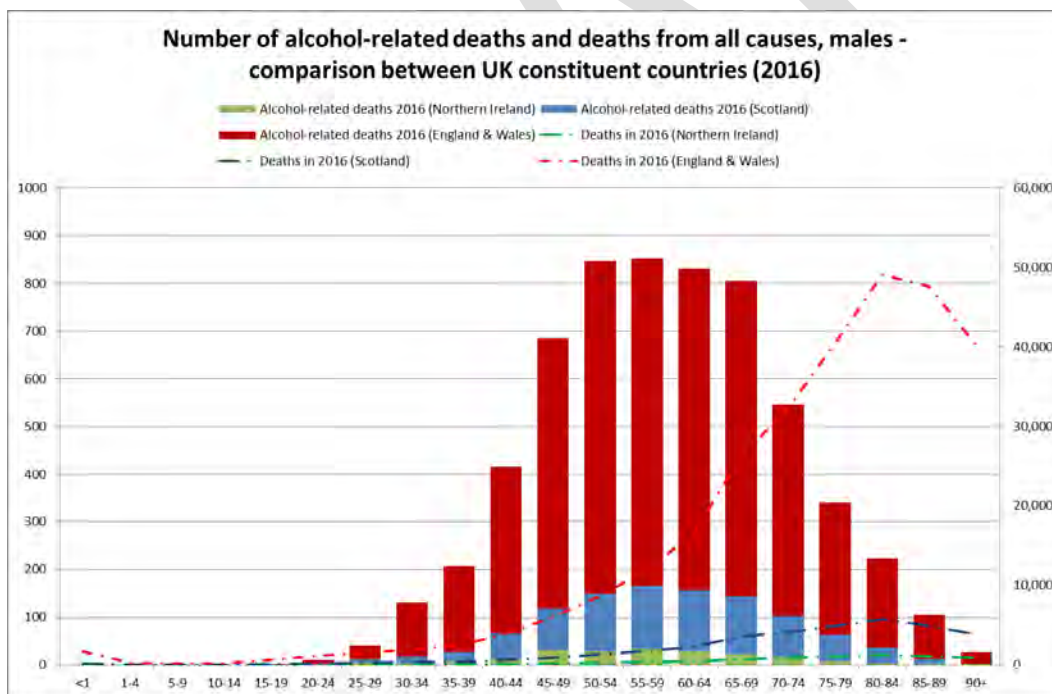


Figure 25: Number of male deaths, and alcohol-related deaths for the UK constituent countries (2016)

For females in Scotland alcohol-related deaths are a much lower proportion than males. For most age groups the proportion of alcohol-related deaths is reducing. Some of the spikes for younger women are

caused by relatively small sample sizes, and may also be due to the random nature of incidents from year to year (Figure 26).

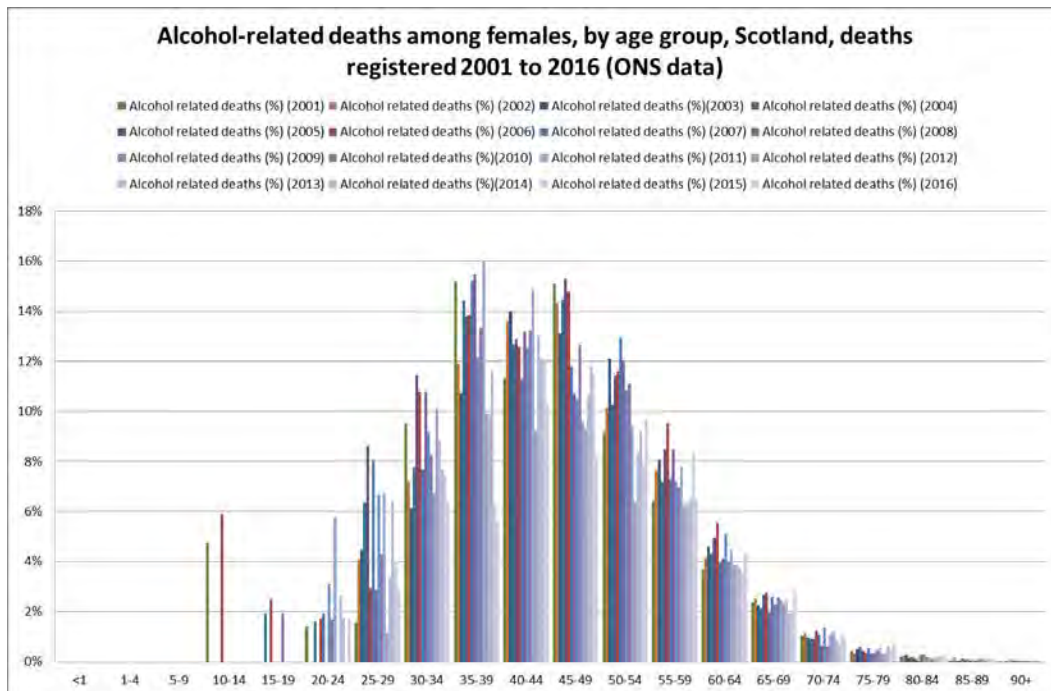


Figure 26: Alcohol-related deaths among females, by age group – Scotland

England & Wales with a larger population tends to have fewer spikes, and demonstrate more clearly the trends noticed with alcohol-related deaths in older men. Alcohol-related deaths in females in England & Wales has reduced, generally, for the under 40s, but for the 40 year olds up to the 75-79 year old cohort rates of alcohol related deaths have risen since 2001. In Scotland this trend is not evident, and it could be argued that the alcohol-related rate of deaths for the majority of age groups has steadily reduced since the peak rate between 2005 and 2007 (Figures 26 and 27).

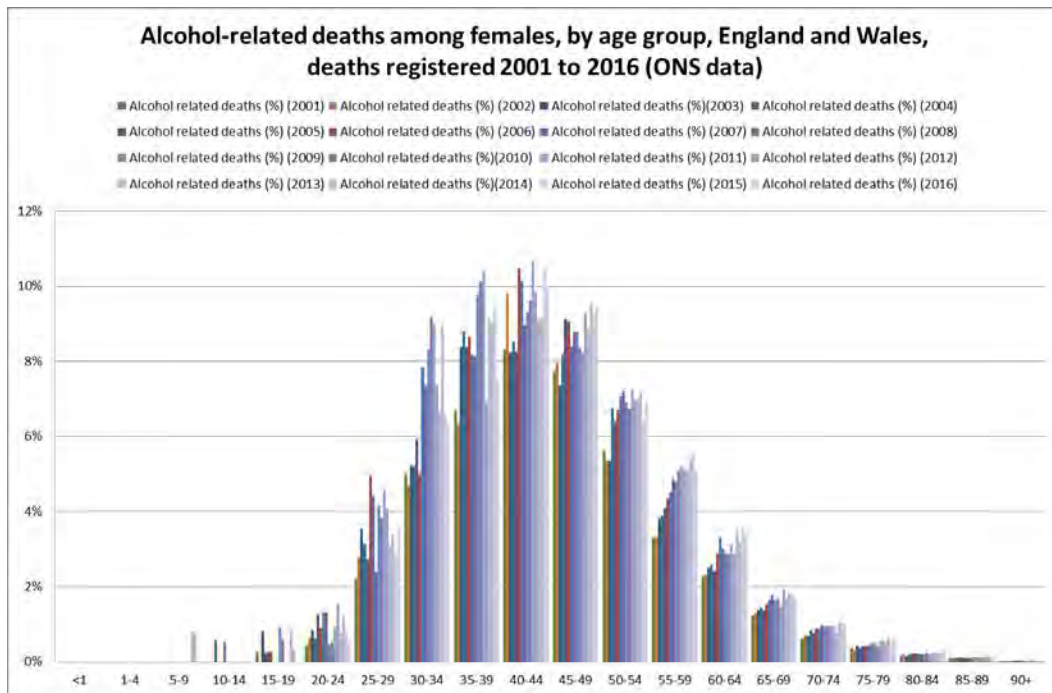


Figure 27: Alcohol-related deaths among females, by age group – England & Wales

For women the most deaths due to alcohol occur in the 55-59 year old group, with the 50-54 year olds the next highest. The peak death rate in women, due to all causes, occurs in the 90 year olds and over group (Figure 28).

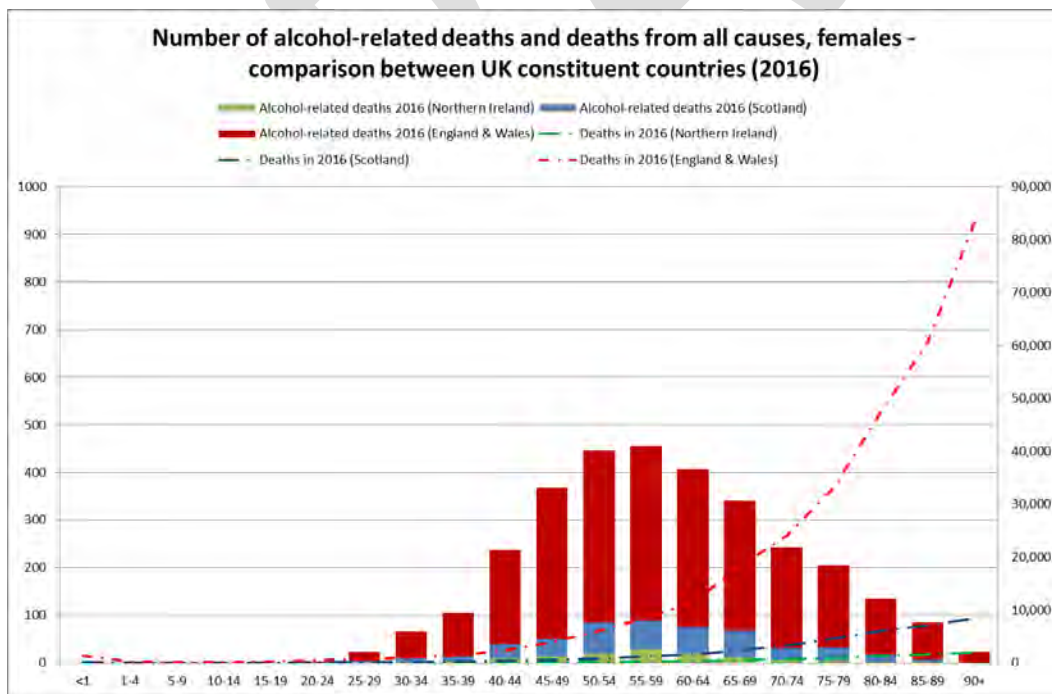


Figure 28: Number of female deaths, and alcohol-related deaths for the UK constituent countries (2016)



Data from the Office for National Statistics gathered in 2011 showed a clear correlation in death rates due to alcohol for residents in England and Wales aged from 16-64 years old depending on their occupation<sup>16</sup> (Figure 29); particularly for males. Males in routine occupations have a death rate due to alcohol-related conditions which is 4 times greater than their counterparts in higher managerial or professional occupations. Females have lower death rates than males; females in routine occupations have a death rate, due to alcohol, that is 2 and a half times greater than females in higher managerial and professional occupations (Figure 29). While similar data has not been found for Scotland or Moray it is interesting to read this across to the occupation profile of Moray.

Moray tends to have fewer residents working in professional and associate professional & technical occupations compared to the rest of Great Britain, and Scotland (Figure 30). Conversely, Moray has a higher proportion of residents in elementary occupations and employed as process plant & machine operatives. This suggests that Moray may be susceptible to higher than the national average alcohol-related death rates. However, this does not appear to be the case and is examined in more detail in a later section.

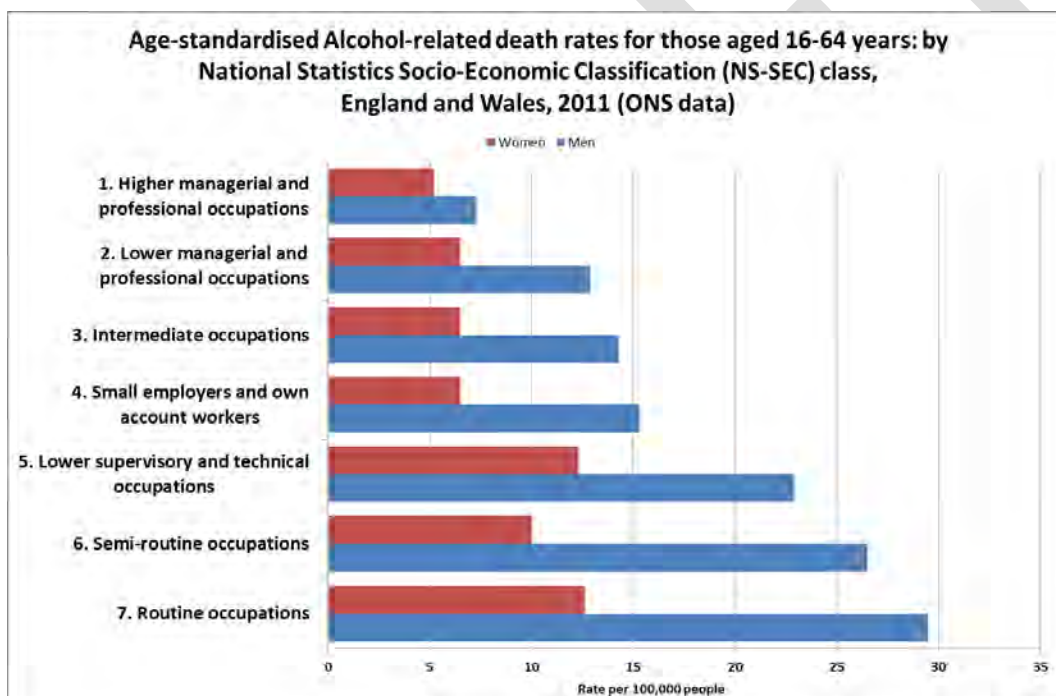


Figure 29: Age-standardised Alcohol-related death rates for those aged 16-64 years by socio-economic classification, England and Wales (2011)

<sup>16</sup><http://webarchive.nationalarchives.gov.uk/20160105202741/http://www.ons.gov.uk/ons/rel/subnational-health4/alcohol-related-deaths-in-the-united-kingdom/2013/sty-lives-lost-to-alcohol.htm>

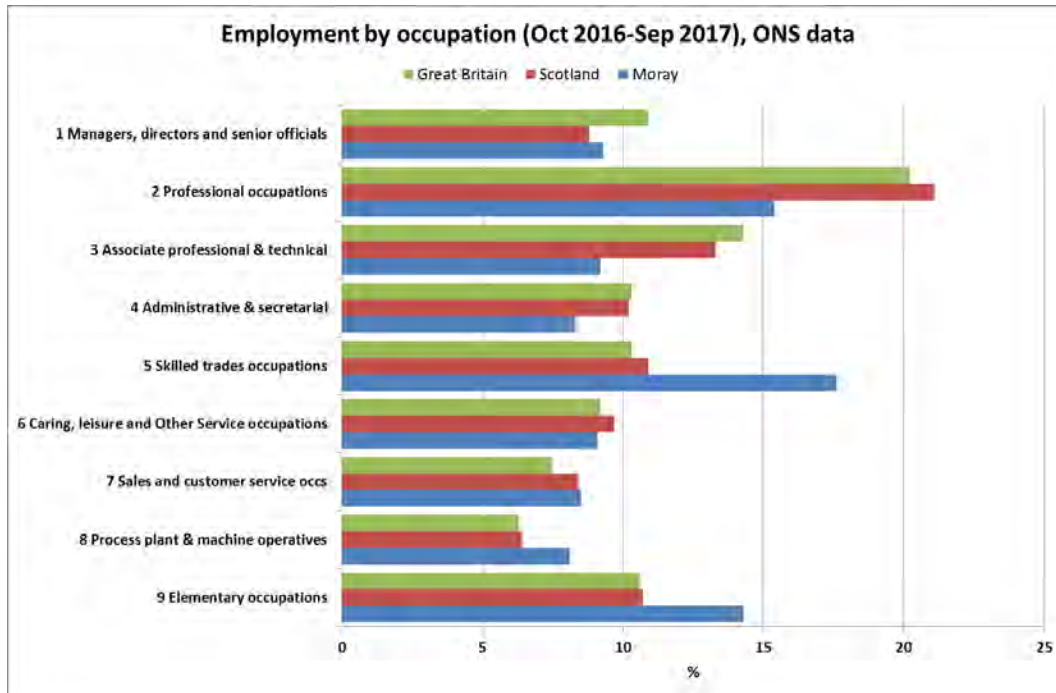


Figure 30: Employment by occupation (Oct 2016-Sep 2017) (ONS data)

In 2011 data from across the UK (Figure 31) identified that the peak age group for males dying of alcohol related conditions was between 55 and 64 years old (approximately 47 deaths per 100,000 population), with the peak for females being 55 to 59 years old (half the male rate at 22.4 deaths per 100,000 population).

This data has some correlation with the drinking habits identified previously:

- Males aged between 55 and 64 years old had the highest proportion of people drinking more than 14 units per week and were also the largest group drinking over 4 units per week.
- However, the largest proportion of males drinking over 8 units per week were 16-24 and 25 – 34 years old.
- Female drinking levels are generally lower than male levels, except in the 16-24 year old age group.
- Females aged between 55-64 years old were the second highest group consuming more than 3 units on their heaviest drinking day.

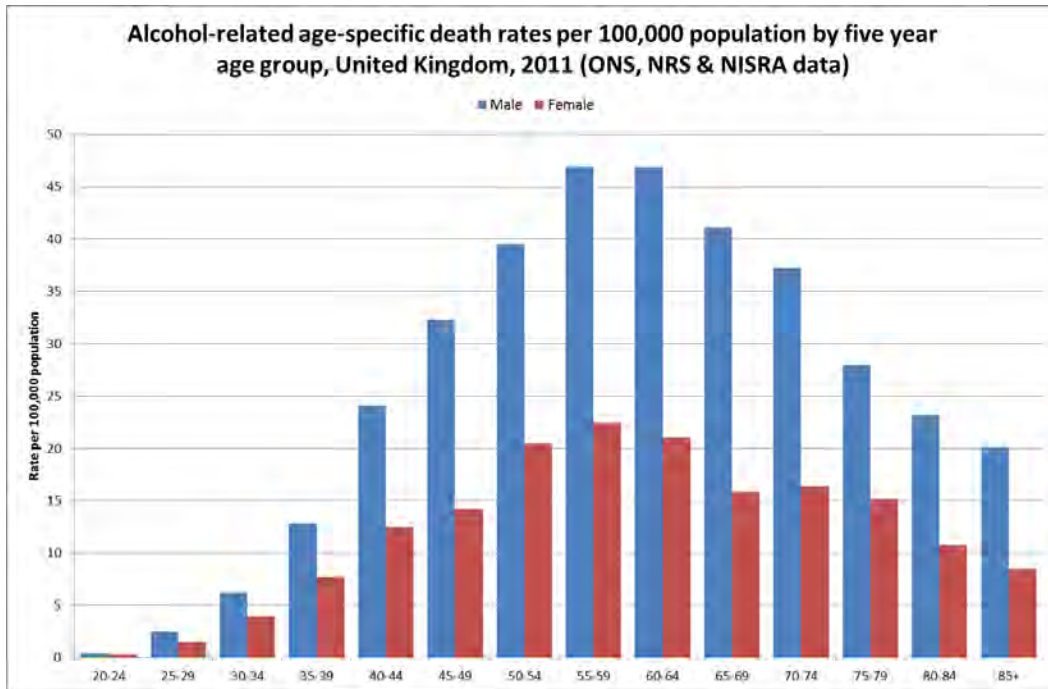


Figure 31: Alcohol-related age-specific death rates per 100,000 population by five year age group, United Kingdom, 2011 (ONS, NRS & NISRA data)

Alcohol related deaths in Moray

Despite having an occupational demographic that might lead to higher than average alcohol-related death rates Moray was mid-table in the ranking of local authorities over the 5-year period 2012- 2016 (14<sup>th</sup> highest out of the 32 local authorities in Scotland). Figure 32 illustrates that over this period Moray’s alcohol-related mortality rate sat almost midway between the highest local authority, Glasgow City, and the lowest, Shetland Islands.



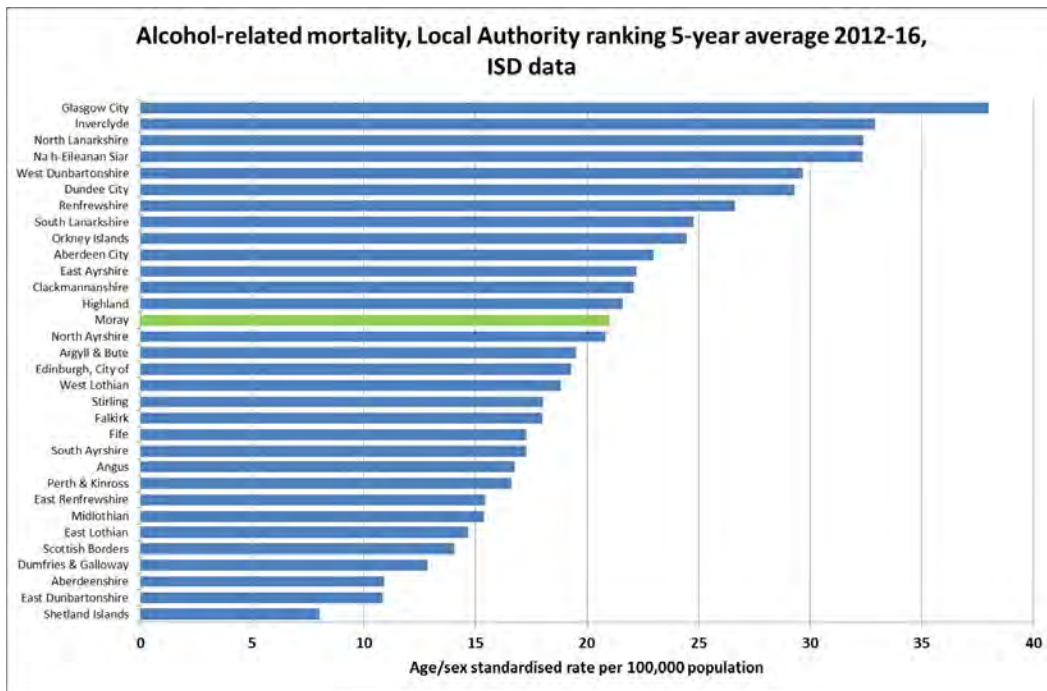


Figure 32: Alcohol-related mortality, Local Authority ranking 2016 (ISD data)

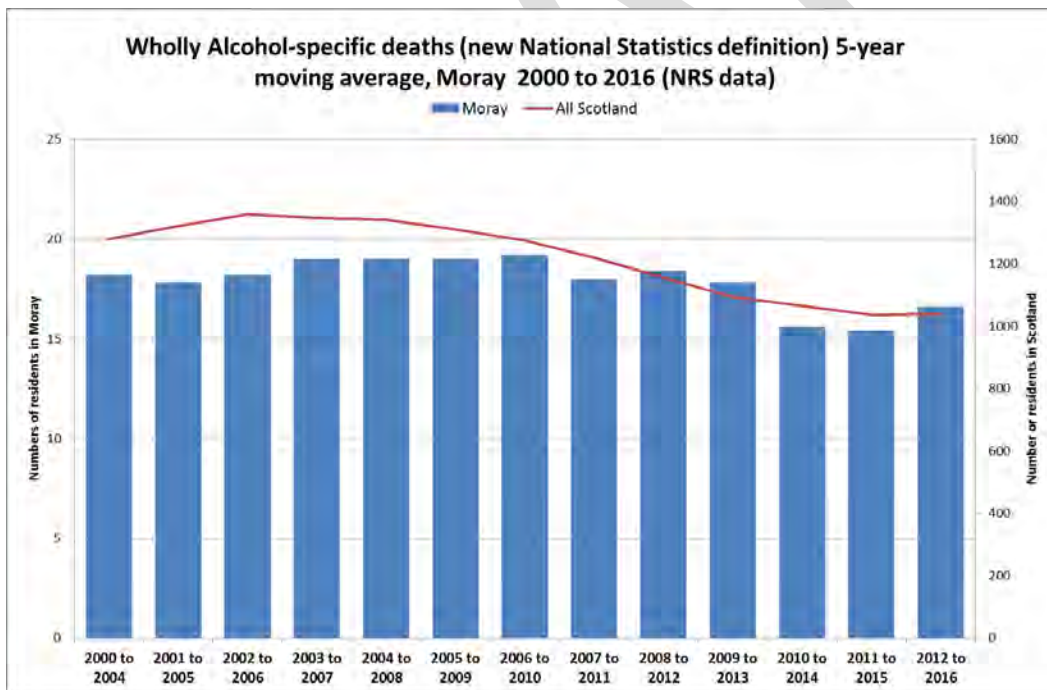


Figure 33: Wholly alcohol-specific deaths 5-year moving average 2006-2016

As the numbers of individuals in Moray dying each year of alcohol-related conditions are small the rate per 100,000 population can vary significantly from year to year, hence the 5-year average used in Figure 33. The average number of alcohol-related deaths in Moray is between 15 and 19 per year, and the

trend had been gradually downward since 2008-2012, but during 2012-16 the average rose to 17. To put these numbers in context during the period 2012-16 there were on average of 1,008 deaths per year from all causes (Figure 34).

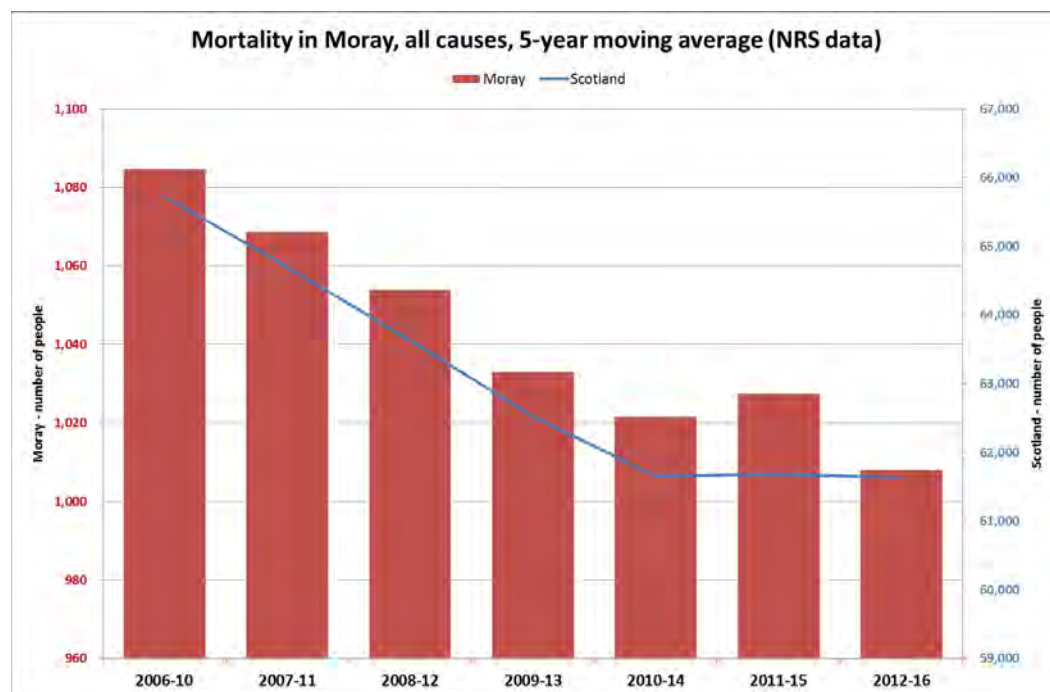


Figure 34: Mortality in Moray from all causes, 5-year moving average (2006/10 to 2012/16)

As Figure 35 illustrates the alcohol-related mortality rates vary quite significantly across the different communities that make up Moray. The 5-year rolling average for 2010-14 in Lossiemouth East and Seatown is 2 and a half times the Moray average and around 10 times higher than in Elgin Central West, and significantly higher than in Lossiemouth West and Rural Keith & Strathisla, which both recorded no alcohol-related deaths (ScotPHO data, 2014). There is some correlation with higher death rates due to alcohol in more deprived areas, but it is not an exact match as Table 1 shows. For example, Elgin Central West mainly comprises data zones in the least deprived quintile overall for SIMD<sup>17</sup>. In contrast, Buckie Central East, Keith and Fife Keith, Elgin Bishopmill East and Ladyhill & Elgin Cathedral to Ashgrove and Pinefield all contain at least 2 data zones each in the second most deprived quintile, and have relatively high alcohol-related mortality rates.

There are some exceptions that don't conform to this correlation however. For example, Lossiemouth West has 2 data zones in the second most deprived quintile and has the lowest alcohol-related mortality rate, and New Elgin East, with data zones covering the most-deprived to the second least deprived quintiles is close to the Moray average for alcohol-related mortality. This suggests a more complex relationship between alcohol abuse and level of deprivation, possibly providing evidence that parts of

<sup>17</sup> Scottish Index of Multiple Deprivation – 2016 data used

Moray follow the national trend of those on lower earnings drinking less frequently (Figure 18) and a higher proportion of non-drinkers in the most deprived data zones (Figure 19).

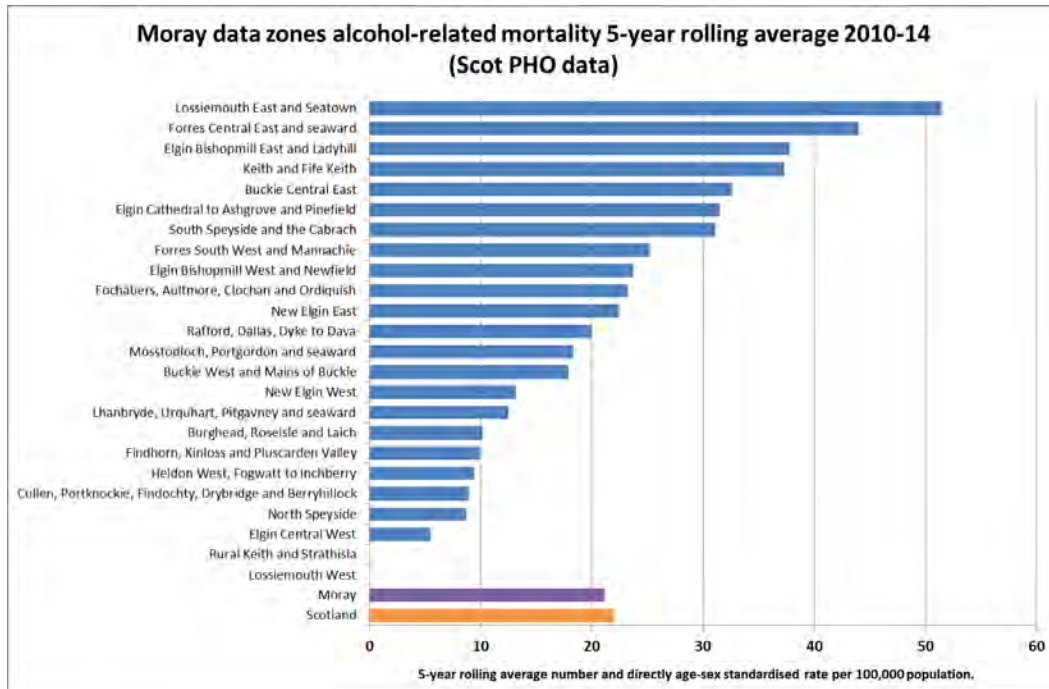


Figure 35: Moray data zones alcohol-related mortality 5-year rolling average 2010-14 (Scot PHO data)

Intermediate Zone	Overall SIMD Quintiles for data zones in the intermediate zone							
Lossiemouth West	2	2	3	3	4	5		
Rural Keith and Strathista	3	3	4	4	4			
Elgin Central West	4	5	5	5				
North Speyside	3	4	4	4	5			
Cullen, Portknockie, Findochty, Drybridge and Berryhillock	3	3	3	3	4	4	4	4
Heldon West, Fogwatt to Inchberry	2	2	4	4	5			
Findhorn, Kinloss and Pluscarden Valley	4	4	4	5	5			
Burghead, Roseisle and Laich	3	4	4	4	5	5		
Lhanbryde, Urquhart, Pitgavney and seaward	2	3	4	4	4			
New Elgin West	2	3	5	5	5			
Buckie West and Mains of Buckie	2	3	4	4	5			
Mosstodloch, Portgordon and seaward	3	3	4	4	4			
Rafford, Dallas, Dyke to Dava	3	3	4	4				
New Elgin East	1	2	3	4	4			
Fochabers, Aultmore, Clochan and Ordiquish	2	4	4					
Elgin Bishopmill West and Newfield	3	3	4	5	5			
Forres South West and Mannachie	2	2	3	3	3	3	4	5
South Speyside and the Cabrach	3	3	4	4	4			
Elgin Cathedral to Ashgrove and Pinefield	2	2	2	3	3	3		
Buckie Central East	2	2	3	4	4			
Keith and Fife Keith	2	2	4	4	4			
Elgin Bishopmill East and Ladyhill	2	2	3	3	4			
Forres Central East and seaward	2	3	3	5	5	5		
Lossiemouth East and Seatown	3	3	4	4	5			

Table 1: Overall SIMD 2016 quintiles for data zones in each intermediate zone (SIMD 2016)

Alcohol Focus Scotland reported that alcohol-related death rates in the neighbourhoods with the most off-sales outlets were 4.3 times higher than in neighbourhoods with the least<sup>18</sup>. However, by plotting the location of pubs, hotels, night-clubs and retail premises with off-licences throughout Moray, the picture does not appear to be as clear-cut as the Alcohol Focus Scotland report suggests. The following maps (Figures 35 to 40) show the alcohol related deaths (where alcohol was the underlying cause). The figures are 5-year rolling averages per 100,000 population (using a standardised rate for age and sex of the population), with the green areas having an alcohol-related death rate of 6 or fewer per 100,000 population, and the orange and red areas with 26 or more deaths and 39 or more deaths per 100,000 population, respectively.

The following Moray neighbourhoods recorded greater than the Scottish average of 22 deaths per 100,000 population in 2014:

- Lossiemouth East and Seatown
- Forres Central East and seaward
- Elgin Bishopmill East and Ladyhill
- Keith and Fife Keith
- Buckie Central East
- Elgin Cathedral to Ashgrove and Pinefield
- South Speyside and the Cabrach
- Forres South West and Mannachie
- Elgin Bishopmill West and Newfield
- Fochabers, Aultmore, Clochan and Ordiquish
- New Elgin East

Lossiemouth East and Seatown had a population of 3,464 at the times of the 2011 Census, and contains 3 pubs, 2 off-licences and one hotel, which equates to 1.73 alcohol outlets per 1,000 residents (of all ages). By contrast the adjacent intermediate zone is Lossiemouth West which is in the lowest band for alcohol-related deaths and contains 4 alcohol outlets (Figure 36).

One of the 2 intermediate zones in Forres with above national average alcohol-related death rates is in the highest band (red) for Moray, while the other is in the middle band (yellow). Forres Central East and seaward had a Census 2011 population of 3,695 and contains a total of 6 hotels, 4 pubs, a night-club, and 2 shops; a total of 13 alcohol-outlets, which equates to 3.52 outlets per 1,000 residents. Forres South-West and Mannachie has 4 shops with off-licences with a population of 5,352 in 2011. However, the pubs and 3 of the hotels in Forres Central East and seaward are in close proximity to many of the residents of Forres South-West and Mannachie (Figure 37).

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<sup>18</sup> Alcohol Focus Scotland & Centre for Research on Environment, Society and Health (CRESH), April 2018, *“Alcohol Outlet Availability and Harm in Moray”*



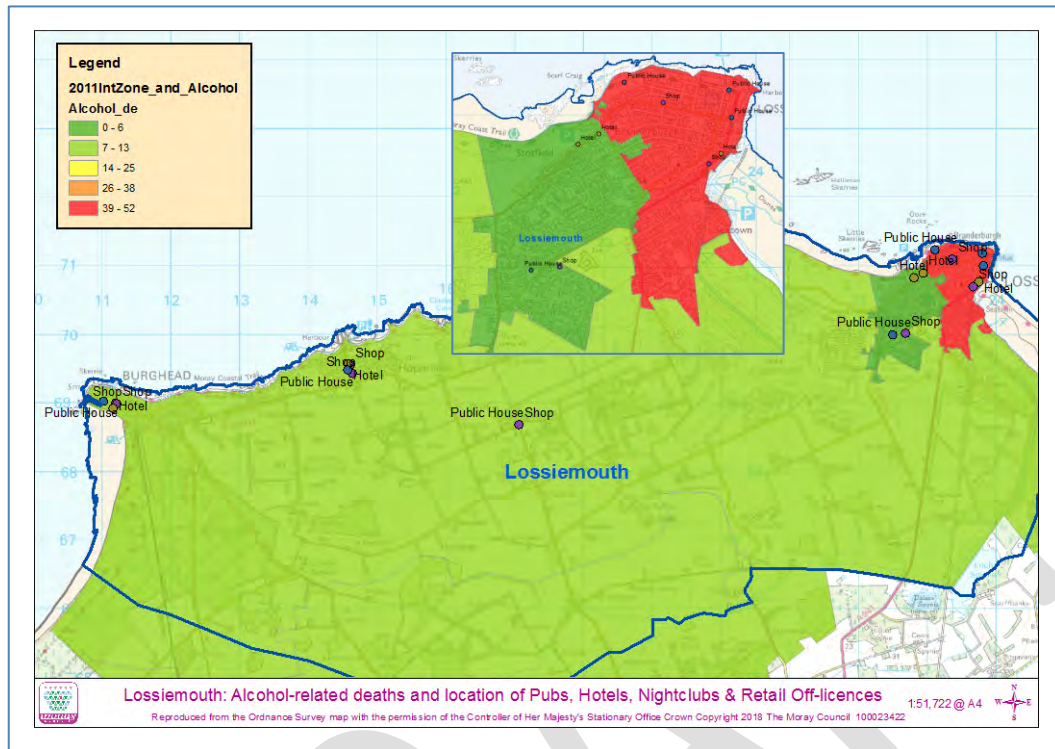


Figure 36: Lossiemouth - alcohol-related deaths and location of alcohol outlets

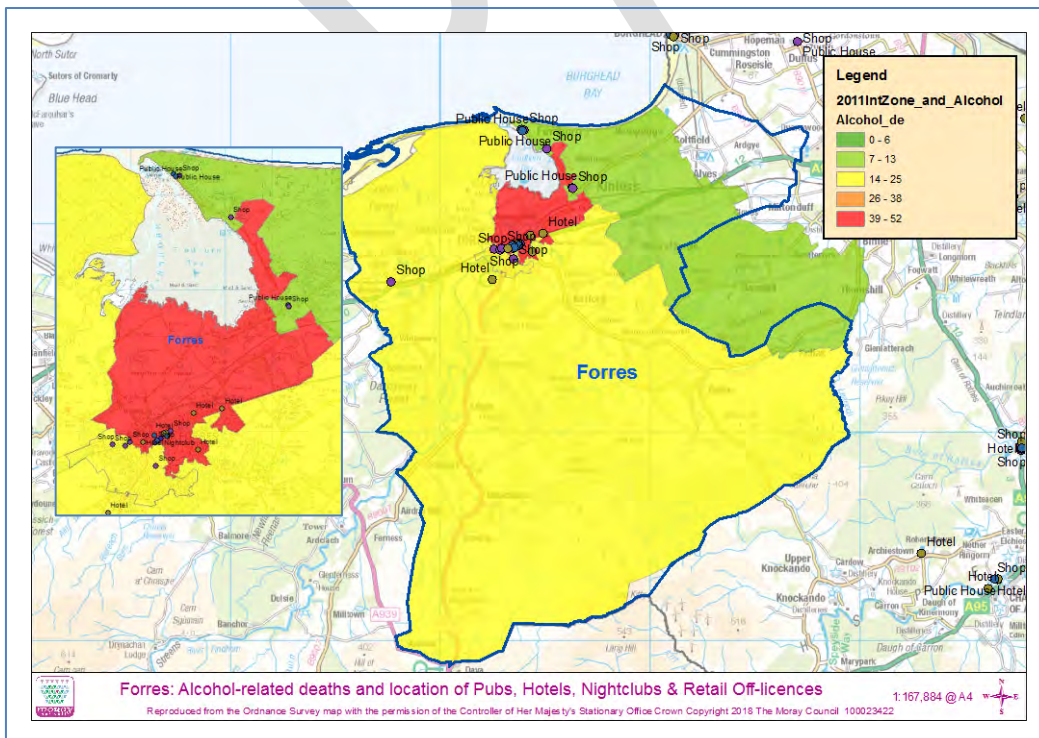
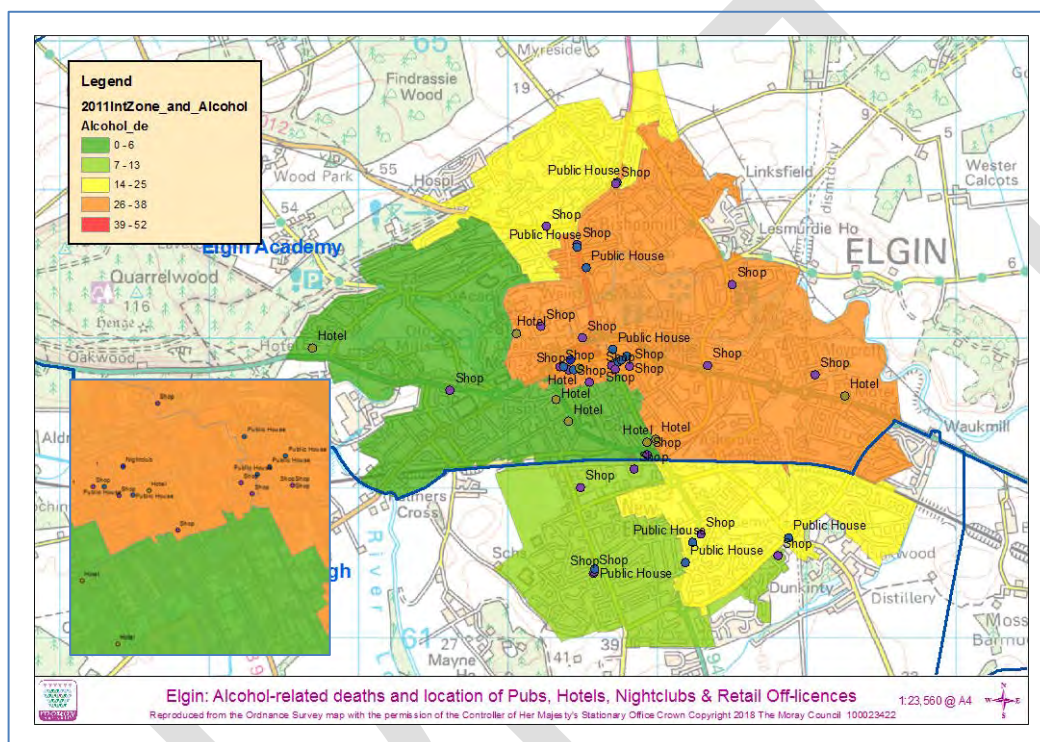


Figure 37: Forres - alcohol-related deaths and location of alcohol outlets

Elgin town centre has a relatively high concentration of pubs, nightclubs and hotels, but none of the adjacent intermediate zones have an alcohol-related death rate in the highest quintile (Figure 38). In the 4 intermediate zones that comprise the majority of residences in Elgin, but excluding New Elgin, there are 9 public houses, 16 shops, 8 hotels, a nightclub and a service station where members of the public can purchase alcohol. The combined Census 2011 population for these 4 intermediate zones was 14,168 residents of all ages. The ratio of alcohol outlets to population is 2.47 per 1,000 residents, which is a greater density than for Lossiemouth East and Seatown, the data zone with the highest alcohol-related death rate in Moray.



**Figure 38: Elgin - alcohol-related deaths and location of alcohol outlets**

The centre of Keith is in the second highest quintile for alcohol-related deaths and had a population of 4,653 at the time of the 2011 census. With 5 hotels, 2 pubs, 6 shops and a service station there are 14 alcohol outlets giving a ratio of 3 outlets per 1,000 residents (Figure 39). In Buckie there are more alcohol-outlets in Buckie West and Mains of Buckie (13 in total), which has a lower alcohol-related death rate than Buckie Central East (6 outlets). The alcohol outlet density in Buckie West and Mains of Buckie is 2.93 outlets per 1,000 residents, whereas Buckie Central East has a much lower density of 1.7 alcohol outlets per 1,000 residents (Figure 40).



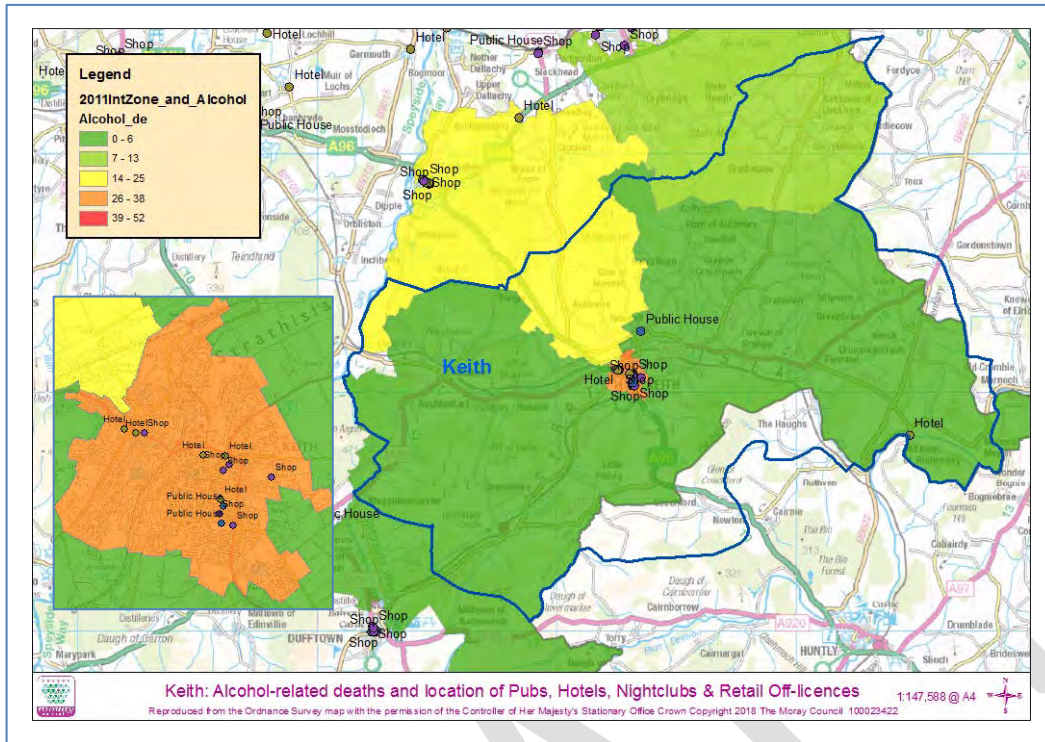


Figure 39: Keith - alcohol-related deaths and location of alcohol outlets

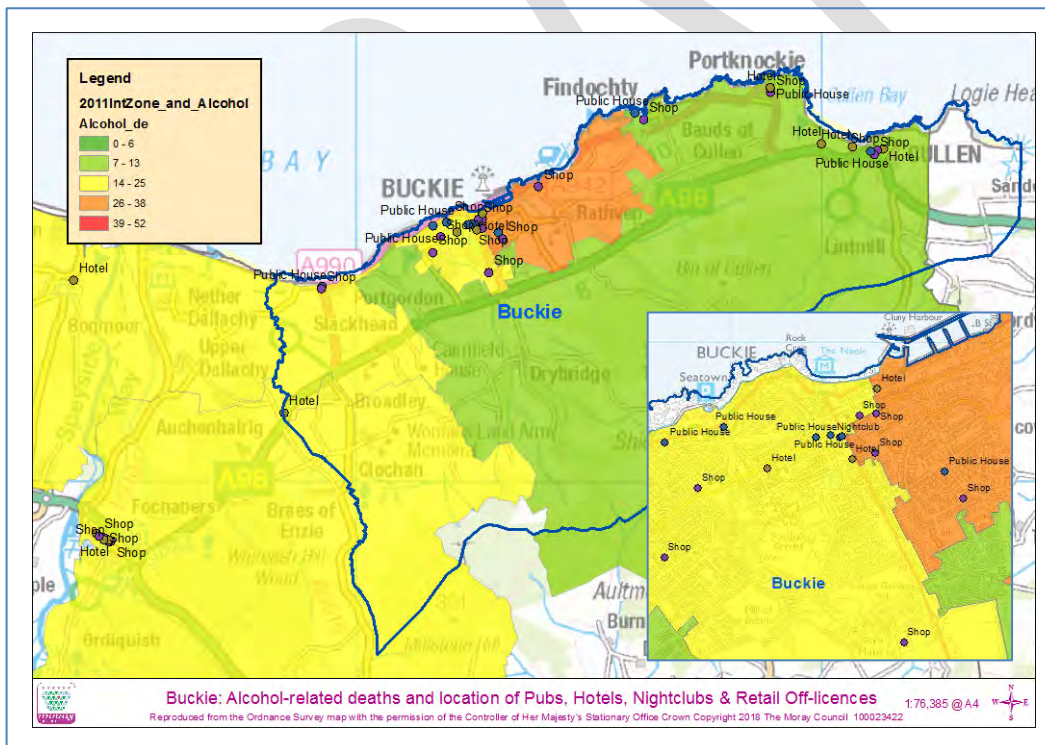


Figure 40: Buckie - alcohol-related deaths and location of alcohol outlets

South Speyside and the Cabrach covers a wide area of Moray and, at the time of the 2011 census, had a population of 4,312 residents. The largest settlement is Dufftown, which contains most of the alcohol outlets in this intermediate zone. Altogether there are 15 alcohol outlets in this area, almost 3.5 for every 1,000 residents, giving it one of the highest alcohol-outlet densities in Moray.

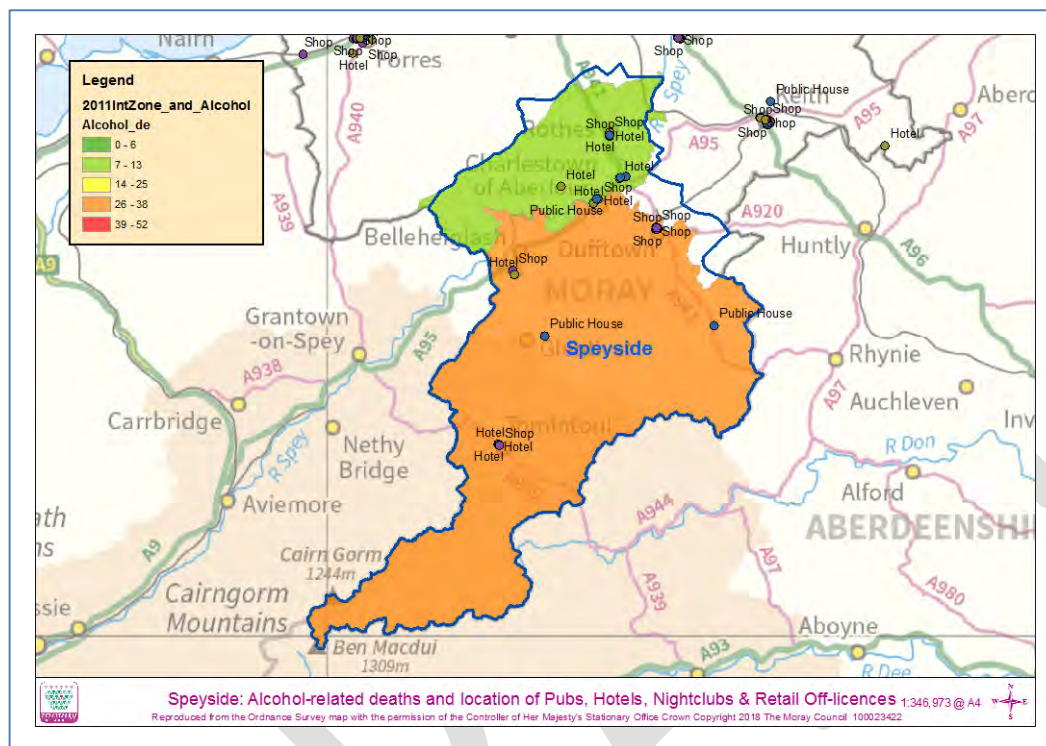


Figure 41: Speyside - alcohol-related deaths and location of alcohol outlets

The above excluded distilleries and the impact of visitor centre sales on local communities, nor has the potential impact of discounted prices for distillery-workers living in these areas been considered.

#### Summary of alcohol-related deaths:

- Across Scotland men are twice as likely to die from alcohol-related causes compared to women, and people living in Scotland are more likely to die than their counterpart in England & Wales, and Northern Ireland. The gap between the countries is reducing, however.
  - Against this backdrop wholly alcohol-related deaths in Moray have consistently been below the national figure, since 2000-04. Note though that the Moray rate has increased during the most recent 5-year period 2012-16.
- The highest proportion of alcohol-related deaths for males in Scotland occurs in the 45-49 year old age group, although the proportion has reduced from its peak in 2015. This is a younger age group than in England & Wales, where the 50-54 year olds have the highest proportion of alcohol-related mortality.
- For females in Scotland the age group with the highest rate of alcohol-related deaths is the 40-44 year olds, but generally the rate for such deaths are reducing across most age-groups.



- Over the 5-year period 2012-16 Moray had the 14<sup>th</sup> highest alcohol-related death rate of the 32 local authorities in Scotland.
  - Since 2000 the number of such deaths has been between 15 and 19 per year, compared to an overall death-rate for Moray of just over 1,000 per year.
- Across Moray alcohol-related mortality varies significantly between communities:
  - In Lossiemouth East and Seatown intermediate zone the 5-year average for 2010-14 was over 50 alcohol-related deaths per 100,000 population
  - In Rural Keith & Strathisla and Lossiemouth West there were no alcohol-related deaths
  - 11 of the 24 (46%) intermediate zones in Moray recorded greater than the Scottish average of 22 deaths per 100,000 population in 2014.
- There is some correlation between alcohol-related mortality and the availability of publically-accessible alcohol outlets. However, there are exceptions:
  - South Speyside and Cabrach has the highest publically accessible alcohol outlet densities in Moray (3.5 per 1,000 residents) but is in the second highest quintile for alcohol mortality
  - The intermediate zone with the highest alcohol-related mortality is Lossiemouth East and Seatown with 6 publically-accessible outlets, while the neighbouring Lossiemouth West with 4 such outlets has one of the lowest alcohol-related mortality rates in Moray.

## 6. HEALTH IMPACTS OF ALCOHOL

The Moray Alcohol and Drug Partnership (MADP) supports service users who are drinking or using drugs at levels or patterns that are damaging to themselves or others. The number of service users obtaining support for alcohol misuse varies from quarter-to-quarter, from 162 in quarter 3 2014/15 to 299 in quarter 2 2016/17 (Figure 42). This may not be a precise measure of the level of alcohol misuse across Moray, but it provides an indication of trends in the numbers of people looking for support.

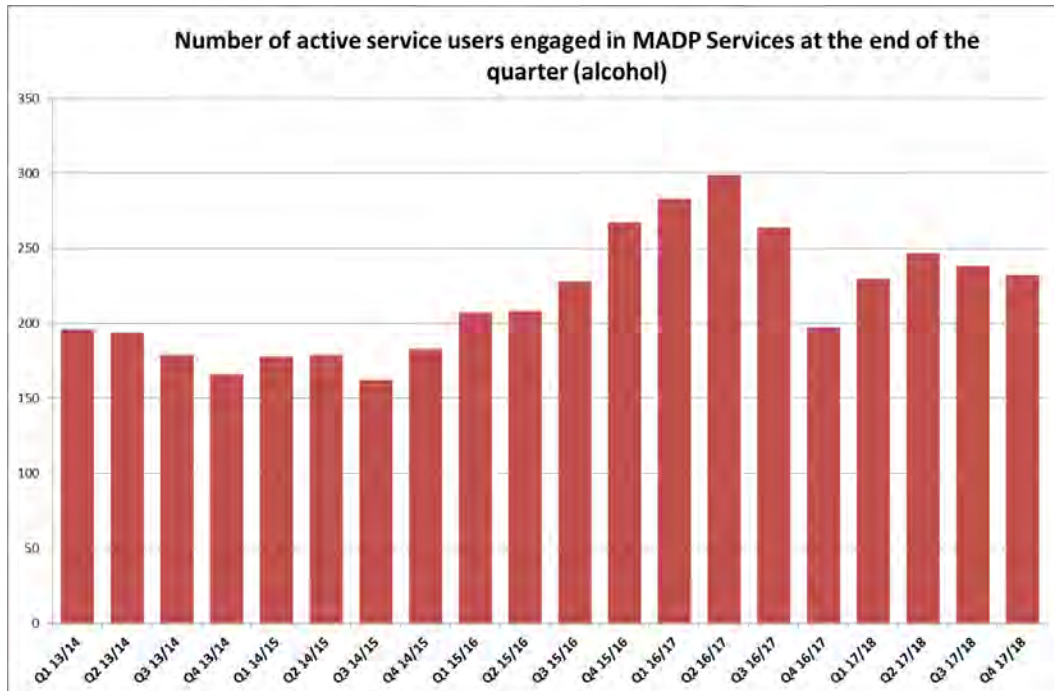


Figure 42: Number of active service users engaged in MADP services – alcohol related (2013/14 to 2017/18)

One method of understanding the trends in data is to plot the figures on a control chart and identify if the variation is consistent, and can be considered in control, or is unpredictable, and can be considered as out of control or a special cause. There are a number of out-of-control signals, such as the data point being greater than 3 standard deviations from the mean<sup>19</sup>. Figure 43 uses the data from figure 42 and identifies 2 points in quarter 1 and quarter 2 2016/17 that can be considered as out-of-control. However, since then the number of active service users has reduced gradually.

<sup>19</sup> <http://asq.org/learn-about-quality/data-collection-analysis-tools/overview/control-chart.html>

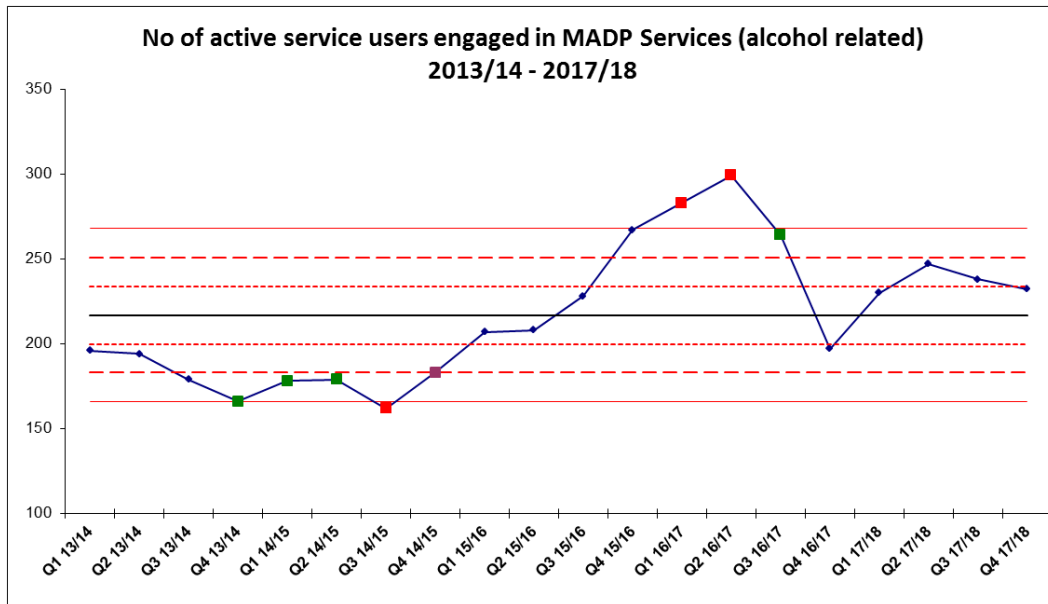


Figure 43: Control chart for figure 42

Over the past 9 quarters the number of clients treated by the Moray ADP for alcohol misuse has fluctuated between 47 and 92 (during the quarter July – September 2016). Since then the number has averaged around 68 per quarter (Figure 44).

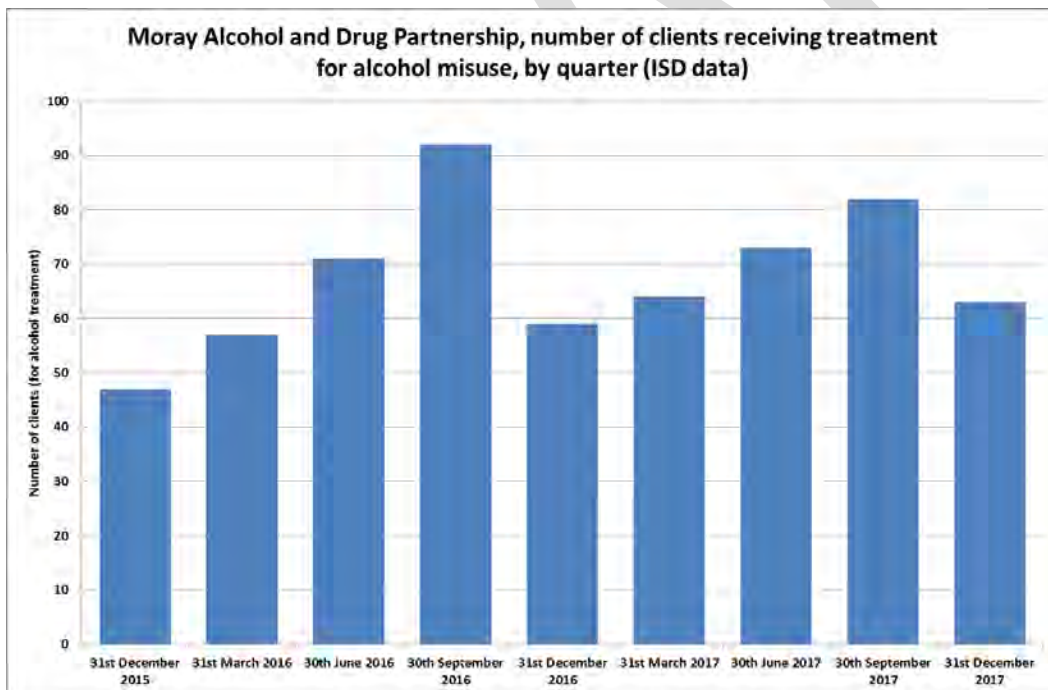


Figure 44: Number of clients receiving treatment for alcohol misuse from Moray ADP (Oct 15 – Dec 17) (ISD data)

Figures from the NHS Information Services Division for Scotland (Figure 45) show a clear correlation between hospital stay rates due to alcohol-related causes and level of deprivation of the area that the patient resides in.

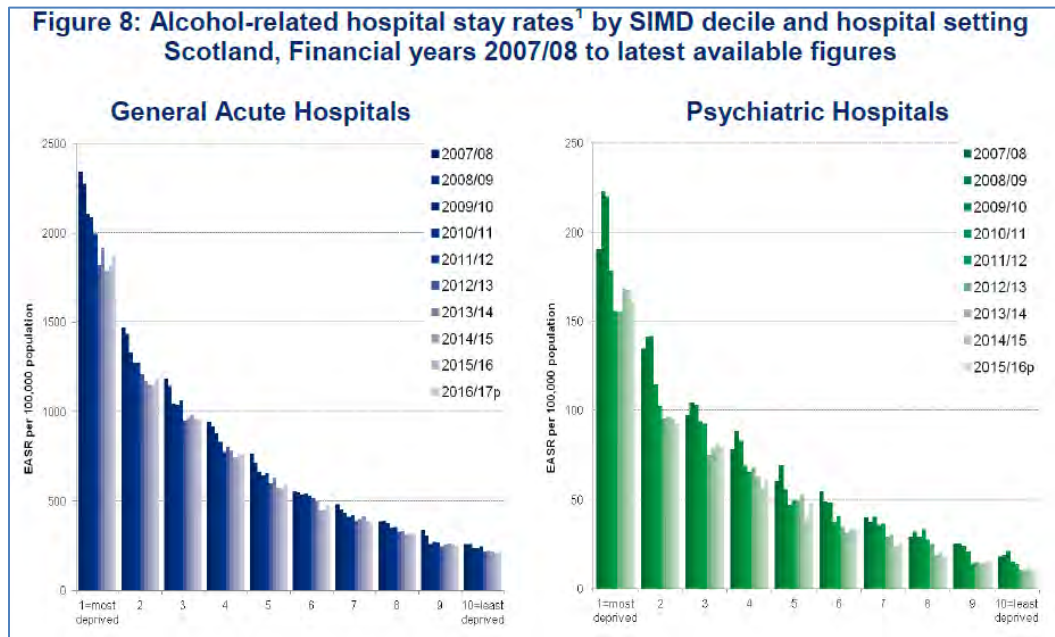


Figure 45: Alcohol-related Hospital Statistics Scotland 2016/17 – Hospital stays by SIMD decile<sup>20</sup>

A similar situation is observed in Moray when analysing the Scottish Index of Multiple Deprivation (SIMD) 2016 data. There were data zones where no-one recorded an alcohol-related hospital stay, but also 3 data zones that recorded double the Scottish average (Figure 46). However, there has been a significant decrease since 2012 when residents in data zones were recording the highest number of hospital stays due to alcohol-related causes were over 3 times the Scottish average (Figure 47).

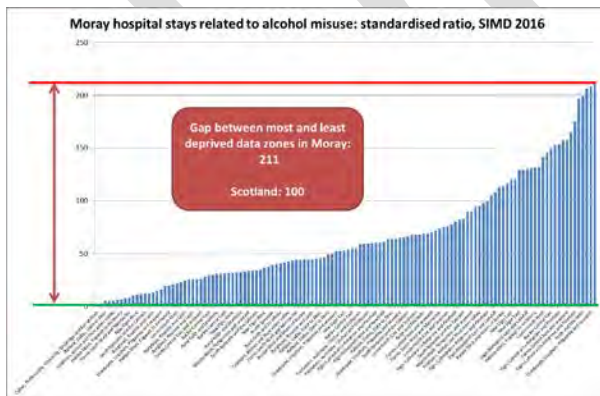


Figure 46: Moray hospital stays related to alcohol misuse –

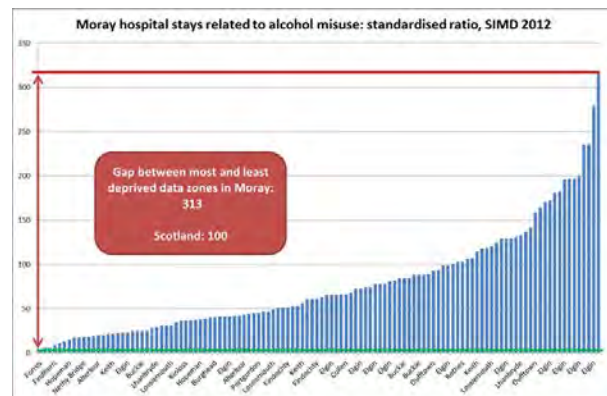


Figure 47: Moray hospital stays related to alcohol misuse – gap

<sup>20</sup> Alcohol-Related Hospital Statistics Scotland 2016/17 Publication date – 21 November 2017 NHS ISD

gap between most and least deprived data zones in  
Moray 2016 (Scottish Index of Multiple Deprivation)

between most and least deprived data zones in  
Moray 2012 (Scottish Index of Multiple Deprivation)

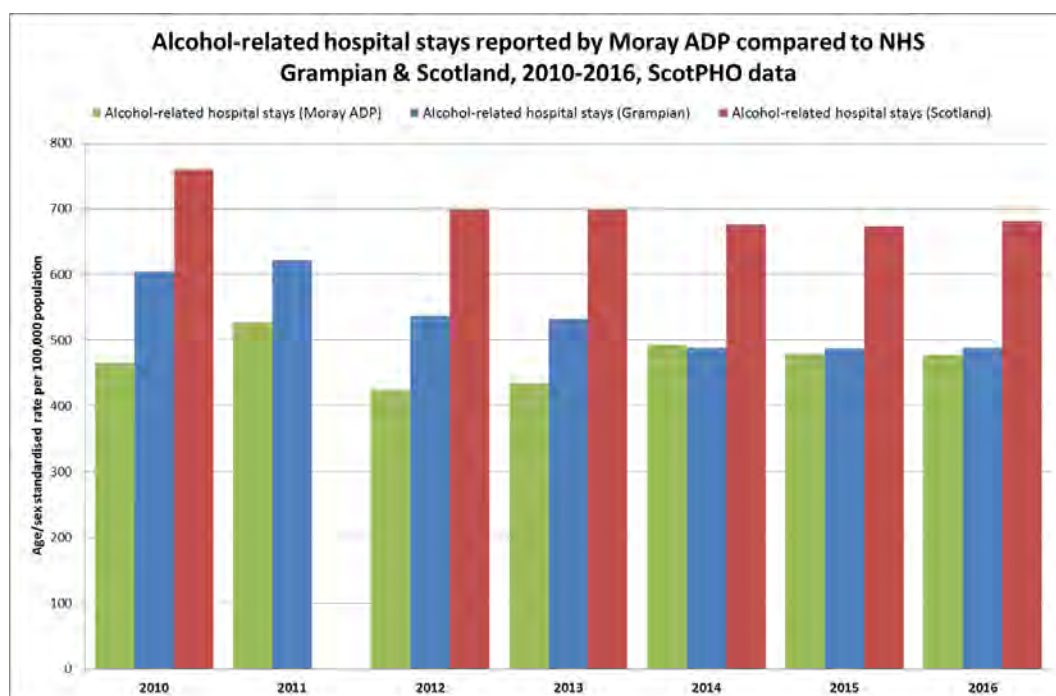


Figure 48: Alcohol-related hospital stays reported by Moray ADP compared to NHS Grampian & Scotland, 2010-2016, ScotPHO data<sup>21</sup>

Data for alcohol-related conditions is collected by the Scottish Public Health Observatory (ScotPHO) and has been used to compare differences between national rates, NHS Grampian and the area covered by the Moray Alcohol and Drug Partnership (MADP). Since 2010 MADP has recorded a lower rate of alcohol-related hospital stays compared to Scotland, and in recent years about the same rate as the wider NHS Grampian area. In 2016 the overall rate for the MADP area was 70% of the national rate (Figure 48). Furthermore, there has been a gradual reduction in the rate of alcohol-related hospital stays since 2002 in Moray (Figure 49), reflecting the national trend. In 2012, however, the rate in Moray started to increase, but appears to have stabilised in the past 3 years.

<sup>21</sup> <https://scotpho.nhs.uk/scotpho/profileSelectAction.do>

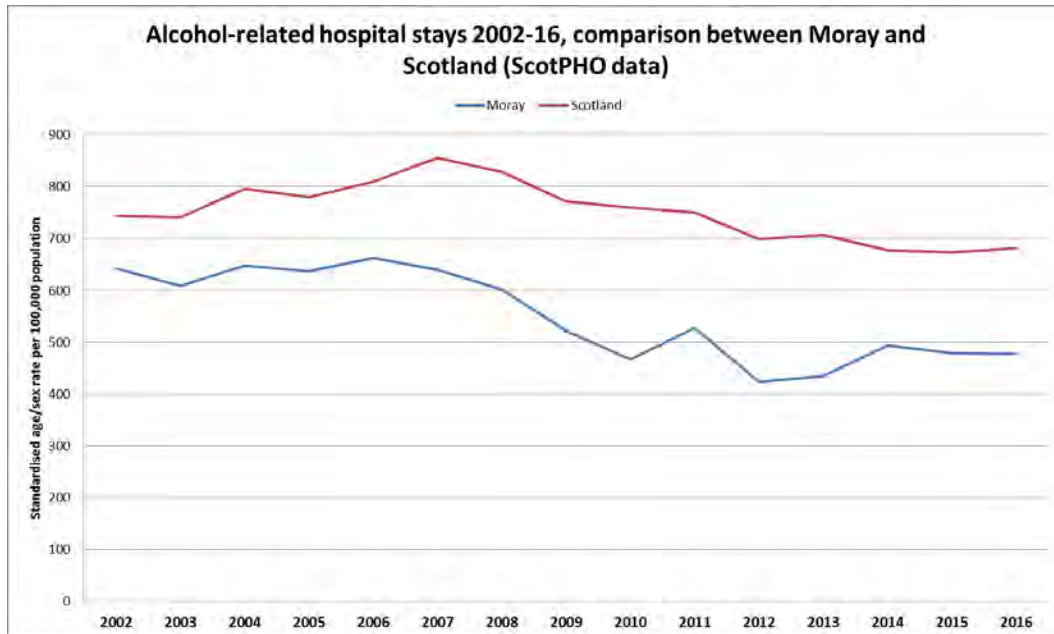


Figure 49: Alcohol-related hospital stays 2002-16, comparison between Moray and Scotland (ScotPHO data)

ScotPHO<sup>22</sup> provides information on alcohol-related hospital stays for intermediate zones. The latest data is for the financial year 2016/17 and Figure 50 shows the rate per 10,000 populations (standardised for age and sex to remove the effects of different demographics in each area) for the intermediate zones that make up Moray. There is a considerable variation in the number of stays between areas with most intermediate zones being below the Scottish average. The 5 areas with the highest rates of alcohol-related hospital stays are:

1. Elgin Cathedral to Ashgrove and Pinefield
2. Keith and Fife Keith
3. Buckie Central East
4. Forres South West and Mannachie
5. Elgin Bishopmill East and Ladyhill

Note that the first 4 areas on this list have higher rates of alcohol-related stays than the national average.

<sup>22</sup> Scottish Health Public Observatory





Figure 50: Moray alcohol-related hospital stays, age/sex standardised rate per 10,000 population 2016-17 (Scot PHO)

The two intermediate zones on the above list situated in Elgin have similar number of alcohol outlets, but Elgin Cathedral to Ashgrove and Pinefield (Figure 51) has a higher rate of alcohol-related hospital admissions. The Community Profile for this intermediate zone<sup>23</sup> created for the Moray Community Planning Partnership found that residents in this part of Elgin had relatively low life expectancy, a relatively high rate of adults claiming Incapacity benefit/severe disability allowance/employment & support allowance, and out of work benefits compared to the Moray average. Data zones within this community were in the most-deprived SIMD (Scottish Index of Multiple Deprivation) 2016 quintiles in Scotland for housing, crime and education/skills/training. These factors may influence the high rate of alcohol-related hospitals stays by residents of Elgin Cathedral to Ashgrove and Pinefield.

Keith and Fife Keith has the second highest rate of alcohol-related hospital stays in Moray and contains the majority of publically-accessible alcohol outlets within the Keith ASG area. Note, however, that the 2 adjacent intermediate zones have below average rates for this measure (Figure 52). The SIMD (2012) quintile rankings for the various domains of deprivation suggest that Keith has some anti-social crime issues and some variability in the Education domain. Overall however, Keith scores well for relative deprivation with the vast majority of scores in the middle quintile or higher<sup>24</sup>.

<sup>23</sup> <http://yourmoray.org.uk/downloads/file113617.pdf>

<sup>24</sup> <http://yourmoray.org.uk/downloads/file113697.pdf>

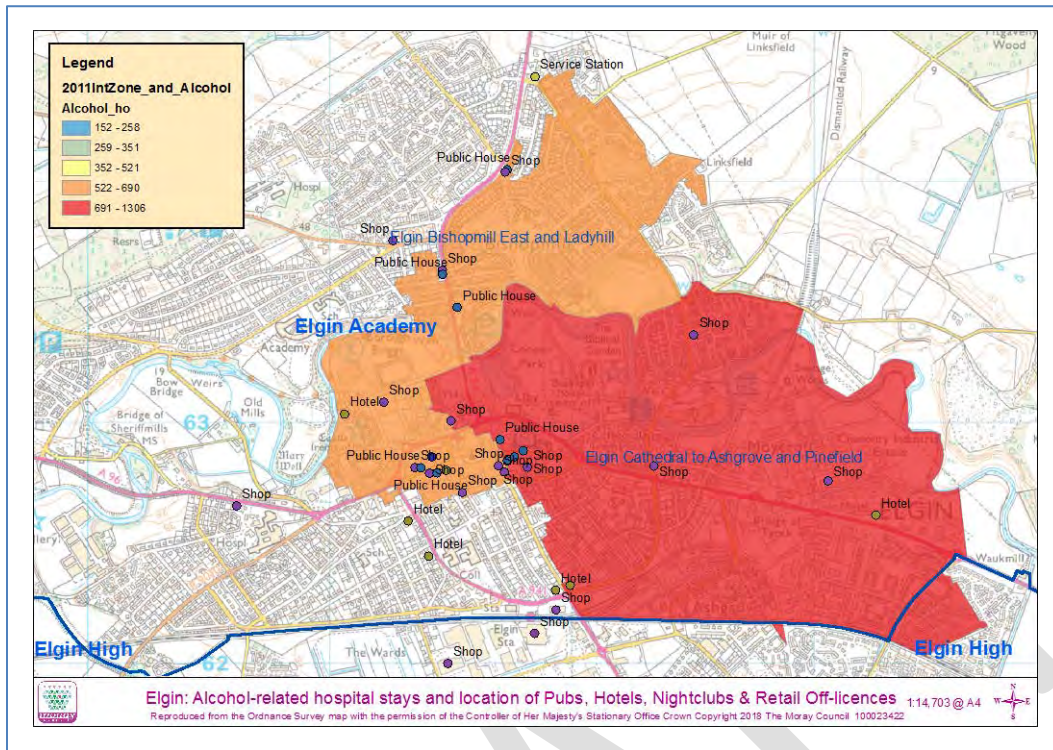


Figure 51: Elgin – alcohol-related hospital stays and location of public alcohol outlets

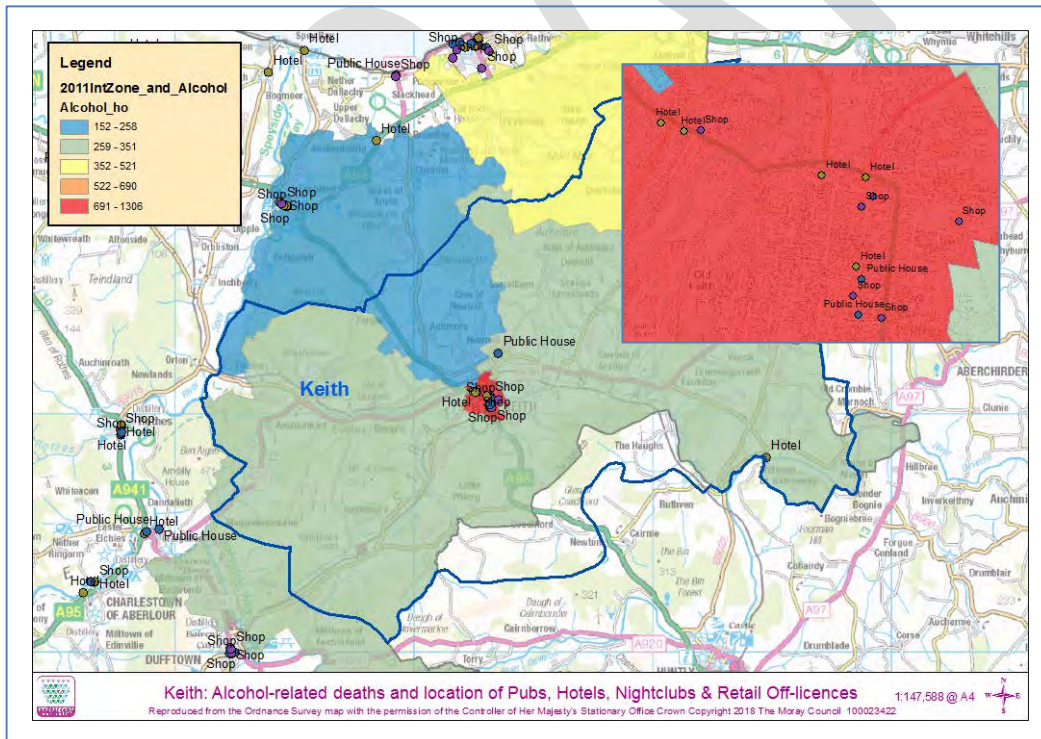


Figure 52: Keith - alcohol-related hospital stays and location of public alcohol outlets



By contrast, Buckie Central East has relatively few alcohol outlets accessible by the general public, and fewer than the adjacent intermediate zone that has a lower rate of alcohol-related hospital stays (Figure 53). From previous analysis work undertaken in support of the Local Outcomes Improvement Plan Buckie Central East suffers from low employment, low average income and below average for a number of health and wellbeing factors. Furthermore, there is a relatively high proportion of children living in poverty and the area does not perform well educationally<sup>25</sup>.

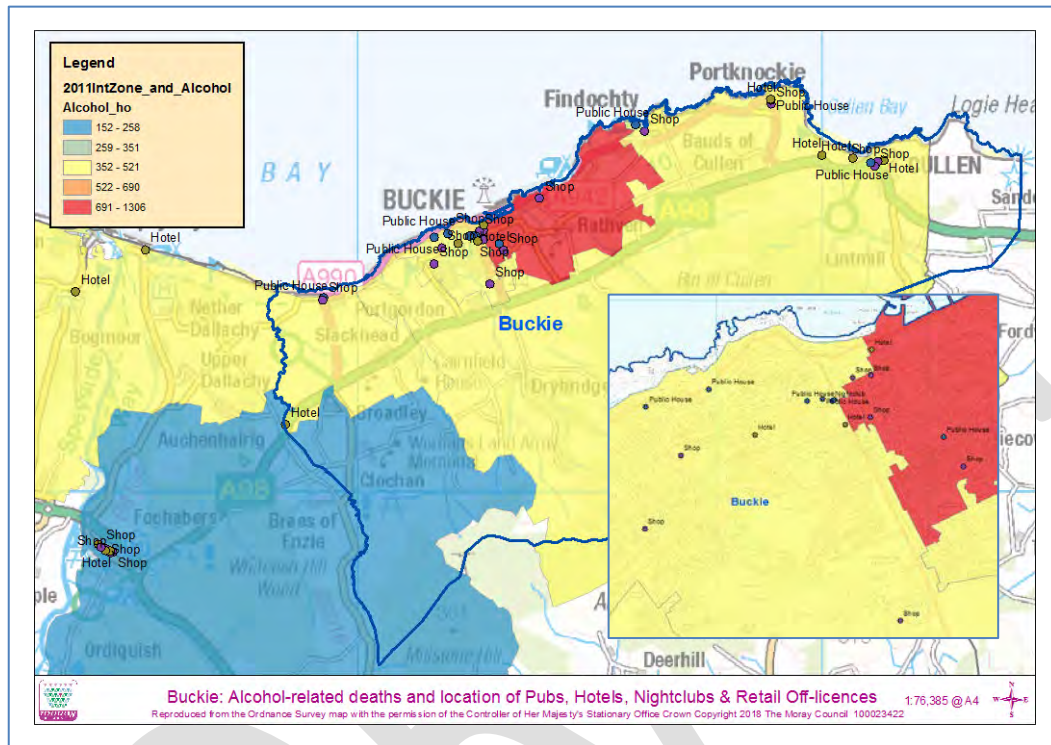


Figure 53: Buckie - alcohol-related hospital stays and location of public alcohol outlets

In Forres, despite having a relatively high concentration of alcohol outlets in the town centre neither of the 2 intermediate zones has the highest rates of alcohol-related hospital stays across Moray (Figure 54).

<sup>25</sup> <http://yourmoray.org.uk/downloads/file111149.pdf>

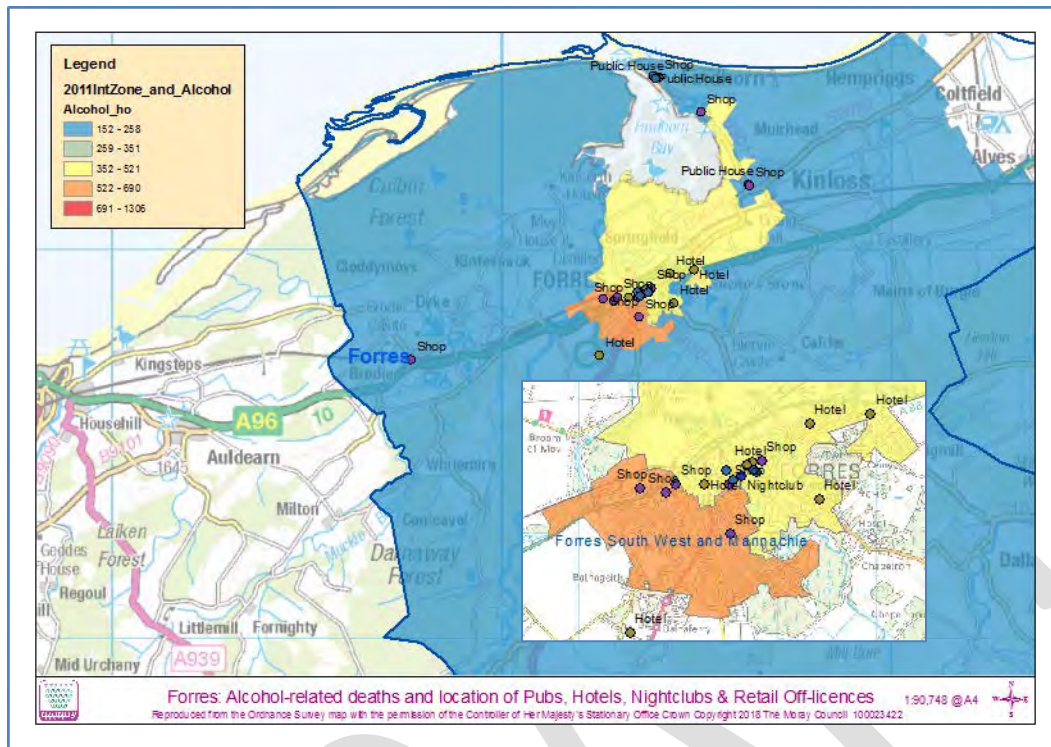


Figure 54: Forres - alcohol-related hospital stays and location of public alcohol outlets

To give an idea of the differences across different communities in Moray for the rate for alcohol-related hospital stays note that in the area with the lowest rate (Rafford, Dallas, Dyke to Dava) hospital stays are one-third of the Moray average, and a quarter of the national average. However, at the other extreme, in Elgin Cathedral to Ashgrove and Pinefield the rate is twice the Scottish average. Table 2 compares the alcohol-related mortality data from Figure 50 with the alcohol-related stays for each of these intermediate zones. While the correlation is not perfect it can be seen that areas with higher alcohol-related death rates tend to have a greater proportion of alcohol-related hospital stays.

Alcohol Focus Scotland in their Moray factsheet<sup>26</sup> state:

*Research from the universities of Edinburgh and Glasgow, which investigated whether alcohol-related illnesses and deaths across Scotland were related to the local availability of alcohol outlets, showed that across Scotland alcohol-related hospitalisations and deaths were higher in areas with higher alcohol outlet availability.*

While there is some correlation between alcohol-related deaths and hospitalisations and the number of publically accessible alcohol-outlets in Moray, the above figures suggest it is not an exact match.

<sup>26</sup> Alcohol Focus Scotland, Moray Outlet Density

Alcohol-related mortality 2014 (Scot PHO data)		Alcohol-related hospital stays
Scotland	22	680.8
Moray	21.1	478
Lossiemouth West	0	388.1
Rural Keith and Strathisla	0	302.7
Elgin Central West	5.5	243.7
North Speyside	8.7	613
Cullen, Portknockie, Findochty, Drybridge and Berryhillock	8.9	411.8
Heldon West, Fogwatt to Inchberry	9.4	230
Findhorn, Kinloss and Pluscarden Valley	9.9	247.1
Burghead, Roseisle and Laich	10.2	283.6
Lhanbryde, Urquhart, Pitgavney and seaward	12.5	309.9
New Elgin West	13.2	469.1
Buckie West and Mains of Buckie	17.9	387.4
Mosstodloch, Portgordon and seaward	18.3	464.1
Rafford, Dallas, Dyke to Dava	20	152.1
New Elgin East	22.4	593.3
Fochabers, Aultmore, Clochan and Ordiquish	23.2	258.2
Elgin Bishopmill West and Newfield	23.7	350.9
Forres South West and Mannachie	25.2	689.5
South Speyside and the Cabrach	31.1	521.1
Elgin Cathedral to Ashgrove and Pinefield	31.5	1305.9
Buckie Central East	32.6	868.3
Keith and Fife Keith	37.3	955.3
Elgin Bishopmill East and Ladyhill	37.8	660.9
Forres Central East and seaward	44	492.3
Lossiemouth East and Seatown	51.5	550.9

Table 2: Moray's intermediate zones – comparison of rate of alcohol-related hospital stays and alcohol-related mortality

Between 2011 and 2016 there has been a 9% reduction in the rate of alcohol-related hospital stays in both Moray and Scotland. In 2016 Moray recorded 478 stays per 100,000 population<sup>27</sup> compared to 528 in 2011. Similarly there was a reduction in the national rate from 750 stays per 100,000 population in 2011 to 681 in 2016. The data for the 5 intermediate zones with the highest rates of alcohol-related hospital stays in 2016 were plotted for earlier years to see if these areas had consistently high rates for this measure. As Figure 55 illustrates Elgin Cathedral to Ashgrove and Pinefield has recorded a higher rate than the Scottish average throughout this 6 year snapshot. Keith and Fife Keith has also been higher than the Scottish average on 4 of the 6 years, with Elgin Bishopmill East and Ladyhill equalling the

<sup>27</sup> ScotPHO data - General acute inpatient and day case stays with a diagnosis of alcohol misuse in any diagnostic position: number and directly age-sex standardised rate per 100,000 population

Scottish average in 2011, and exceeding it for 3 years. Buckie Central East & Forres South West and Mannachie have both shown increasing trends in recent years and in 2016 both exceeded the Scottish average. Note, however, that care must be taking when interpreting this data as the number of alcohol-related stays in each datazone is relatively low, and can vary significantly from year to year. This can have a disproportionate impact on the rate per 100,000 population.

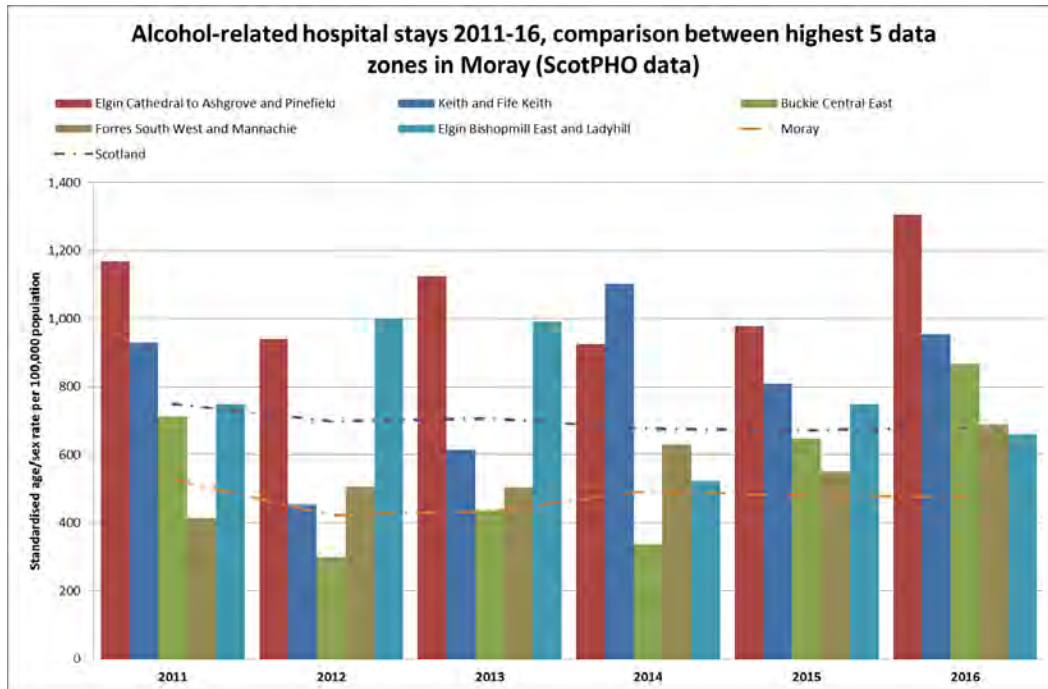


Figure 55: Alcohol-related hospital stays 2011-16, comparison between highest 5 data zones in Moray (ScotPHO data)

Having identified the areas with the highest rates of alcohol-related hospital stays it would be interesting to analyse the drinking habits of the residents of the Moray intermediate zones. However, it has not been possible to obtain numbers for these small geographical areas, which prevents a meaningful comparison of drinking habits within Moray and any correlation with the local availability of alcohol, for example.

ScotPHO data is not available for Moray, nor for the Moray Alcohol & Drug Partnership area, for the number of people exceeding weekly drinking limits, or people indulging in binge drinking. For these measures data has been used for the NHS Grampian region to provide a comparison with national figures. The data indicates that the proportion of people drinking in excess of weekly guidance levels in NHS Grampian is similar to the proportion across Scotland, but there has been a slight decrease in the proportion of males in NHS Grampian and Scotland exceeding these limits between 2014 and 2010 (Figure 56).



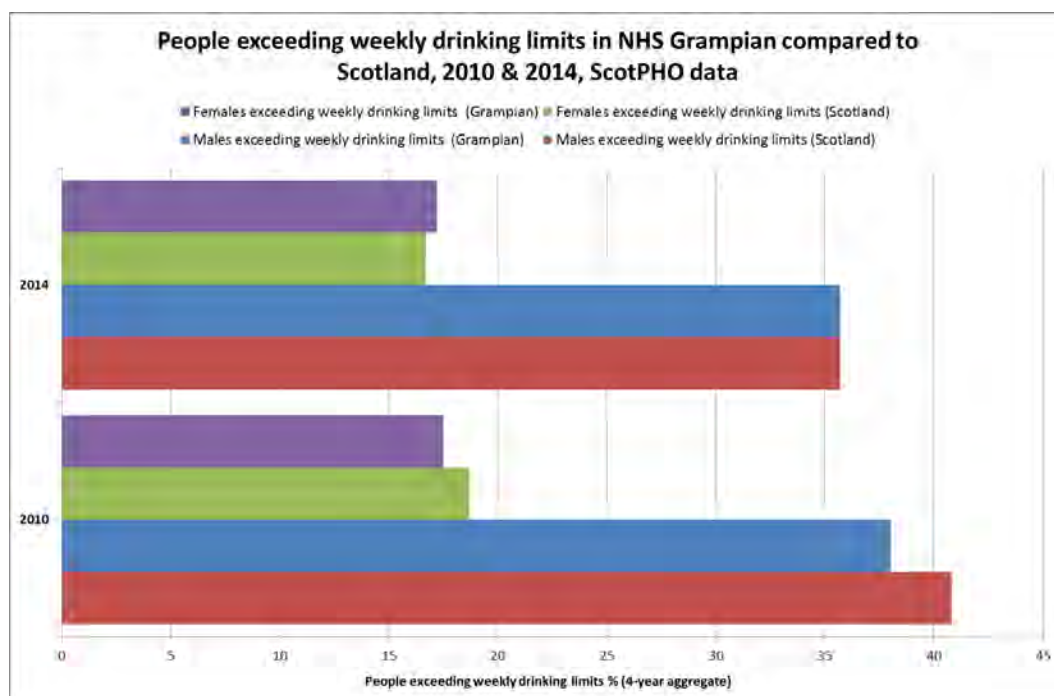


Figure 56: People exceeding weekly drinking limits in NHS Grampian compared to Scotland, 2010 & 2014, ScotPHO data

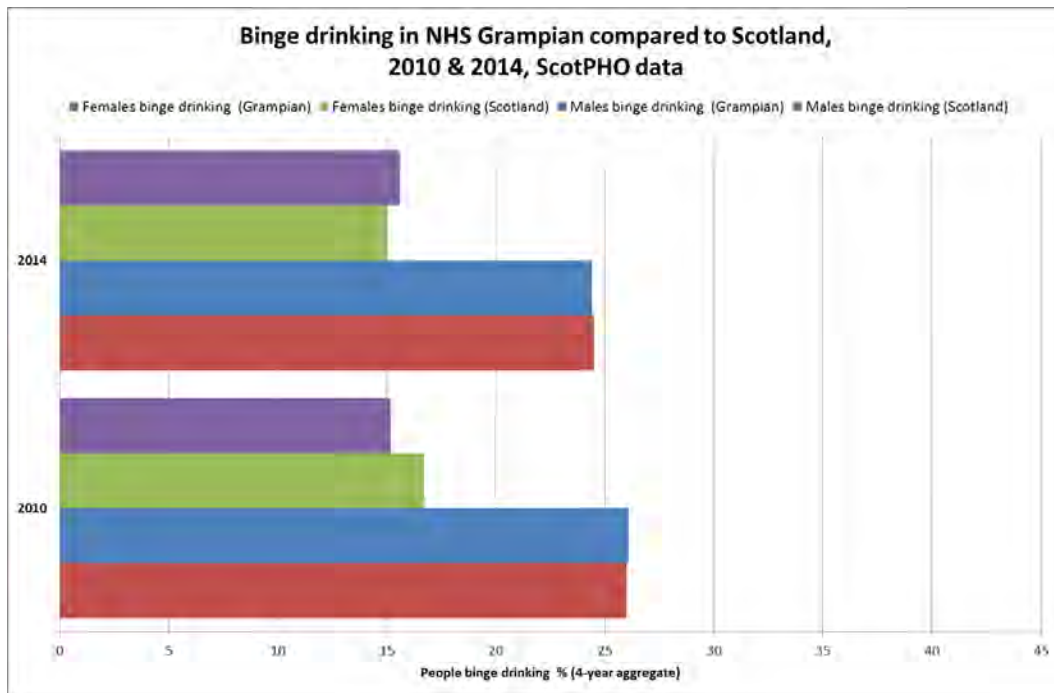
Binge drinking is defined by ScotPHO as twice the previous daily recommended limits (21 units per week for men and 14 for women) before the limits were changed in 2016. The proportion of binge drinkers in NHS Grampian is similar to the proportion across Scotland, with the proportion of males once again higher than females. However, the proportion of males binge drinking (around 25%) is lower than the proportion exceeding the weekly limits (35% in 2014), but the proportion of females binge drinking is much closer to the proportion exceeding weekly limits; for NHS Grampian in 2014 17.2% exceeded the weekly limits and 15.6% were binge drinkers (Figure 57).

A study published in the Lancet (p1520)<sup>28</sup> suggested that binge-drinkers had the highest risk for all-cause mortality, and that drinking in excess of 12.5 units per week led to an increased risk of early mortality. The study found that those drinking between 12.5 and 25 units per week had a lower life expectancy at age 40 years of approximately 6 months, and for those drinking over 62.5 units per week (approximately 21 pints of 5-6% beer, or 7 bottles of red wine) life expectancy at 40 years is reduced by 4 to 5 years.

What is a unit of alcohol?
One unit of alcohol (UK) is defined as 10 millilitres (8 grams) of pure alcohol. This is equivalent to:
<ul style="list-style-type: none"> <li>• one 25ml single measure of whisky (ABV 40%),</li> <li>• a third of a pint of beer (ABV 5-6%)</li> <li>• half a standard (175ml) glass of red wine (ABV 12%)</li> </ul>

Table 3: Examples of a unit of alcohol

<sup>28</sup> Angela M Wood et al, 2018, *Risk thresholds for alcohol consumption: combined analysis of individual-participant data for 599 912 current drinkers in 83 prospective studies*, The Lancet, Vol 391 April 14, 2018



**Figure 57: Binge drinking in NHS Grampian compared to Scotland, 2010 & 2014, ScotPHO data**

Problem drinking is defined by ScotPHO as a score of 8 or more on the Alcohol Use Disorders Identification Test (AUDIT)<sup>29</sup>. Such a score is considered to indicate hazardous or harmful alcohol use. In 2014 rates for NHS Grampian were similar to, but slightly lower, than the national rates. Female rates were less than half the male rates (Figure 58).

<sup>29</sup> <https://www.drugabuse.gov/sites/default/files/files/AUDIT.pdf>

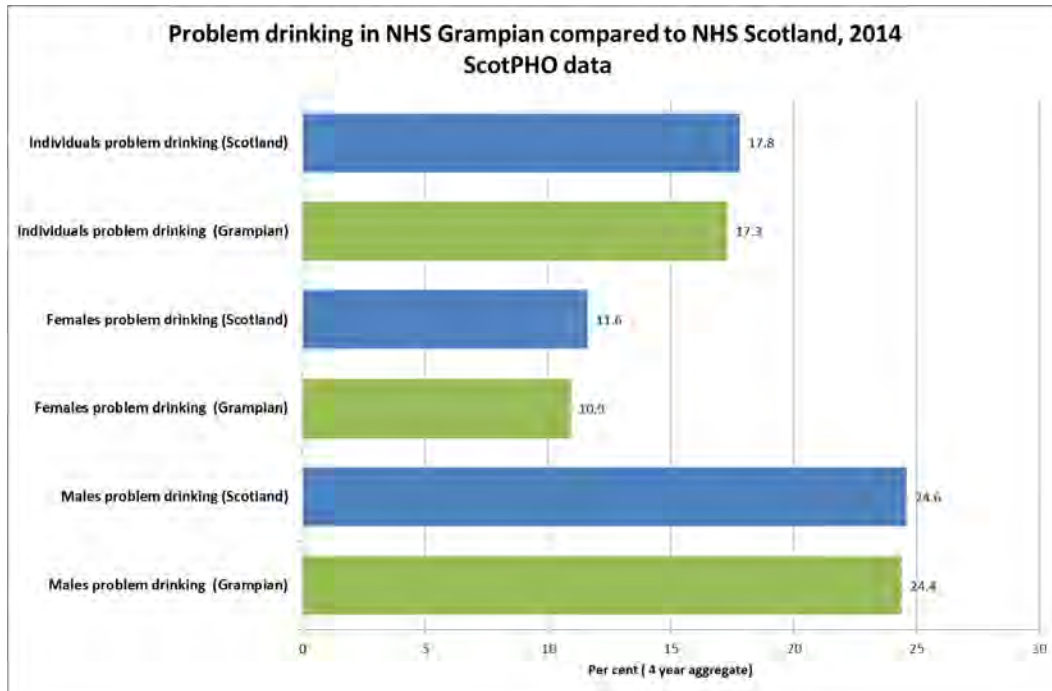


Figure 58: Problem drinking in NHS Grampian compared to NHS Scotland, 2014m ScotPHO data

Alcohol related hospital stays in Moray are recorded by the NHS Information Services Division (ISD), which show that the numbers of patients have shown a gradual decrease since 1997/98. There was a blip between 2000/10 and 2008/09, but since then the numbers have been relatively stable between 300 and 350 patients per year (Figure 59).

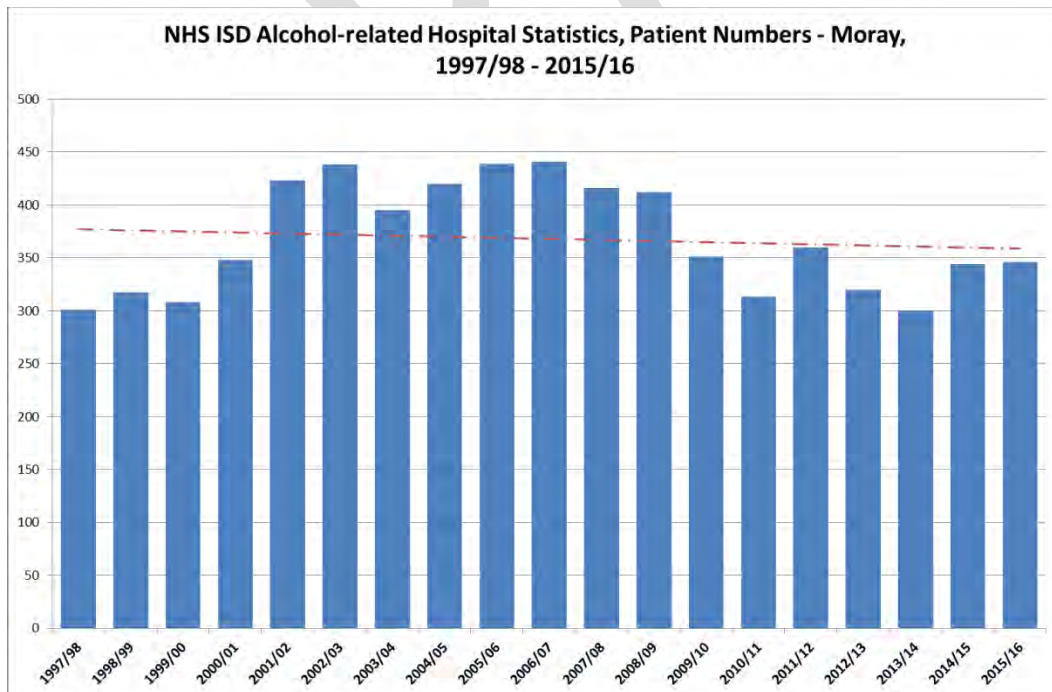


Figure 59: Alcohol-related hospital stays Moray (number of patients) 1997/98 to 2015/16

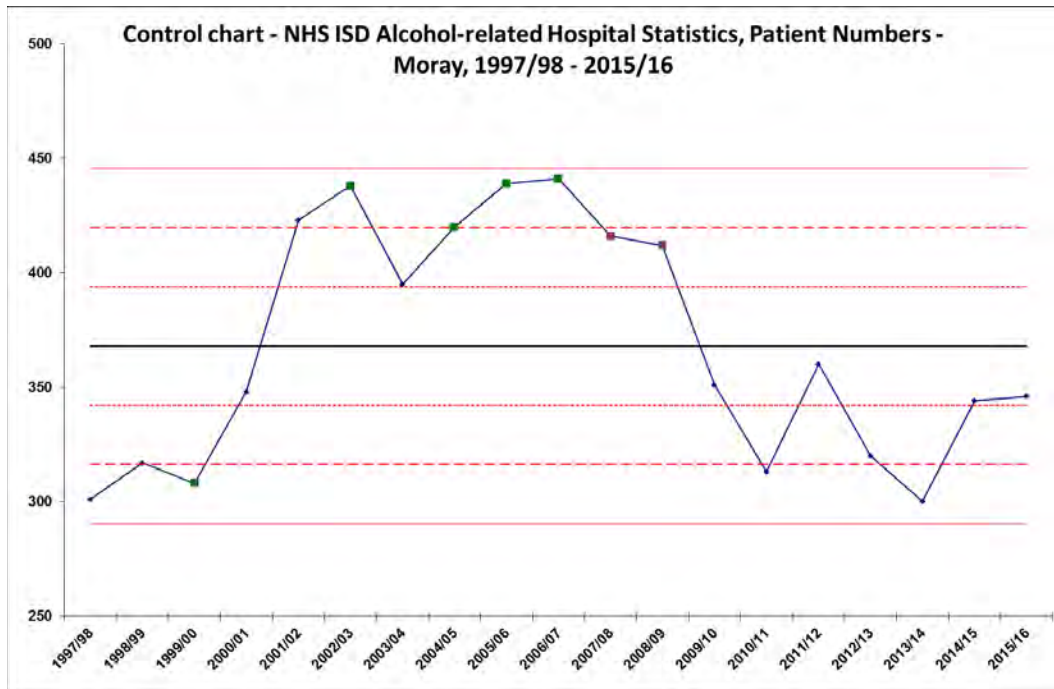


Figure 60: Control chart for alcohol related hospital patients shown in figure 59

The control chart (Figure 60) support the suggestion that the numbers have settled down since 2008/09 and are fluctuating around an average of 325 per year, rather than the average of 425 per year a decade ago.

#### Summary alcohol-related health conditions:

- The number of active service users engaged in Moray Alcohol and Drug Partnership (MADP) services for alcohol issues has remained relatively constant over the past 6 quarters (an average of 68) and has reduced since the peak of 92 in the summer of 2016.
- The MADP area has a lower rate of alcohol-related hospital stays compared to NHS Grampian and nationally. The rate has been fairly constant since 2014.
  - ScotPHO data shows a similar picture for Moray, but demonstrates a gradual reduction in alcohol-related hospital stays since 2002
  - There are only 4 intermediate zones within Moray that have higher than national rates for this measure: one in Elgin, one in Keith, one in Buckie and one in Forres
- The correlation between high concentrations of publically-accessible alcohol outlets and high rates of alcohol-related hospital stays is variable. For example:
  - Keith and Fife Keith has the second highest rate of alcohol-related hospital stays in Moray and contains the highest proportion of public alcohol outlets in its locality.



- However, Forres has a relatively high concentration of alcohol outlets in the town centre, but neither of the 2 intermediate zones is in the top quintile in Moray for alcohol-related stays.
- On the other hand, Buckie Central east has relatively few publically-accessible alcohol outlets compared to the neighbouring intermediate zone but has the 3<sup>rd</sup> highest rate of alcohol-related hospital stays in Moray.
- According to NHS Information services Division data the number of patients in hospital with alcohol-related conditions average approximately 325 per year across Moray, down from an average of 425 a decade ago.

DRAFT

## 7. CRIME RELATED TO ALCOHOL USE

Data for crime in Moray has been provided by 2 sources: ScotPHO and Police Scotland. ScotPHO collect data for various crimes, such as attempted murder, breach of the peace and common assault, for example. Data are not available for Moray, so data for Moray ADP has been used again in the following charts. This data is compared with data received from Police Scotland on incidents recorded in the Moray Licensing Board area in the next section to identify any common themes, or areas of disagreement.

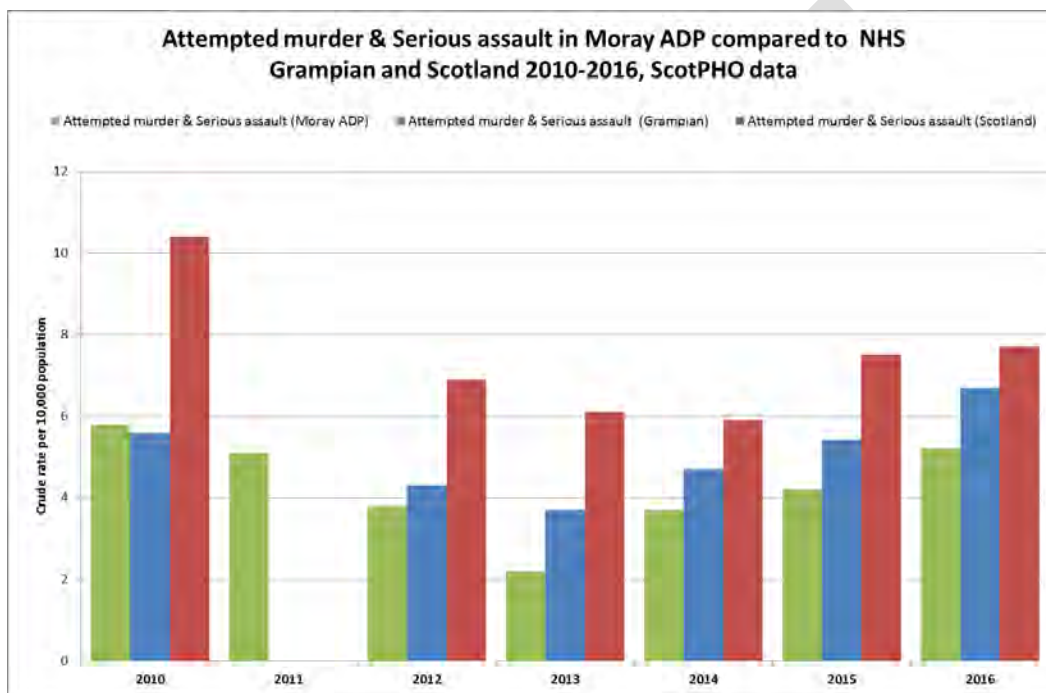


Figure 61: Attempted murder & Serious assault in Moray ADP compared to NHS Grampian and Scotland 2010-2016, ScotPHO data

Moray ADP has a low rate of attempted murder and serious assault compared to NHS Grampian and Scotland. In 2015 the rate of 5.2 incidents per 10,000 population was two-thirds of the rate for Scotland. Note, however, that there has been a gradual increase in the rates of these types of incidents in the Moray ADP area since 2012, when the rate was 2.2 per 10,000 population, less than half the 2016 rate (Figure 61).

The rate for common assaults has remained reasonably constant from 2013 onwards with Scotland, NHS Grampian and Moray ADP recording between 99.2 and 113.3 incidents per 10,000 population (Figure 62). Vandalism rates have remained at similar levels from 2011 onwards with Moray ADP generally recording lower rates than both NHS Grampian and Scotland. In 2016 Moray ADP's vandalism rates were 72% of the national rate (Figure 63).

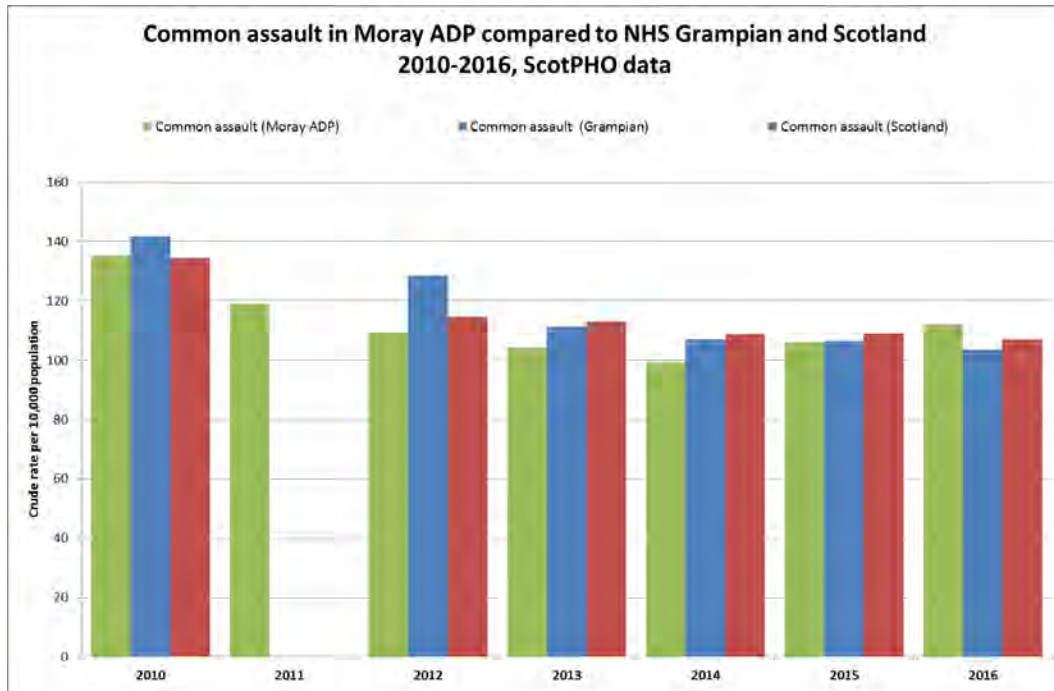


Figure 62: Common assault in Moray ADP compared to NHS Grampian and Scotland 2010-2016, ScotPHO data

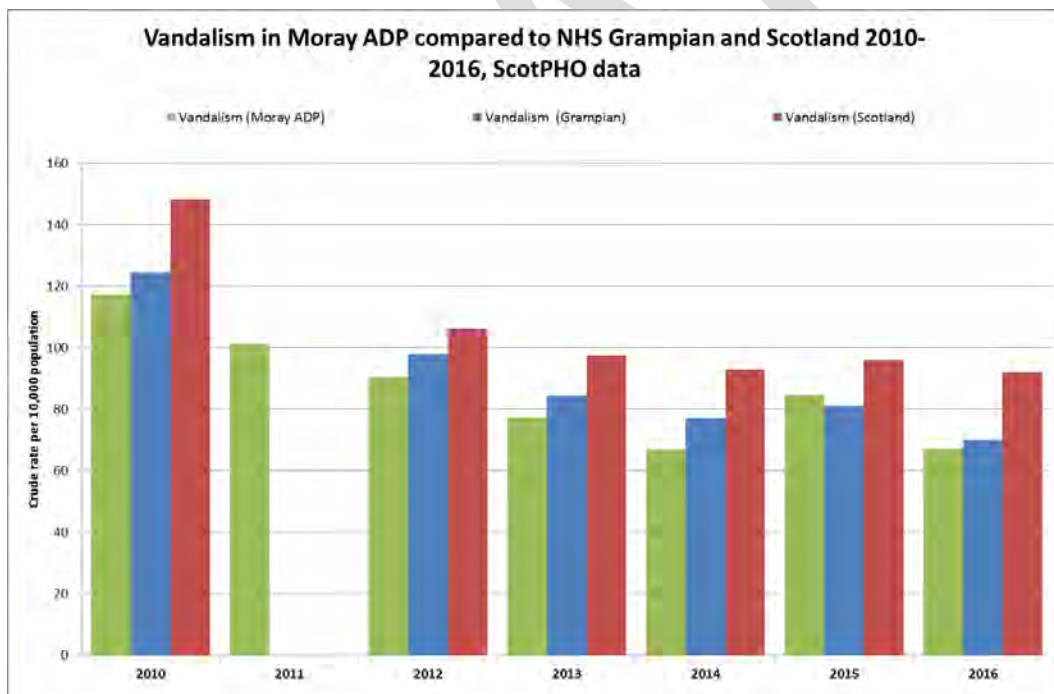


Figure 63: Vandalism in Moray ADP compared to NHS Grampian and Scotland 2010-2016, ScotPHO data

Breach of Peace rates in Scotland have gradually declined over time, while rates for such incidents have risen in Moray ADP in recent years. However, the Moray ADP rates are still lower than Scotland (Figure 64).

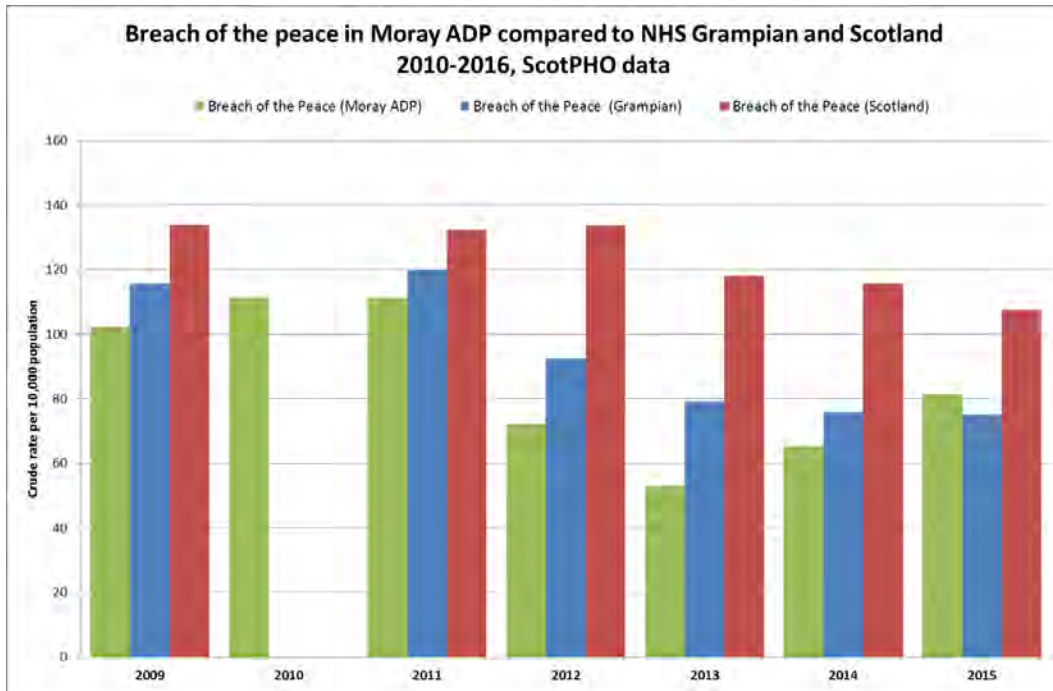


Figure 64: Breach of the peace in Moray ADP compared to NHS Grampian and Scotland 2010-2016, ScotPHO data

The rate of child protection case conferences where parental alcohol abuse has been identified for children on the register per 10,000 population aged under 18 years is very low in the Moray ADP area but is consistently higher than NHS Grampian. In 2016 the Moray ADP rate was almost double the national rate (10.1 compared to 5.2 per 10,000 population aged under 18). It is possible that for this measure small numbers will lead to larger fluctuations in the rate per 10,000 population (Figure 65).

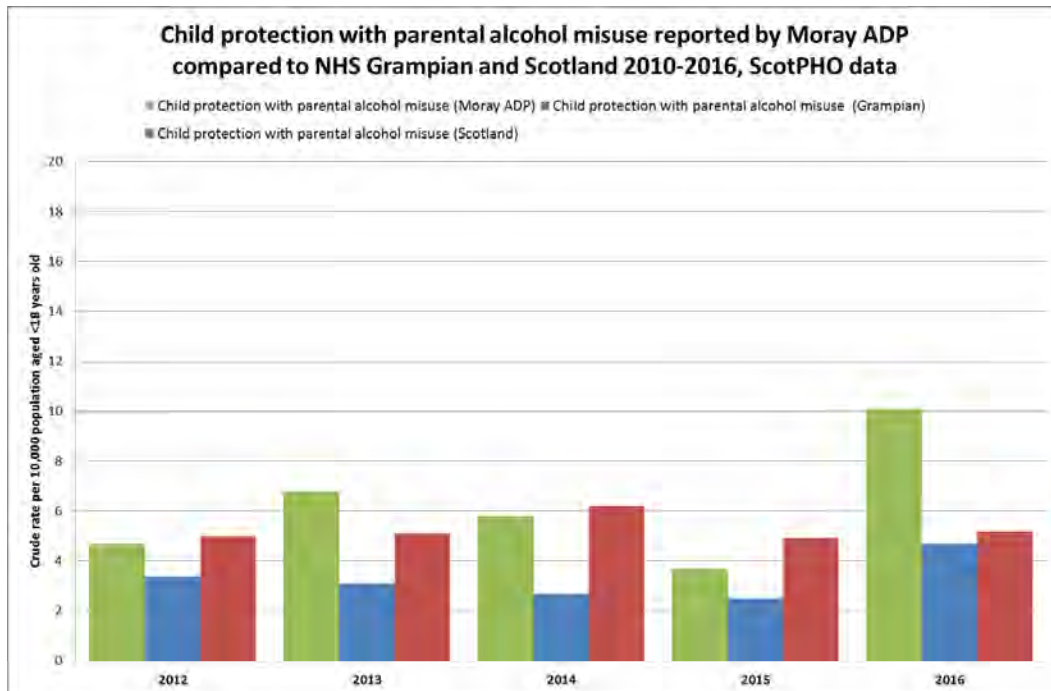


Figure 65: Child protection with parental alcohol misuse reported by Moray ADP compared to NHS Grampian and Scotland 2010-2016, ScotPHO data

### Police Scotland Data

Police Scotland have provided data for acts of violence in Moray, namely: common assault, serious assault, breach of the peace and threatening and abusive behaviour for the financial years 2014/15 through to the end of February 2017/18. The data has been charted to identify trends, and control charts have been plotted to determine if the range of incidents are statistically consistent, and therefore in control, or unpredictable, and out of control. In addition, the data have been analysed to identify where and at what time of day, and which day of the week incidents are likely to occur.

The charts for “Common Assaults” and “Breach of the Peace” suggest a reducing trend in recent quarters, while “Serious Assaults” were marginally higher in 2017/18 compared to the 4-year average. “Common Assaults” account for by far the highest number of incidents with an average over the past 4 years of just under 62 incidents per month (75 charges per month). The second highest class of incident is “Threatening and Abusive Behaviour”, with an average over the same period of 45 incidents per month. In comparison, there have been an average of 3.4 serious assaults per month and 5.3 breaches of the peace since 2014/15.

The overall number of recorded incidents rose during 2015/16 and 2016/17, but numbers in recent months suggests a return to previous levels recorded in 2014/15 (Figure 66). The ScotPHO data for the Moray Alcohol and Drug Partnership (MADP) in the previous section gives a slightly different picture. Common assault rates have been reasonably constant at around 100 to 110 per 10,000 population each year from 2012 to 2016, but breach of the peace, although down from the rates in 2010 - 2012, has

shown an increase from 50 per 10,000 population in 2014 to 80 per 10,000 population in 2016. Similarly, the rate for attempted murder and serious assault also rose between 2013 and 2016. Note, though that for all these type of incidents the MADP area is below the national levels, except common assault where it is marginally higher than the national rate. When the ScotPHO statistics for MADP are available for 2017 it will be interesting to revisit them and see how they compare to the Police Scotland data for Moray.

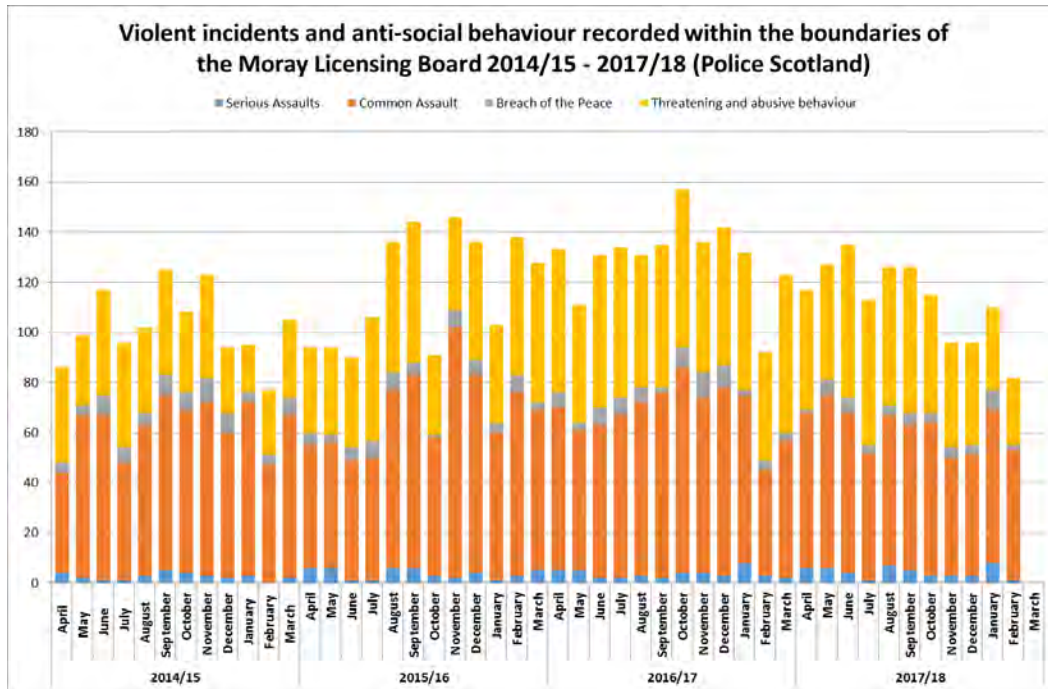


Figure 66: Violent incidents and anti-social behaviour recorded within the boundaries of the Moray Licensing Board 2014/15 - 2017/18 (Police Scotland)

Serious assaults remain a relatively infrequent occurrence in Moray with an average of 4.3 recorded each month during 2017/18. However, the monthly average has risen from 2.5 in 2014/15, and is higher than the average of 3.7 per month in 2015/16 (Figure 67). The 2017/18 figures are dominated by figures of 8 in January 2018, 7 in August 2017 and 6 each in April and May 2017.

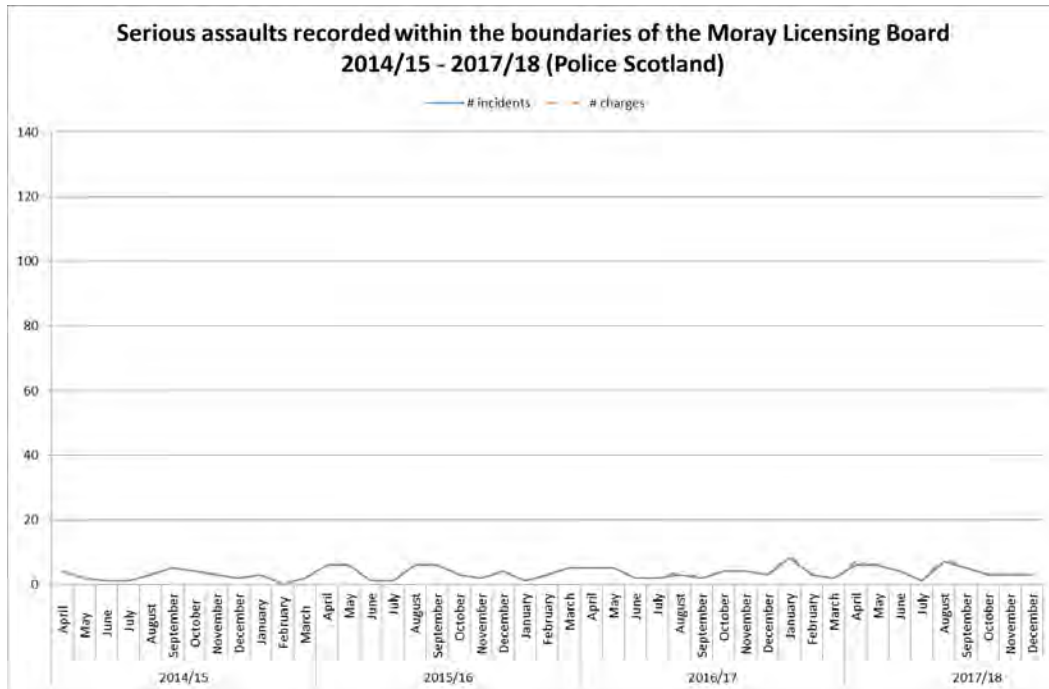


Figure 67: Serious assaults recorded within the boundaries of Moray Licensing Board 2104/15 - 2017/18 (Police Scotland)

Figure 68 indicates that since the peak of 100 common assaults in November 2015 the monthly rate has been gradually reducing, and since January 2017 has consistently been below 70 incidents per month, averaging approximately 58 per month during 2017/18. The control chart (Figure 69) suggests that in recent years only the November 2015 figure has been a special case, and the figures for the last 8 months are below the average for the past 4 years.



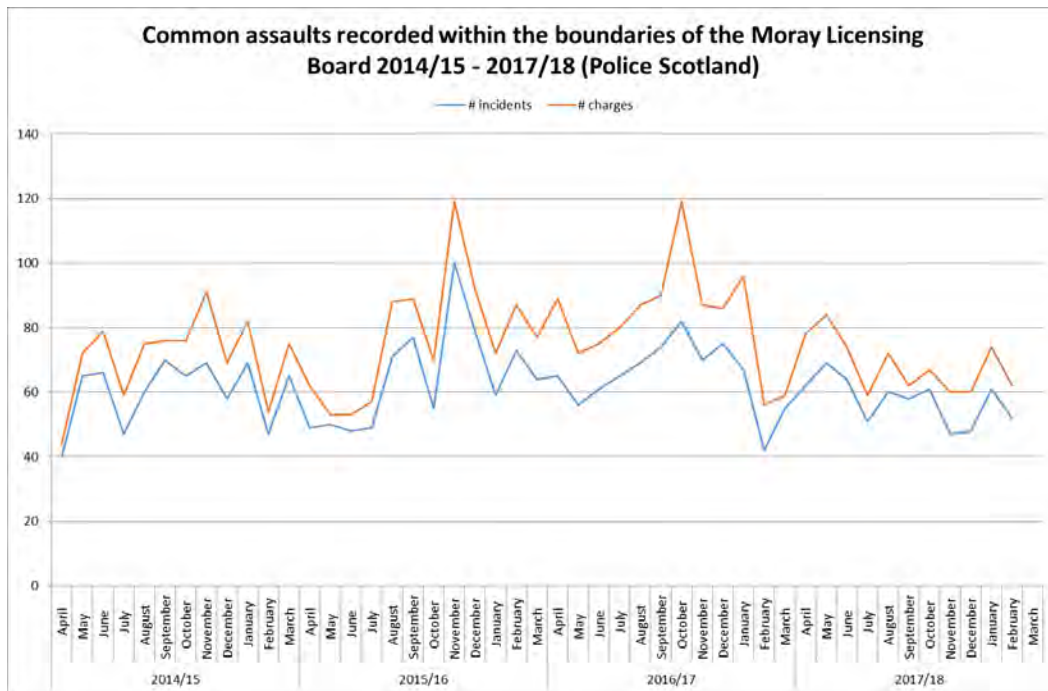


Figure 68: Common assaults recorded within the boundaries of Moray Licensing Board 2104/15 - 2017/18 (Police Scotland)

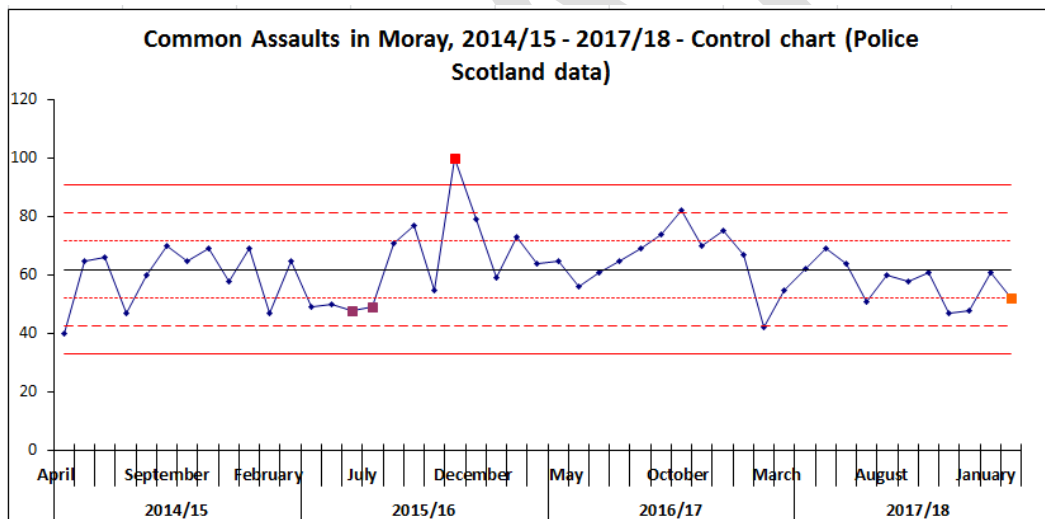


Figure 69: Control chart for Common Assaults shown in Figure 68

Compared to common assaults there are relatively few breaches of the peace, and throughout 2017/18 there were an average of just over 4 incidents per month (Figure 70).



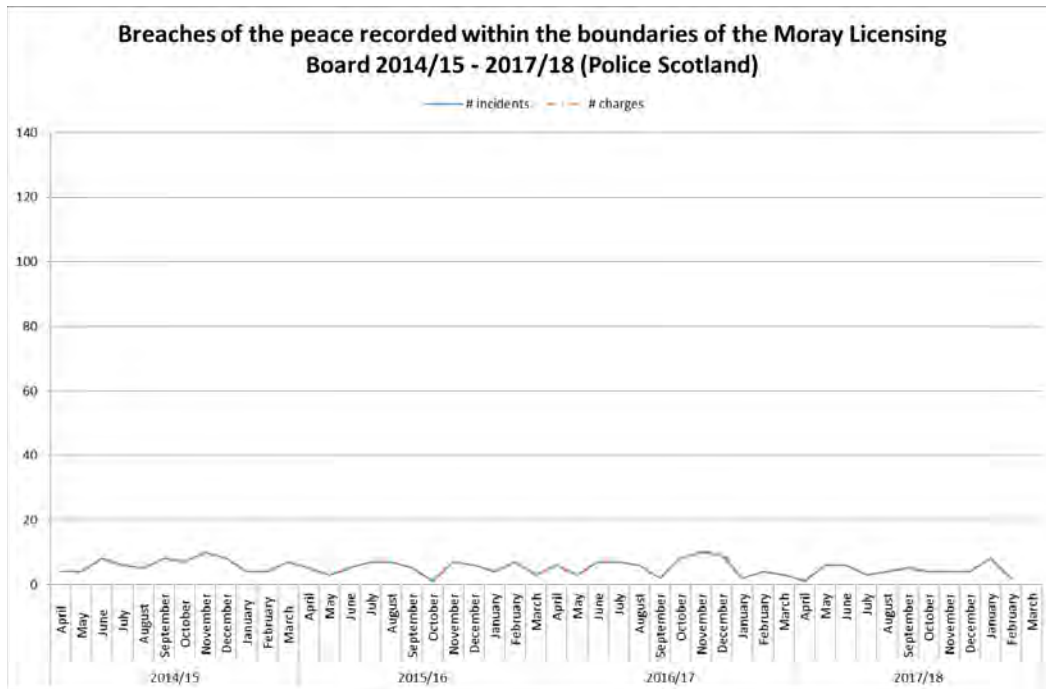


Figure 70: Breaches of the peace recorded within the boundaries of Moray Licensing Board 2104/15 - 2017/18 (Police Scotland)

After a consistent upwards trend from April 2014 to June 2017 the number of incidents of threatening and abusive behaviour has shown a marked month-on-month reduction since the summer of 2017. The 2017-18 monthly average of 47 incidents per month compared to an average of 49 for the previous 2 years. If this monthly average is maintained, then the upwards trend will be reversed in the coming year (Figure 71). The control chart (Figure 72) for this data suggests that during 2016/17 and the early part of 2017/18 the incident rate for threatening an abusive behaviour were statistically out of control, but since then the incident rates are back to earlier levels.

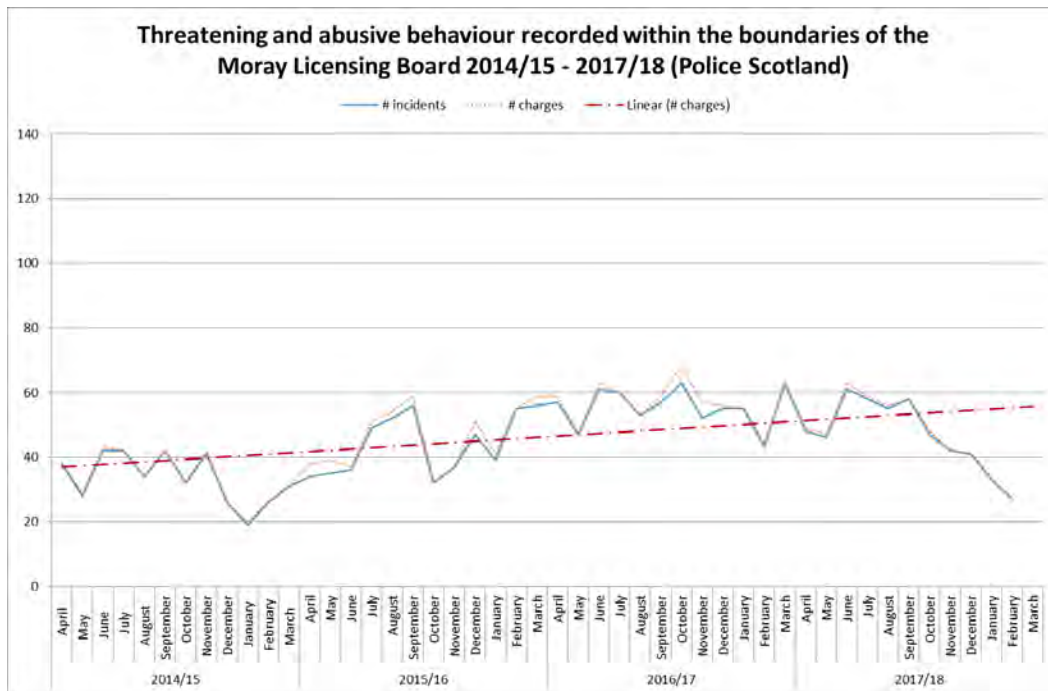


Figure 71: Threatening and abusive behaviour recorded within the boundaries of Moray Licensing Board 2104/15 - 2017/18 (Police Scotland)

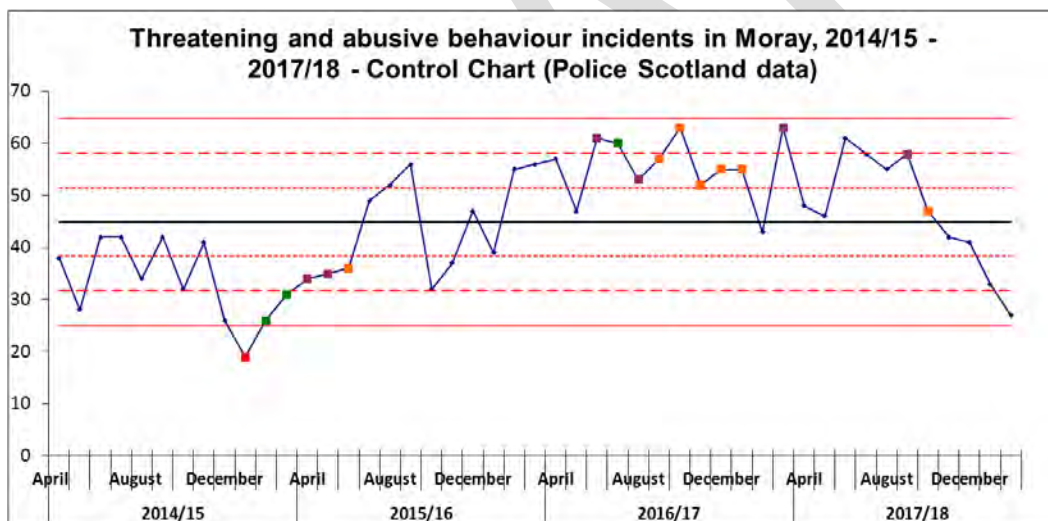


Figure 72: Control chart for threatening and abusive behaviour show in Figure 71

Most of these incidents occurred at the weekend, with the majority occurring in the early hours of Sunday morning (Figure 73). The number of incidents occurring each day is broadly similar from Monday to Thursday, with Tuesday being slightly lower, but the numbers start to rise on a Friday reaching a peak on Sunday. There are more incidents from Friday to Sunday than there are for the rest of the week combined. For example, in 2017/18, excluding March, there were a total of 1,243 incidents: 554 occurred between Monday and Thursday and the remaining 689 over the weekend. From Monday to Thursday approximately 55% of incidents take place on or near residential property, but at the weekends this proportion drops to 48%. Incidents are more likely to occur in public places on Saturdays and Sundays

than during the rest of the week, with the proportion increasing from 22% during the week to 30% at the weekend. Not only do the numbers of incidents in licensed premises increase on Saturdays and Sundays, but the proportion of such incidents increases from under 2% on Mondays to Thursdays to between 6% and 8% at the weekends.

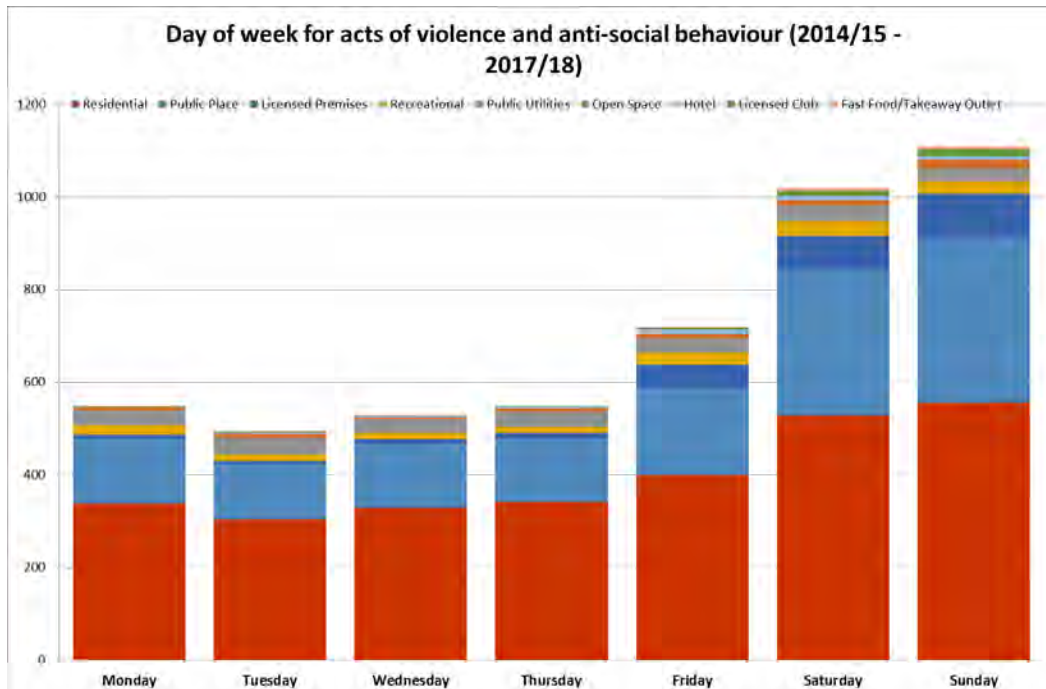


Figure 73: Days of the week when acts of violence and anti-social behaviour occur (Police Scotland)

Violent acts occur in or near residential properties at all times of the day, but more frequently from 6:00pm until 04:00am, with a spike during the hour from midnight to 01:00am. There is also a spike at lunchtime between 12:00 and 12:59 (Figure 74).

In comparison, the majority of the incidents taking place on licenced premises, clubs, hotels or fast-food outlets occurred between the hours of 11:00 o'clock at night until 2:00 in the morning. There were relatively few incidents in these locations after 4:00am and before 7:00pm, and none at all recorded in the past 4 years between 5:00 and 8:00am. Violent incidents occurring in public take place throughout the whole day, but less frequently between 4:00am and 12:00. Again, there is spike between midnight and 2:00am, which may be linked to closing time for li censed premises (Figures 75 and 76).

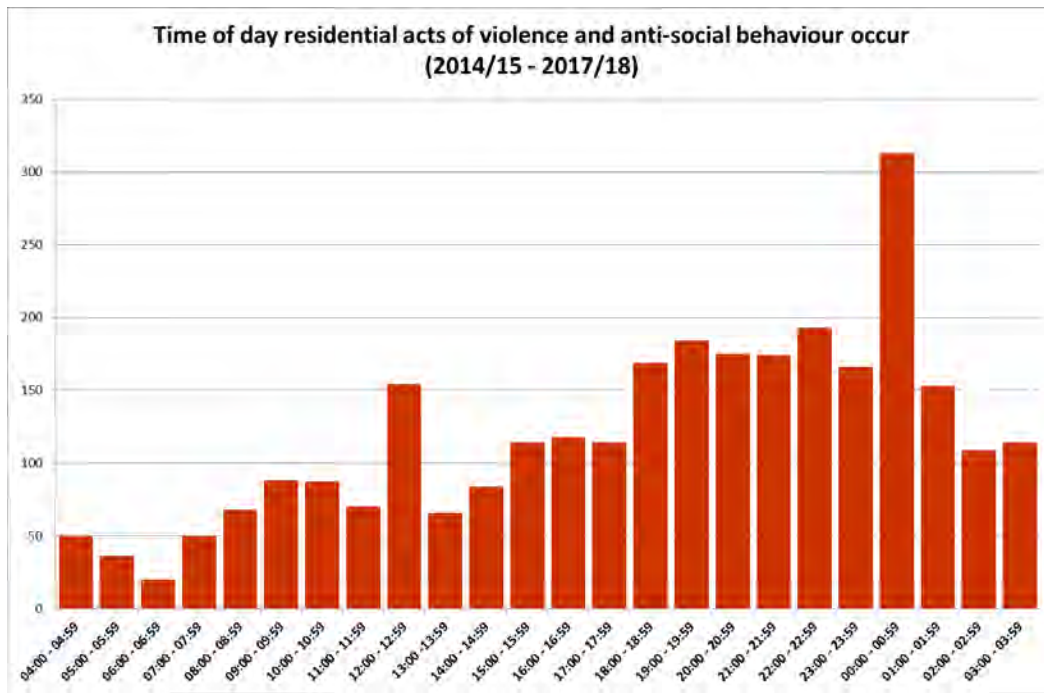


Figure 74: Time of day residential acts of violence and anti-social behaviour occur (all days and all incidents, 2014/15 - 2017/18)

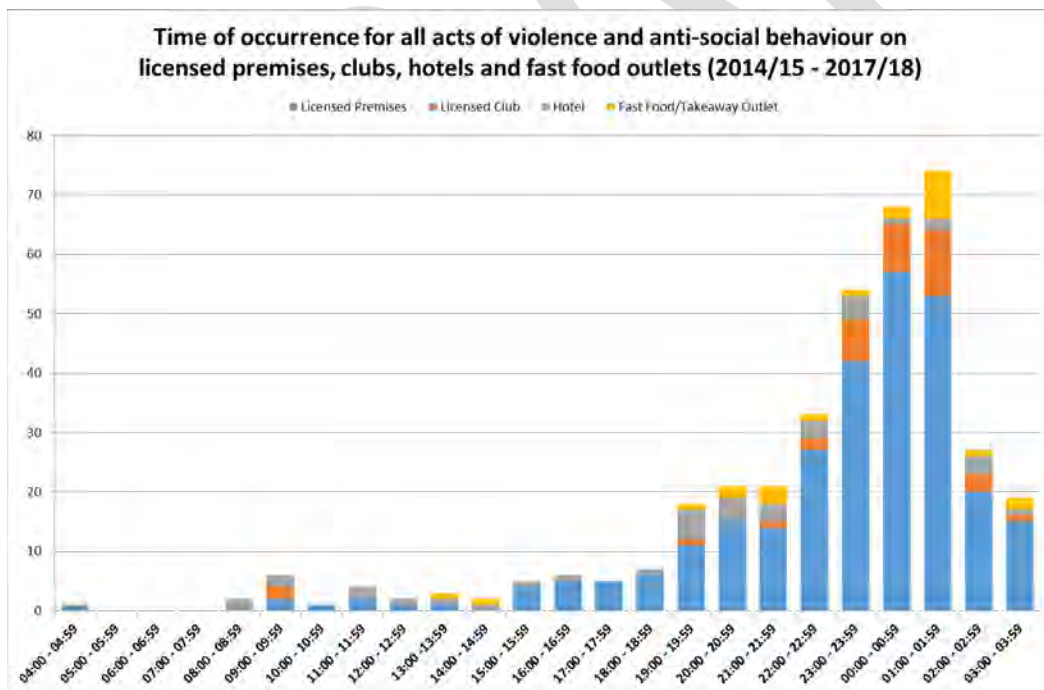


Figure 75: Time of occurrence for acts of violence and anti-social behaviour on licensed premises, clubs, hotels and fast food outlets (all days, 2014/15 - 2017/18)

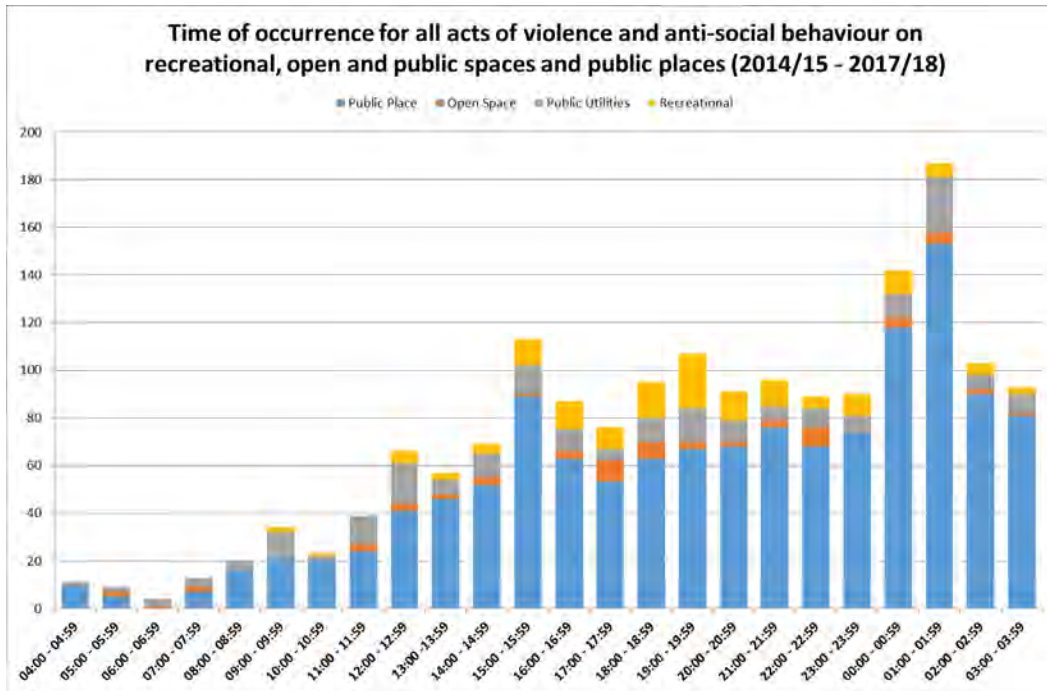


Figure 76: Time of occurrence for all violence on recreational, open and public spaces and public places (all days, 2014/15 - 2017/18)

Examining the individual incident types in more detail shows serious assaults are much more likely to take place in the early hours of Saturday and Sunday morning. To put the figures in context, in 2017/18 there were 47 serious assaults recorded, 10 of which occurred on a Saturday and 18 on a Sunday (Figure 77).

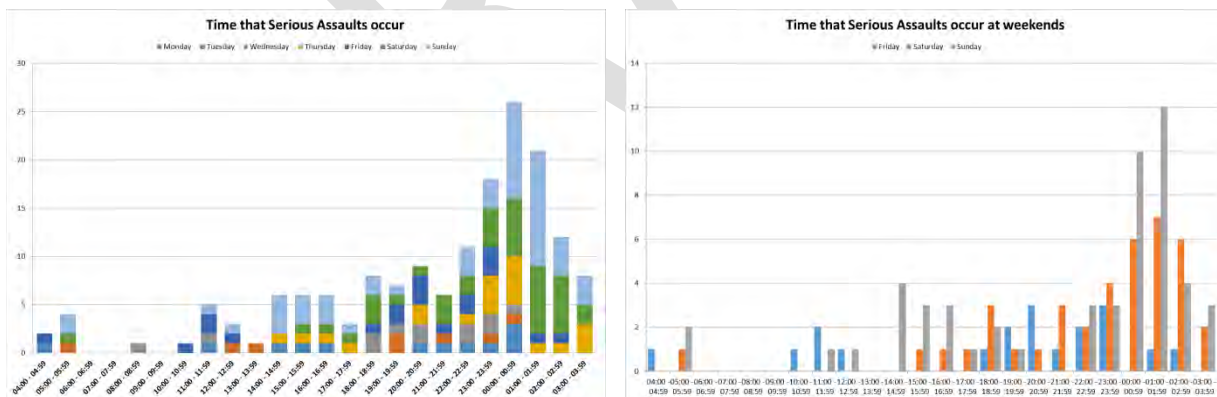


Figure 77: Serious assaults– time and day incidents occur (detail for Friday to Sunday)

Around 40% of serious assaults take place on residential properties and a third in public places (almost all on streets or roads). Fifteen percent (6 assaults per year on average) take place on licensed premises mainly between 11:00pm and 02:00am (Figure 78).



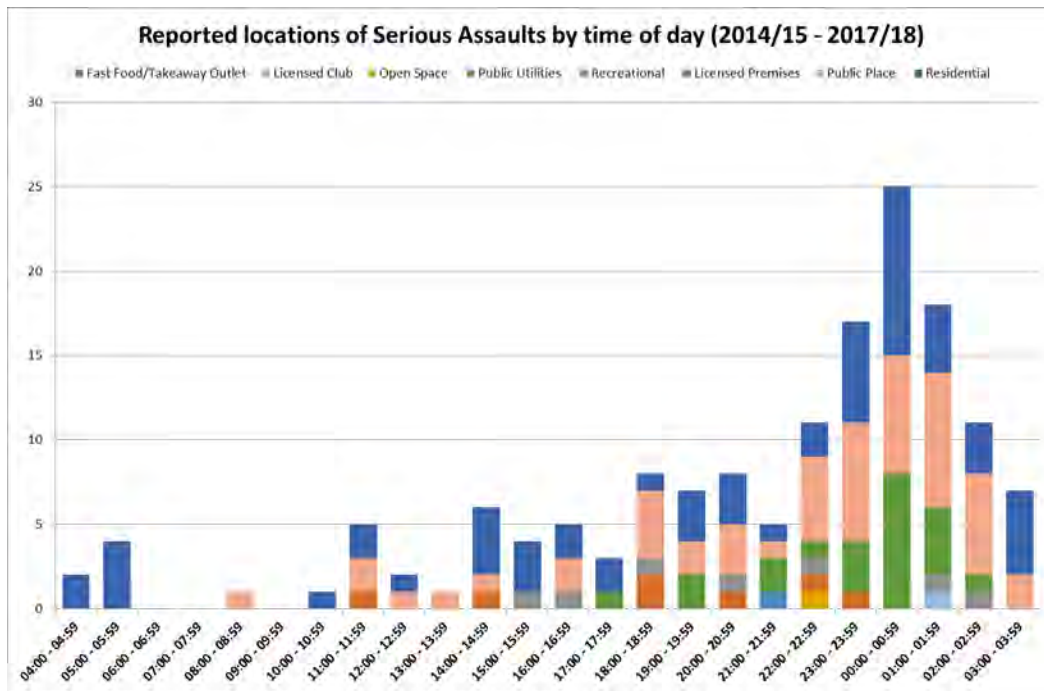


Figure 78: Reported locations of Serious Assaults by time of day (all days, 2014/15 - 2017/18)

In contrast to serious assaults incidents involving common assault are more likely to occur throughout the day from 8:00am to 04:00am. While there are a greater proportion of common assaults in the early hours of Saturday and Sunday morning there are also a significant number of incidents on Friday and Saturday evenings between 7:00pm and midnight. Common assaults<sup>30</sup> are the most prevalent of the violent and anti-social incidents with approximately 58 recorded each month on average during 2017/18 (Figure 79).

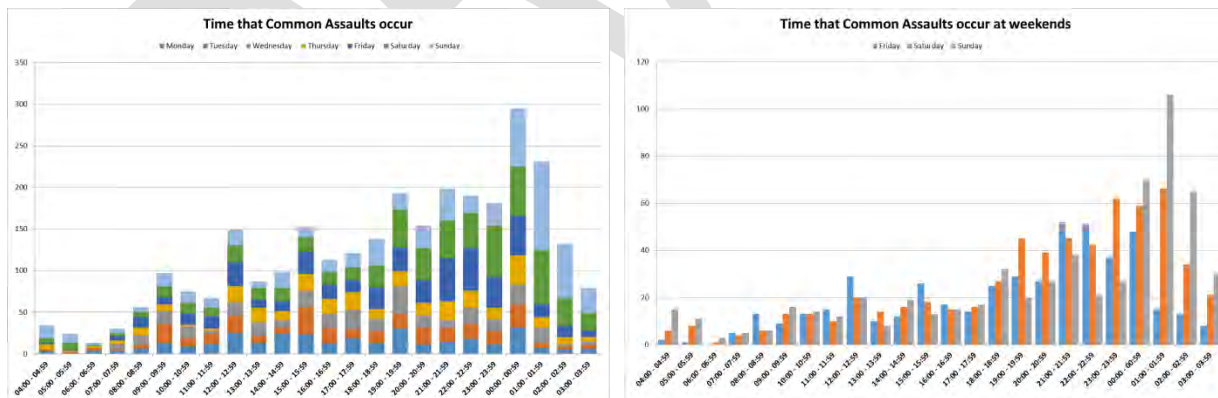


Figure 79: Common assaults – time and day incidents occur (detail for Friday to Sunday)

<sup>30</sup> <http://www.scotland.police.uk/assets/pdf/138327/232757/scottish-crime-recording-standard?view=Standard> (p104)

Sixty per cent of common assaults during the 4 years in question took place on residential premises, predominantly between the hours of 3:00pm to 3:00am, with spikes between midnight and 2:00am, and a smaller spike at noon (Figure 80). Common assaults in public places accounted for a further 25% of such offences, and just 7% occurred in or around licensed premises.

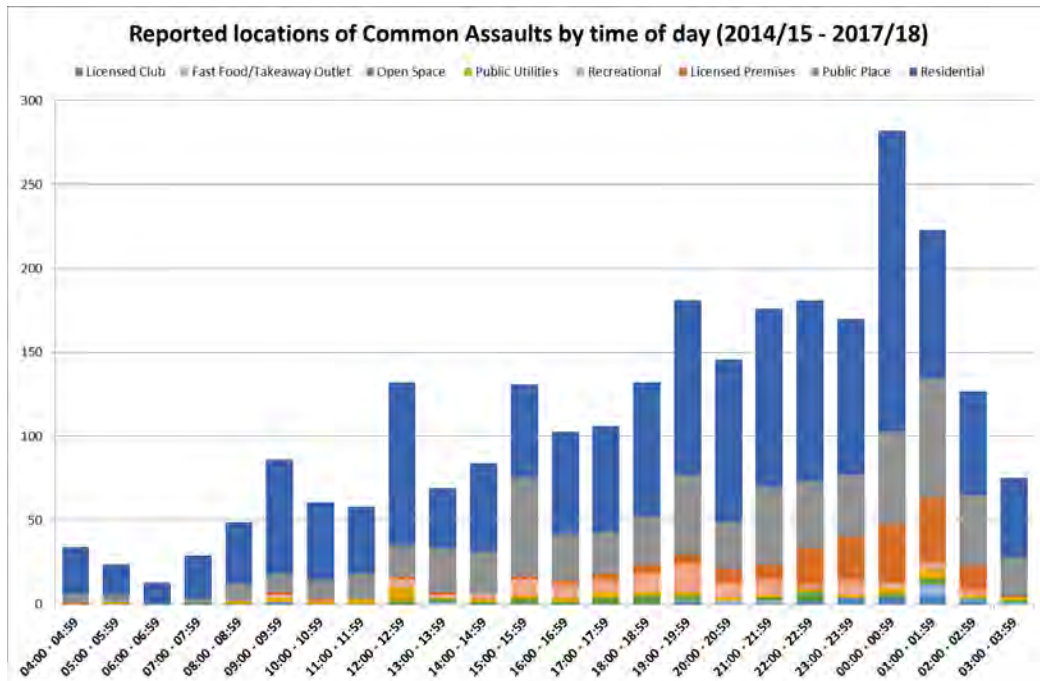


Figure 80: Reported locations of Common Assaults by time of day (all days, 2014/15 - 2017/18)

Breaches of the peace occur more often in the early hours of Saturday and Sunday mornings than at any other time during the week. Looking at the figures for the weekend, the rate over the past 4 years for breaches of the peace is twice as high as on a Sunday between midnight and 4:00am than for the same period on a Saturday morning. Note however, the number of incidents in Moray is low; in 2017/18 there were just 5 incidents reported at this time on a Saturday morning and 10 in the early hours of Sunday morning (Figure 81). The majority (95%) of these incidents took place in public places: mainly streets, some in roads and a few on footpaths. Figure 81 illustrates the rise in breaches of the peace in public places after midnight.

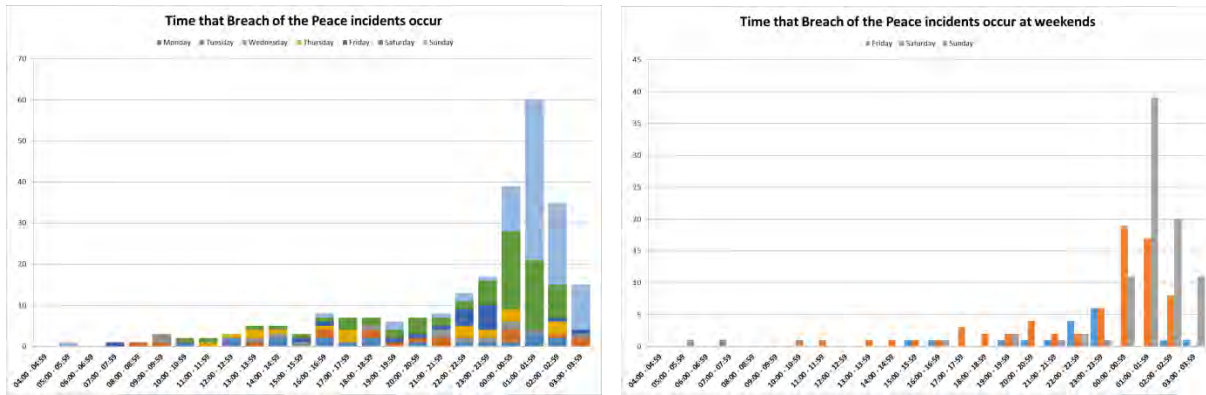


Figure 81: Breaches of the Peace – time and day incidents occur (detail for Friday to Sunday)

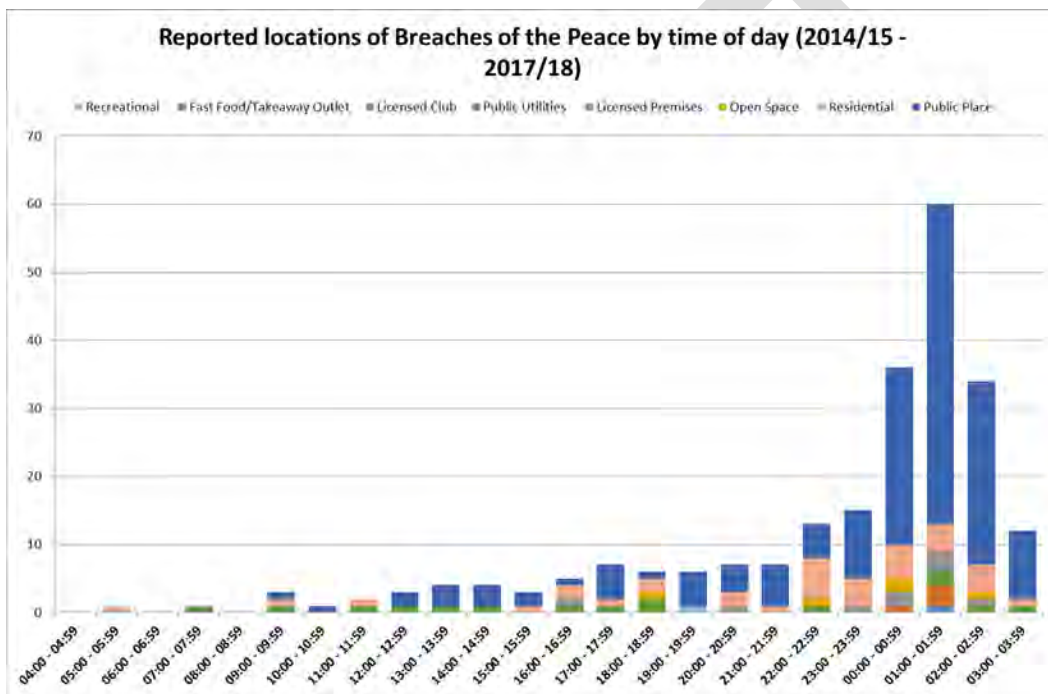


Figure 82: Breaches of the Peace - Location and time of day

Threatening and abusive behaviour is more prevalent throughout the day, and especially after noon, and before 4:00am. There is a spike on Sunday morning between 1:00 and 2:00am, but generally the incidents are more widely distributed from around 4:00pm onwards at weekends (Figure 83). The 2 most common locations are residential premises and public places. Around 12 incidents per year on average take place in hospitals, and 14 in police stations (Figure 84).



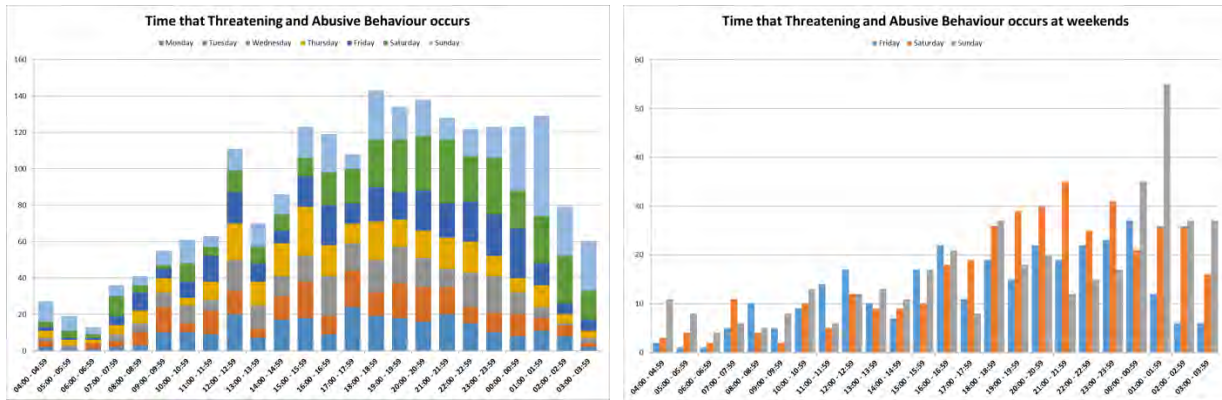


Figure 83: Threatening and Abusive Behaviour – time and day incidents occur (detail for Friday to Sunday)

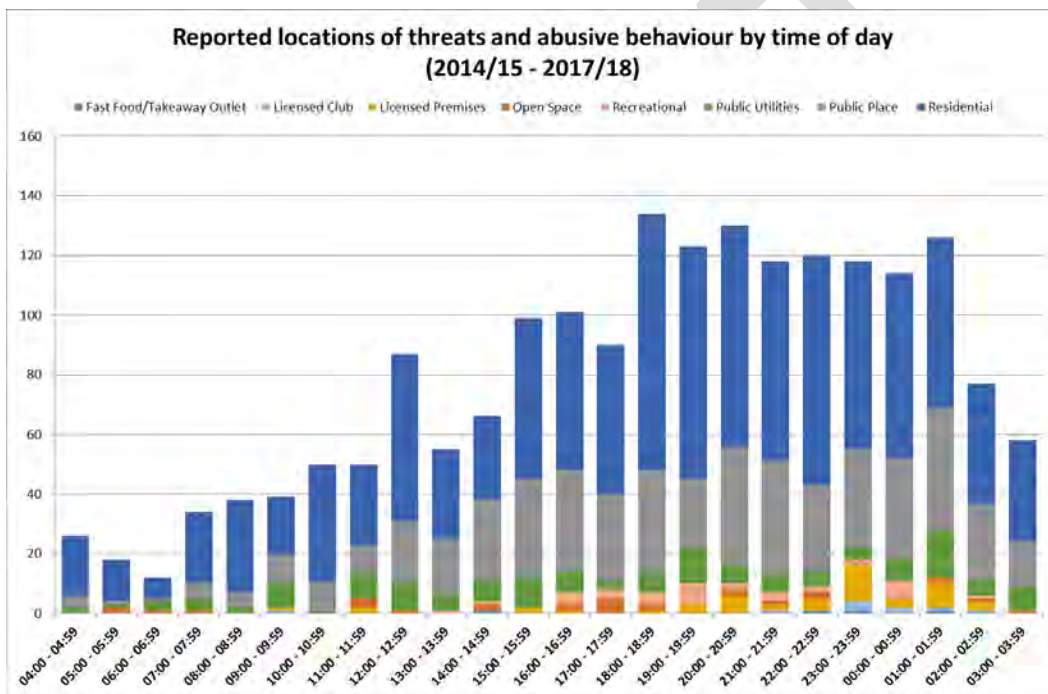


Figure 84: Threatening and Abusive Behaviour - Location and time of day

Although the 2017/18 data does not include the figures for March the total number of incidents has fallen in 2017/18 compared to 2016/17 in all Inspector Areas within Moray (Figure 85). For Elgin & Forres the number of incidents are the lowest during the 4 years 2104/15 to 2107/18/

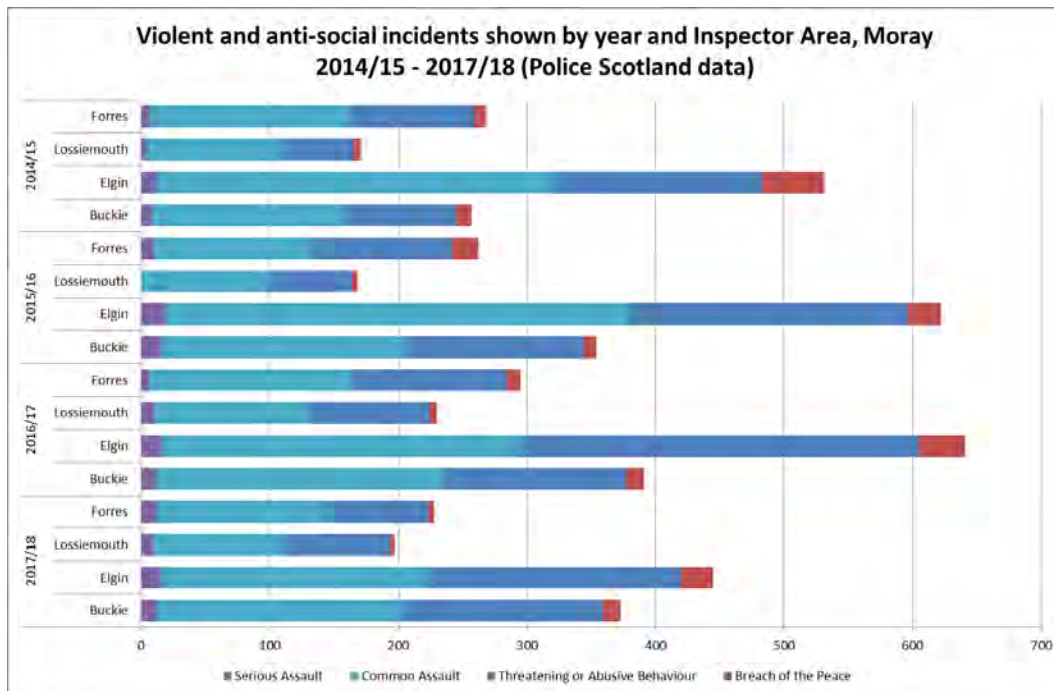


Figure 85: Violent and anti-social incidents by year and inspector area – Moray 2014/15 – 2017/18

Alcohol Focus Scotland, in their April 2018 analysis<sup>31</sup> stated that crime rates were 7.7 times higher in neighbourhoods with the most alcohol outlets, compared to neighbourhoods with the least. Since the Police Scotland, and ScotPHO data, used for this analysis cover the wider Moray area or the Moray Beat Areas rather than individual neighbourhoods it has not been possible to analyse this statement in more detail. However, an alternative approach has been used to identify a link between higher concentrations of alcohol outlets readily accessible to members of the public and higher rates of violent incidents and anti-social behaviour. For the purposes of this analysis publically accessible alcohol outlets are public houses, nightclubs, hotels and shops and service-stations with off-licences. For Moray overall there are just over 2 publically accessible alcohol outlets per 1,000 residents, and there were an average of 7.5 violent incidents and 6.2 anti-social behaviour incidents per 1,000 residents in 2017/18. Note that the population figures have been derived from Census 2011 data.

<sup>31</sup> Alcohol Focus Scotland, April 2018, Alcohol Outlet Availability and Harm in Moray

2017/18	Serious Assault	Common Assault	Breach of the peace	Threatening or Abusive Behaviour	Total Violent incidents	Total Anti-social incidents	Total Violent incidents per 1,000 residents	Total Anti-social behaviour per 1,000 residents	# residents	# alcohol outlets	Outlets per 1,000 residents
Elgin North	14	155	23	157	169	180	10.8	11.5	15,652	35	2.24
Elgin South	1	53	2	40	54	42	5.7	4.5	9,426	11	1.17
Buckie/Cullen	5	114	6	97	119	103	8.9	7.7	13,322	33	2.48
Keith	6	77	8	60	83	68	10.7	8.8	7,770	16	2.06
Lossiemouth	8	67	1	60	75	61	6.2	5.1	12,069	20	1.66
Fochabers/Lhanbryde	1	36	2	22	37	24	4.0	2.6	9,318	17	1.82
Forres	10	102	4	70	112	74	7.2	4.7	15,594	25	1.60
Speyside	2	29	1	10	31	11	3.8	1.4	8,053	30	3.73

Table 4: Violent incidents and anti-social behaviour rates by Moray Beat 2017/18

Table 4 suggests that Elgin North and Keith have relatively high rates of violent incidents and antisocial behaviour compared to the rest of Moray, with Buckie/Cullen and Forres above the Moray average. However, Speyside with the highest number of outlets per 1,000 residents has the lowest rate of violent incidents and anti-social behaviour. Speyside has the highest number of hotels for any of the Associated School Group (ASG) areas/beats in Moray and a relatively small population, which may skew the statistics.

The data for Table 5 were derived from figures available for the intermediate zones created in 2011 and then assigned to the appropriate beat. The maps at Figure 86 show the areas covered by the 4 Moray Division Community Policing Teams and the Moray Council ASG. Table 5 provides the breakdown by individual Moray Division beats, the related ASG and the intermediate zones. Note that the 2 ASGs for Elgin share an intermediate zone when converting them to beat areas.

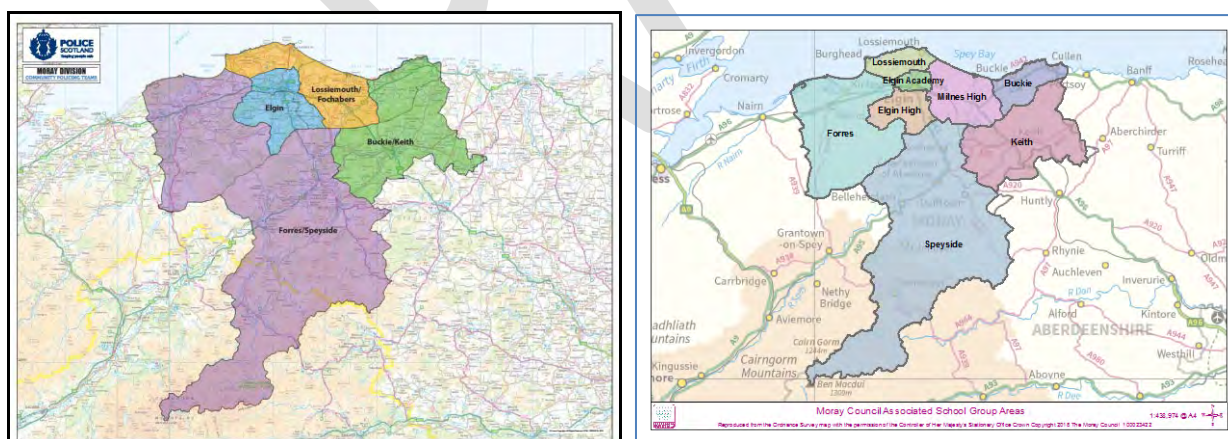


Figure 86: Police Scotland Moray Division Community Policing Teams and Associated School Group areas

Beat	Associated School Group	Intermediate Zones (2011)
Elgin North	Elgin Academy	<ul style="list-style-type: none"> <li>Elgin Central West</li> <li>Elgin Cathedral to Ashgrove and Pinefield</li> <li>Elgin Bishopmill East and Ladyhill</li> <li>Elgin Bishopmill West and Newfield</li> </ul>

		<ul style="list-style-type: none"> <li>Heldon West, Fogwatt to Inchberry (shared with Elgin High School)</li> </ul>
Elgin South	Elgin High School	<ul style="list-style-type: none"> <li>New Elgin East</li> <li>New Elgin West</li> <li>Heldon West, Fogwatt to Inchberry (shared with Elgin Academy)</li> </ul>
Buckie/Cullen	Buckie High School	<ul style="list-style-type: none"> <li>Cullen, Portknockie, Findochty, Drybridge and Berryhillock</li> <li>Buckie Central East</li> <li>Buckie West and Mains of Buckie</li> </ul>
Keith	Keith Grammar School	<ul style="list-style-type: none"> <li>Rural Keith and Strathisla</li> <li>Keith and Fife Keith</li> </ul>
Lossiemouth	Lossiemouth High School	<ul style="list-style-type: none"> <li>Lossiemouth East and Seatown</li> <li>Lossiemouth West</li> <li>Burghead, Roseisle and Laich</li> </ul>
Fochabers/Lhanbryde	Milne's High School	<ul style="list-style-type: none"> <li>Mosstodloch, Portgordon and seaward</li> <li>Fochabers, Aultmore, Clochan and Ordiquish</li> <li>Lhanbryde, Urquhart, Pitgavney and seaward</li> </ul>
Forres	Forres Academy	<ul style="list-style-type: none"> <li>Findhorn, Kinloss and Pluscarden Valley</li> <li>Forres Central East and seaward</li> <li>Forres South West and Mannachie</li> <li>Rafford, Dallas, Dyke to Dava</li> </ul>
Speyside	Speyside High School	<ul style="list-style-type: none"> <li>South Speyside and the Cabrach</li> <li>North Speyside</li> </ul>

Table 5: Police Scotland Moray Division Beats, ASGs and Intermediate Zones (2011)

### Summary of crime in Moray:

- ScotPHO data for crime in the Moray ADP area reveals relatively low rates of attempted murder & serious assault, vandalism, and breaches of the peace compared to NHS Grampian and Scotland.
  - Common assault levels in the Moray ADP are similar to NHS Grampian and Scotland.
- Similarly, Police Scotland data indicates that serious assaults remain a fairly infrequent occurrence in Moray, while the number of common assaults has reduced since the peak of 100 in November 2015, averaging 58 per month in 2017/18.
- Threatening and abusive behaviour incidents increased steadily in Moray from April 2014 to October 2017, but since then the number of such incidents reported has reduced markedly.
- Friday, Saturday and Sunday are the days when the highest numbers of incidents of all types occur.
  - Serious assaults and Breaches of the Peace are more likely to occur in the early hours of Saturday and Sunday morning

- Common assaults take place over a wider portion of the day, but as with serious assaults there is a greater proportion in the early hours of Saturday and Sunday morning. Additionally, incidents are also prevalent on Friday and Saturday evenings.
- Most assaults take place on residential properties or in public places (e.g. streets and roads):
  - 40% of serious assaults take place on residential properties, and one-third in public places
  - 60% of common assaults took place on residential properties, and one-quarter in public places.

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## 8. AVAILABILITY OF ALCOHOL

Since there are links between deprivation and alcohol-related hospital stays (Figure 45, page 40) this section reviews the number of publically accessible alcohol outlets in areas of relative deprivation. Since Moray has few data zones in the most deprived quintile in Scotland data zones in the first and second most deprived quintiles have been included in the analysis. Large parts of Moray are in the 2 least-deprived quintiles (Figure 87), with the more deprived areas being mainly in towns, such as Elgin, Forres and Buckie, with Lossiemouth and Keith containing data zones in the second most deprived quintile. Perhaps not surprisingly the areas with more residents have more alcohol outlets, and the association with areas of deprivation is considered below.

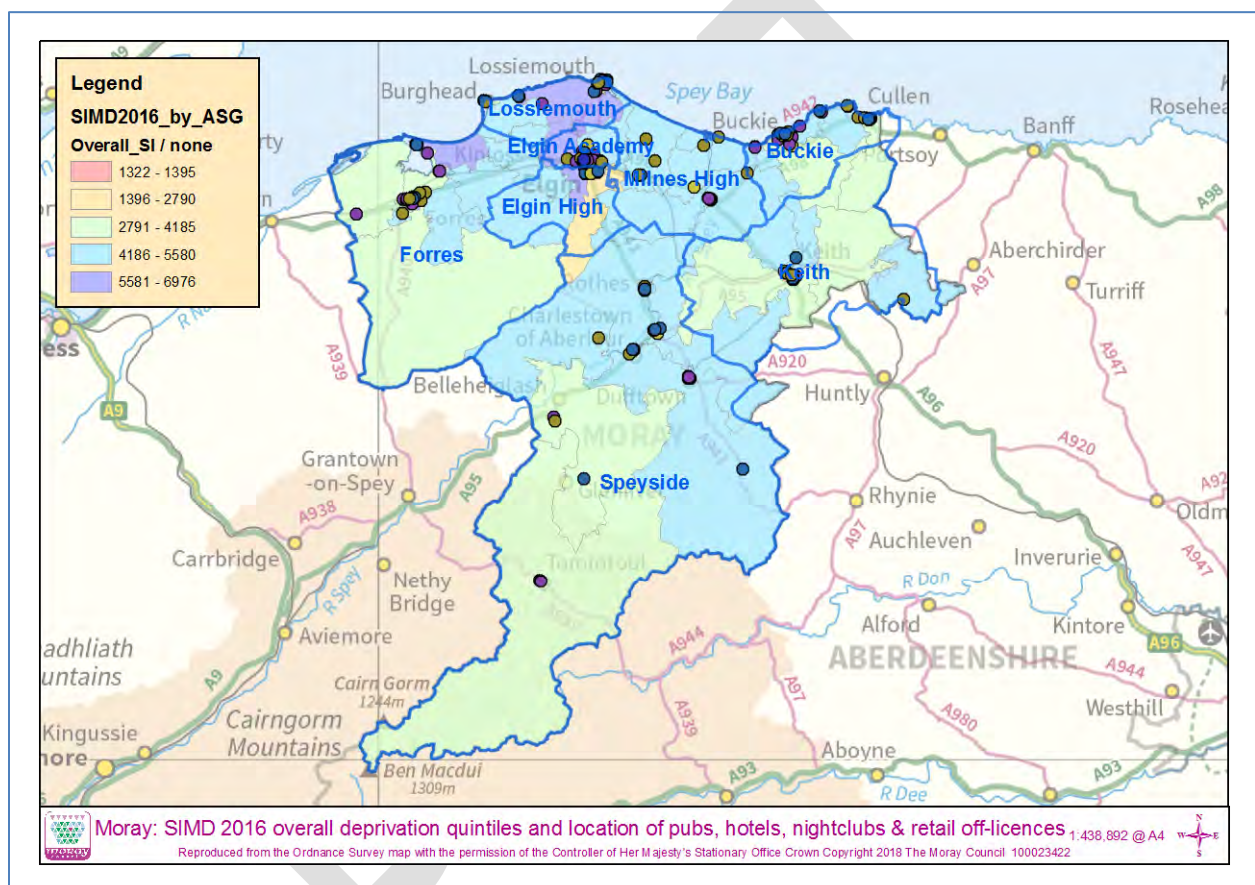


Figure 87: Scottish Index of Multiple Deprivation overall deprivation quintiles for Moray (2016)

Moray has a relatively low level of deprivation according to the SIMD 2016 methodology. There are 126 data zones in Moray of which 13 are in the most deprived quintile for the SIMD 2016 overall measure (10.3%) and 17 in the 2<sup>nd</sup> most deprived quintile (13.5%). In contrast, there are 38 data zones in the least deprived quintile (30.2%).

Forty per cent of data zones in Moray contain no publically-accessible alcohol outlets and a further 22% have just a single outlet. The average is 1.5 outlets per data zone, with 48 data zones containing above

average numbers of publically-accessible alcohol outlets. Outlets are located in data zones covering all 5 of the overall SIMD quintiles, although the most deprived quintile does contain the highest proportion. However, for the remaining quintiles the differences become closer:

- Most deprived quintile
  - Each data zone contains 3.5 publically accessible alcohol outlets on average
  - 69% of data zones (9) contain above average numbers of outlets
  - Just 15.4% (2) contain no outlets
- 2<sup>nd</sup> most deprived quintile
  - Each data zone contains 1.8 publically accessible alcohol outlets on average
  - 53% of data zones (9) contain above average numbers of outlets
  - 41.2% (7) contain no outlets
- 3<sup>rd</sup> most deprived quintile
  - Each data zone contains 1.4 publically accessible alcohol outlets on average
  - 38% of data zones (11) contain above average numbers of outlets
  - 44.8% (13) contain no outlets
- 4<sup>th</sup> most/2<sup>nd</sup> least deprived quintile
  - Each data zone contains 1.2 publically accessible alcohol outlets on average
  - 31% of data zones (9) contain above average numbers of outlets
  - 41.4% (12) contain no outlets
- Least deprived quintile
  - Each data zone contains 1 publically accessible alcohol outlet on average
  - 26% of data zones (10) contain above average numbers of outlets
  - 44.7% (17) contain no outlets

Elgin Bishopmill East and Ladyhill has the highest number of this type of alcohol outlet in Moray, and is also one of the most deprived data zones in Moray. However, the High Street in the largest town in Moray is located within this particular data zone. Although the adjacent data zones have easy access to Elgin town centre they do not all experience the same level of deprivation, but instead range from the most deprived quintile to the 2<sup>nd</sup> least deprived quintile (see Figure 88).

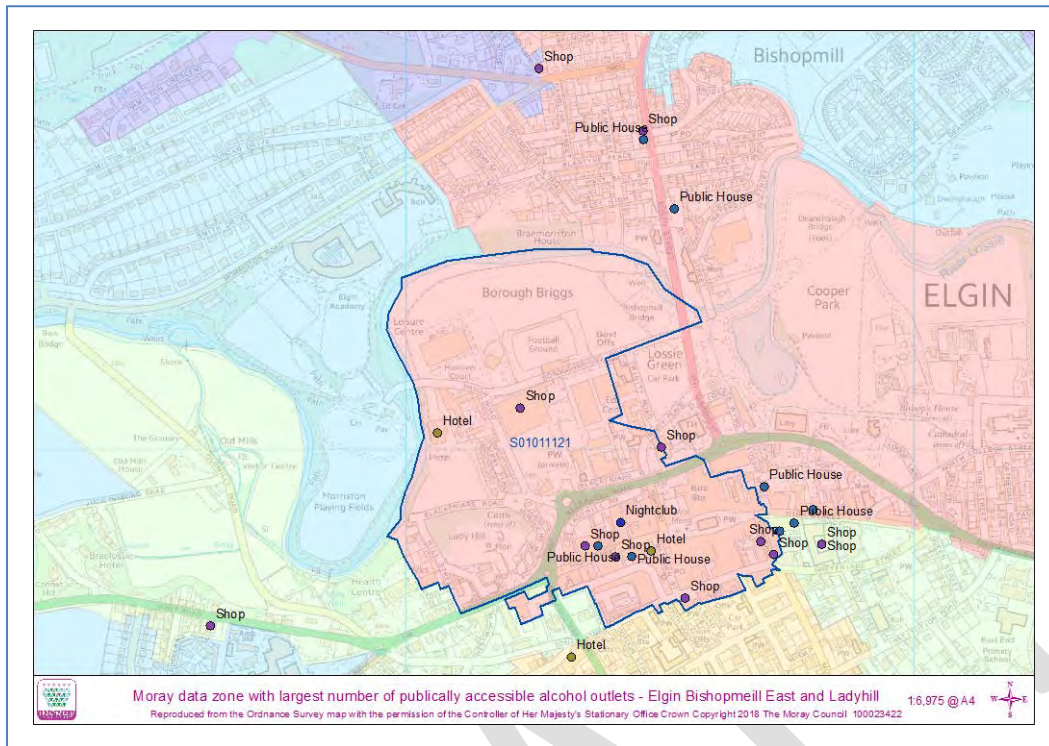
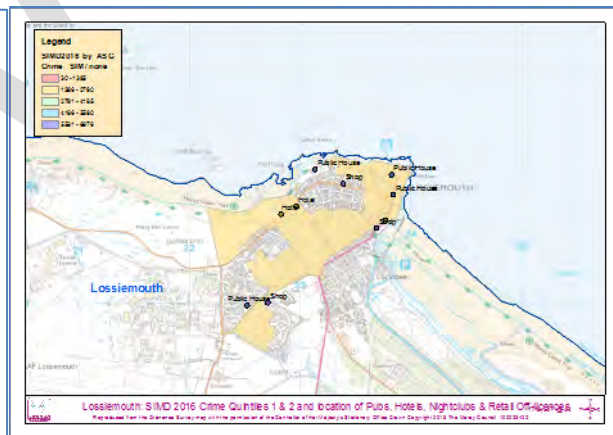
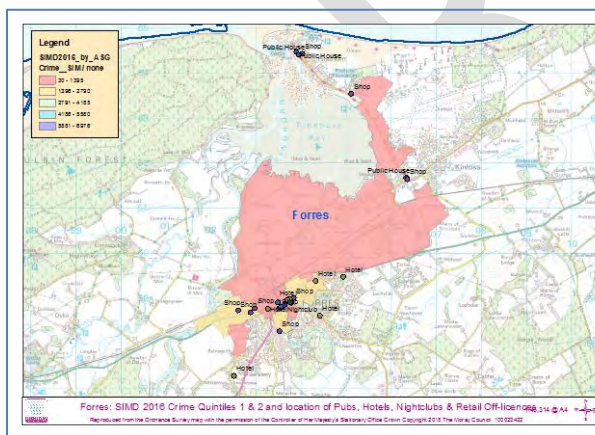


Figure 88: Elgin Bishopmeill East and Ladyhill and location of alcohol outlets

The other Moray data zones in 1<sup>st</sup> and 2<sup>nd</sup> most deprived quintiles are in Forres, Lossiemouth, Buckie, Keith and other parts of Elgin, including New Elgin East. They are all predominantly in, or in close proximity to, town centres (Figure 89).





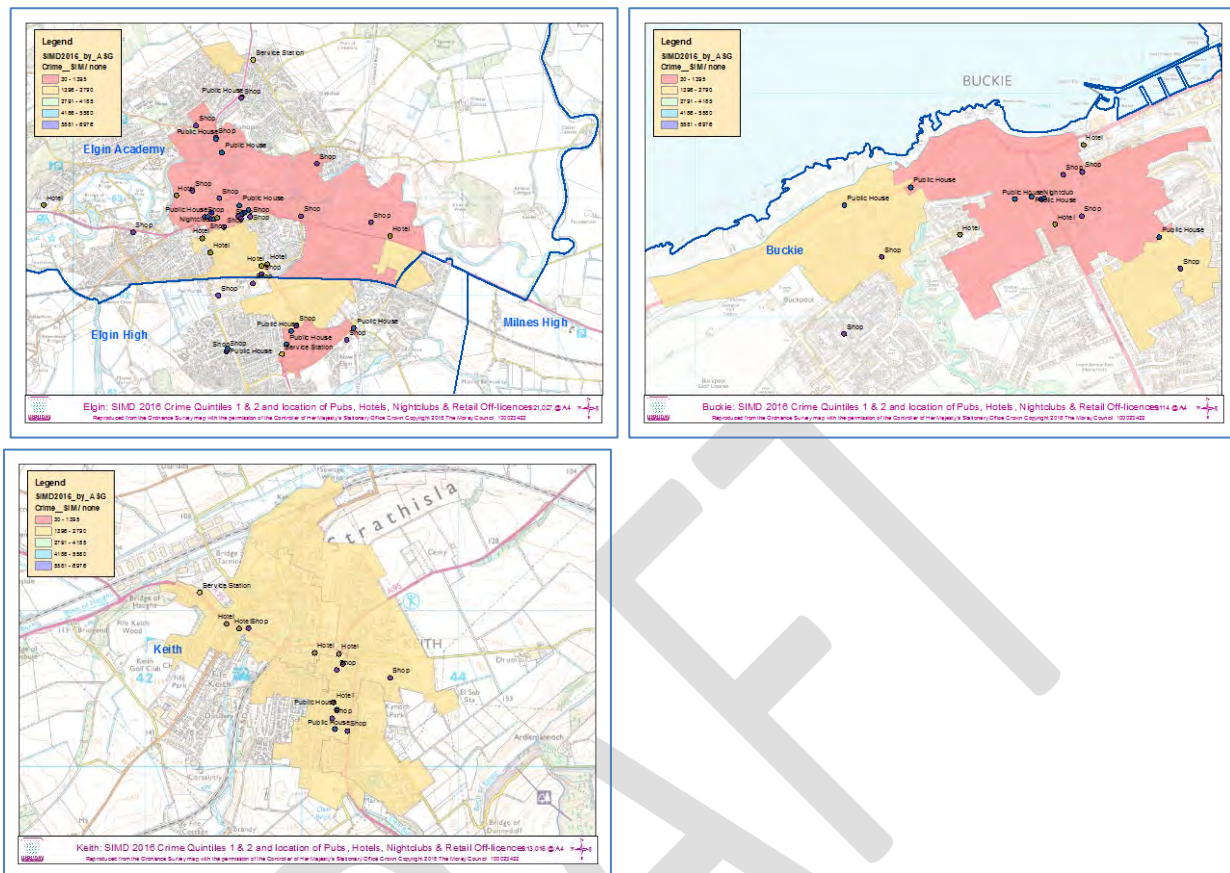


Figure 89: Moray data zones in 1<sup>st</sup> and 2<sup>nd</sup> most deprived quintiles showing location of the publically accessible alcohol-outlets

According to Alcohol Focus Scotland, in conjunction with the Centre for Research on Environment, Society and Health (CRESH)<sup>32</sup> Moray has one of the lowest availability of alcohol outlets of all the local authorities in Scotland: 28<sup>th</sup> overall, 25<sup>th</sup> for on-sales and 28<sup>th</sup> for off-sale outlets. (Note, however, that the CRESH data refers to 30 local authorities, and not all 32.) For most of Moray the density of alcohol outlets is considerably lower than the national rate (Figure 90). Using the CRESH Webmap<sup>33</sup> it is possible to plot the density of alcohol-outlets within a selected distance of a data zone population centre. The left-hand map at Figure 90 shows the alcohol on-sales outlet density for a distance of 800m from the data zone population centre, and illustrates that for most of Moray the on-sales density is well below the Scottish average. However, there are areas in the centre of Forres, Elgin town centre, Lossiemouth and Buckie that are above the Scottish average. When the distance from the centre of data zone

<sup>32</sup> Alcohol Outlet Availability and Harm in Moray, April 2018

<sup>33</sup> <https://creshmap.com/shiny/alcoholtobacco/>

populations is taken out to 1,600m then the only data zones above the Scottish average are in the Centre of Elgin.

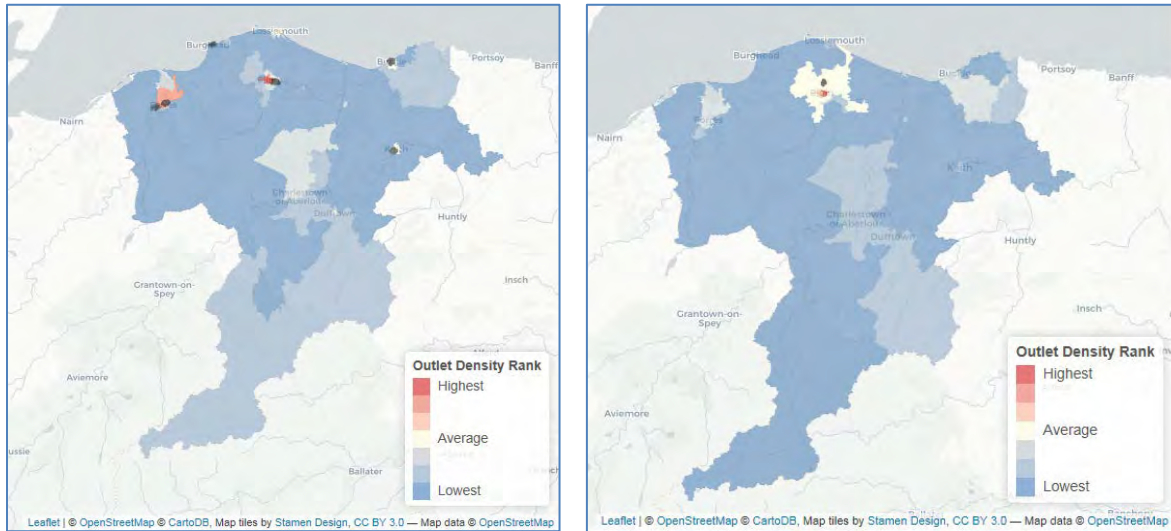


Figure 90: On-licences alcohol outlet density in Moray 800m and 1600m from centre of data zone populations (CRESH)

Figure 91 illustrates the same information for off-licences, and shows that across Moray the alcohol outlet densities for off-licences are even lower than for on-licences.

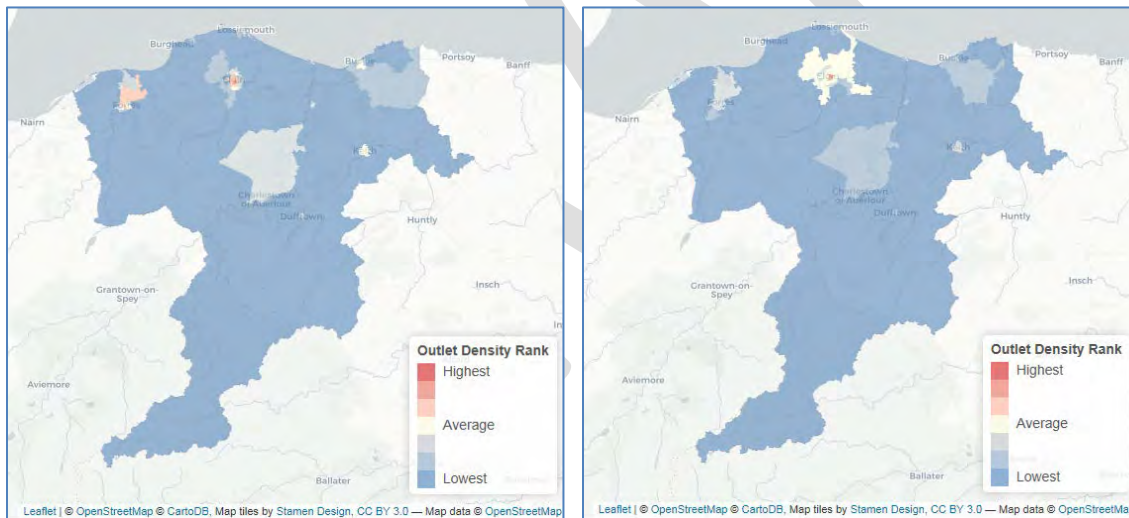


Figure 91: Off-licence alcohol outlet density in Moray 800m and 1600m from centre of data zone populations (CRESH)

Although people in Scotland still buy more alcohol each week than people living in England & Wales the amount has been dropping steadily since 2010 (Figure 92). Note that 73% of alcohol sold in Scotland in 2016 was purchased from supermarkets and off-licences.<sup>34</sup>

<sup>34</sup> MESAS Monitoring Report 2017

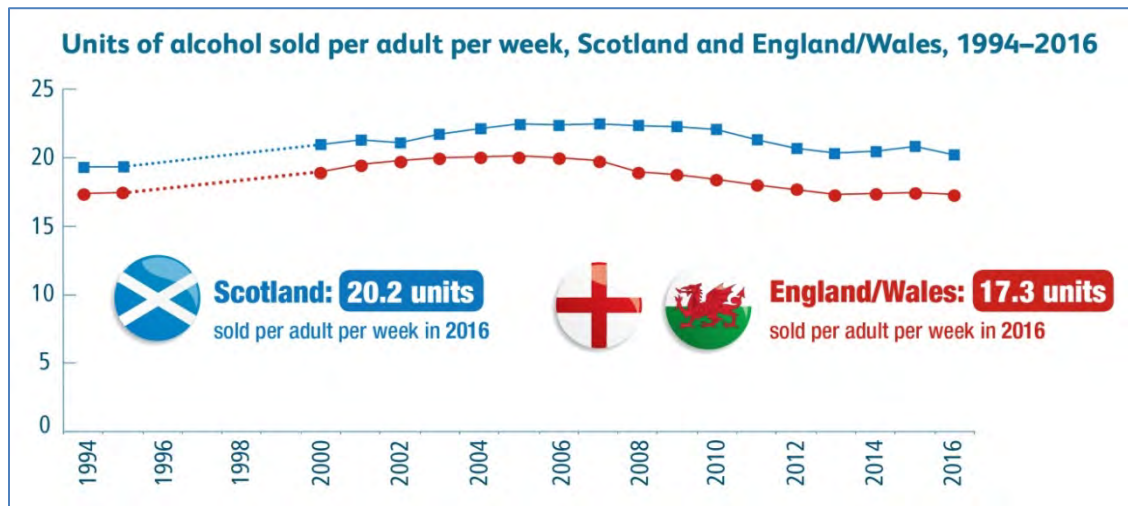


Figure 92: Units of alcohol sold per adult per week, Scotland and England/Wales, 1994–2016 (NHS Health Scotland)<sup>35</sup>

### SIMD 2016 deprivation and alcohol-outlets

Data zones in Moray tend to be in the lowest 3 quintiles for overall deprivation,

<sup>35</sup> [http://www.healthscotland.scot/media/1460/alcohol-sales-in-scotland-2016\\_english.pdf](http://www.healthscotland.scot/media/1460/alcohol-sales-in-scotland-2016_english.pdf)



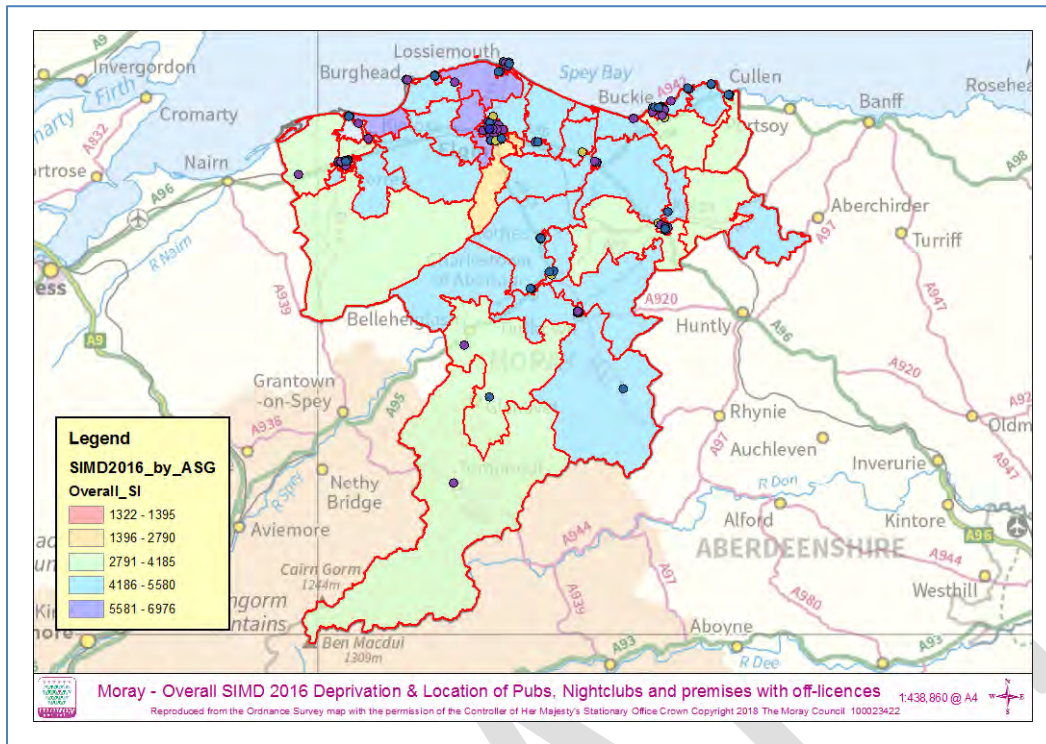


Figure 93: Moray overall levels of deprivation (as measured by SIMD 2016) and publically-accessible alcohol-outlets

Elgin has one data zone in the most deprived quintile overall, compared to all Scottish data zones. However, second-most deprived quintile = most outlets.

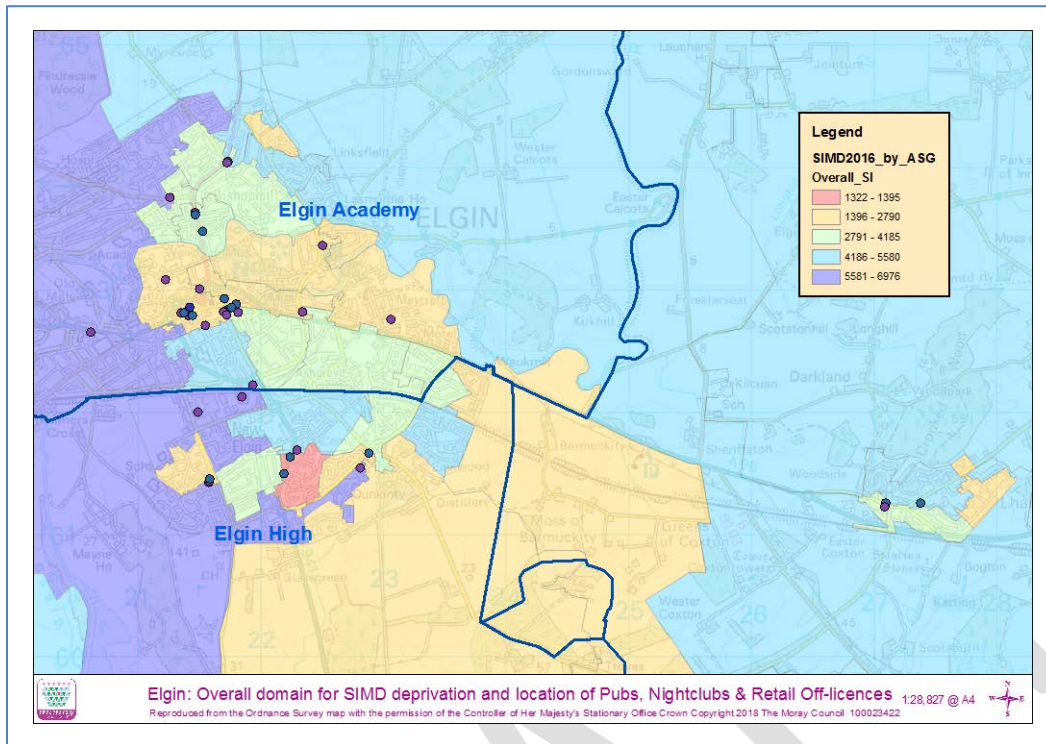


Figure 94: Elgin, and surrounding areas, overall levels of deprivation (as measured by SIMD 2016) and publically-accessible alcohol-outlets

**Summary of alcohol availability in Moray:**

- Low
- 

**9. DETERMINING LOCALITIES**

*Information may be obtained from a number of stakeholders, such as the relevant health and/or social care body who may be able to provide, amongst other things, data on alcohol related mortality and hospital admissions. The chief constable may be able to identify problematic areas where it can be demonstrated that crime, disorder and nuisance are caused by customers of a particular concentration of licensed premises and/or suggest areas in which the number of licensed premises or premises of a particular description are potentially approaching overprovision.*

*7.11 It is not necessary to divide the whole of the Licensing Board’s area into separate localities. A locality could, for example, consist of a particular town, a city centre, a street, a collection of*

*streets, a council ward, datazone(s) – (Scottish Index of Multiple Deprivation) or the whole of the Licensing Board’s area.*

Suggest linking policy to particular intermediate zones with higher levels of alcohol-related problems?

## 10. BENEFITS TO LOCAL AND NATIONAL ECONOMIES

### Tourism

The Moray Growth Deal, currently being considered by the UK government, aims to transform the cultural offering in Moray for locals and visitors<sup>36</sup>. The vision is:

*“The overall vision for the Moray Growth Deal has been summarised as Innovation from Tradition. It is felt that this characterises Moray throughout its history, with the continued dominance of the whisky industry arguably being the best example of this.”*

It aims to achieve this by addressing the following issues:

*“During the first half of 2017 tourism added almost £60 million to our local economy. There is no doubt that visitor numbers are increasing but to maintain this we need world class attractions and facilities. The lack of hotel accommodation results in visitors staying elsewhere and spending their money outside the region. The plan for the Cultural Quarter addresses many of the barriers to increased visitor numbers and increased tourism spend in the area.”*

The creation of a Cultural Quarter in Elgin will:

- Showcase the strength of Moray’s offering in food, drink and textiles, with a focus on a ‘Whisky Experience’. It will host video and interactive exhibits, and tastings, as well as signposting visitors to tours and visitor centres across Moray and the North of Scotland.
- A refurbished Town Hall housing Moray College Creative Industries Hub, a multi-purpose theatre and performance space with rehearsal rooms and a gallery space
- 4/5-star hotel (to be privately funded)

The Scotch whisky industry<sup>37</sup> is associated with around 40,000 jobs in the UK, including 7,000 jobs in less accessible areas. In Moray there are 50 whisky distilleries in Speyside, the largest concentration in Scotland. According to Karen Betts, chief executive of the Scotch Whisky Association, “Last year, Scotch

<sup>36</sup> <http://www.mymoray.co.uk/moray-growth-deal-transform-cultural-offering-locals-visitors/>

<sup>37</sup> Scotch Whisky Association, January 2017, “The Economic Impact of Scotch Whisky Production in the UK (25/1/17)”

whisky distilleries achieved a record 1.7m visits, up almost eight per cent on 2015 and people are spending more than before, often to take a taste of Scotland home with them.<sup>38</sup>

### Economic Factors

The Scotch Whisky Association noted that the Food and Drink Sector is one of Scotland's key growth sectors<sup>39</sup>.

- The Scottish Government's Economic Strategy identifies important sectors within the economy which represent potential for growth, employment and opportunity for international competitiveness. They include Food and Drink; Financial and Business Services; Life sciences; Energy; Tourism and the Creative Industries (including Digital).
- Scotch Whisky (direct impact only) accounts for approximately 60% of the entire Scottish Food and Drink sector GVA. The Scottish Food and Drink sector lies third behind energy and financial and business services.



Figure 95: Extract from Scotland's Economic Strategy March 2015 (Page 15)

- Measuring Scotch Whisky on its own, it sits behind sustainable tourism and the creative industries which have both experienced rapid growth in recent years.
- The Scotch Whisky industry is approximately 170% larger than Life Sciences in terms of GVA contribution.

<sup>38</sup> <https://www.express.co.uk/news/uk/852368/scotland-whisky-distilleries-numbers-record>

<sup>39</sup> Scotch Whisky Association, January 2017, *The Economic Impact of Scotch Whisky Production in the UK*

## Appendix 1 – Changing Scotland’s Relationship with Alcohol: A Framework for Action (2009)

### Summary of action areas and intentions

The Framework for Action identifies the need for sustained action in four areas:

- reduced alcohol consumption;
- supporting families and communities;
- positive public attitudes, positive choices;
- improved treatment and support.

The Scottish Government has the following specific intentions:

- bring forward regulations to end irresponsible promotions and below-cost selling of alcoholic drinks in licensed premises;
- pursue the establishment of a minimum price per unit of alcohol through regulation;
  - Alcohol (Minimum Pricing) (Scotland ) Act received Royal Assent in 2012
  - In November 2017 the UK Supreme Court ruled that Scotland can set a minimum price for alcohol
  - A campaign is being launched to raise awareness of Scotland's minimum unit price for alcohol. Owners of the 5,300 convenience stores across Scotland will be targeted with posters, leaflets and adverts over the coming weeks highlighting the changes coming in from May 1st. Health secretary Shona Robison said that retailers "are the key to ensuring the legislation is implemented, which is why it is crucial we raise awareness of this change in the law early."<sup>40</sup>
- review advice to parents and carers;
- place a duty on Licensing Boards to consider raising the age for off-sales purchases to 21 in part or all of their Board area and provide powers for Chief Constables and Licensing Forum to request a review of their local Board’s policy;
  - This measure was rejected by MSPs in September 2010
- establish a legislative power to apply a social responsibility fee on some alcohol retailers;
- bring forward regulations to restrict the use of marketing material or activity on licensed premises.

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<sup>40</sup> The Independent, Catriona Webster, 24 February 2018, *Campaign launches in Scotland on minimum unit price for alcohol as ministers prepare to make recommendations on figure*



**Appendix 2 – Results from Scottish Health Survey 2016 on drinking habits in Scotland**

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**Moray Licensing Board**

Council Office, High Street, Elgin IV30 1BX

Tel: (01343) 563152

Fax: (01343) 563221

DX No 520666 Elgin

**The Licensing (Scotland) Act 2005  
The Moray Licensing Board  
Matters Considered to be Serious**

The following is an example and by no means an exhaustive list of matters considered serious by the Board:

1. Use of the premises for the use or supply of drugs;
2. Use of the premises for laundering the proceeds of crime including drug crimes;
3. Use of the premises for the sale or distribution of illegal firearms;
4. Use of the premises for the sale or supply of stolen or counterfeit goods;
5. Underage purchase and consumption of alcohol;
6. Encouraging or failure to discourage binge drinking;
7. Use of the premises for prostitution or sale/distribution of unlawful pornography;
8. Use of the premises for unlawful gaming;
9. Use of the premises for the organisation of racist, homophobic or sexual abuse or attacks;
10. Failure to promptly respond to a warning properly given by the Fire Authority or other competent authority on a matter of public safety at premises;
11. Failure to avoid easily avoidable but critical risks, including any obstruction of an escape route to, and if necessary beyond a fire exit, and the locking or fastening of fire exit doors during times that premises are open for trade, will be considered an extremely serious failure owing to the dangers to the public;
12. Nuisance from noise or smell caused by a failure to install any or inadequate equipment and/or failure to maintain such equipment;
13. Failure to implement an effective policy to prevent fly posting and to contain or collect litter from flyers or other advertising materials discarded in the vicinity of the premises;
14. Failure to implement an effective policy to contain or collect litter discarded in the vicinity of the premises;
15. Previous convictions for licensing offences;
16. Persistent failure to comply with licence conditions.



**Moray Licensing Board**  
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**Clerk to the Board: Rhona Gunn**

## **The Licensing (Scotland) Act 2005**

### **The Moray Licensing Board Hearing Procedures**

This appendix applies to procedures to be followed when there is to be a hearing of the Moray Licensing Board in relation to the exercise of its function under the Licensing (Scotland) Act 2005.

By virtue of paragraph 12 of Schedule 1 of the Licensing (Scotland) Act 2005 (subject to further Regulations) “the arrangements for meetings of a Licensing Board, and other matters relating to proceedings of the Board, are to be such as the Board may by rules provide.” The Licensing Board must ensure that any rules made by them are published.

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## 1. Communication

In general communication will be accepted by letter sent by post or document exchange (to the addresses above), by facsimile (to the number above) or by electronic mail addressed to [licensing@moray.gov.uk](mailto:licensing@moray.gov.uk)

The use of electronic communication is encouraged. All communication may be undertaken electronically in order to save time and costs including, but not limited to: Citations; Notices; Notification of attendance; Submissions; Attachments; Documents in general; Decision notices.

NB. It should be noted that large file sizes may inhibit the use of electronic communication as the Board's email system may automatically quarantine/delay files exceeding 5MB in size. It will be the sender's responsibility to confirm receipt.

The Moray Licensing Board has published separate privacy notices and information regarding data protection. Please see the Board's web pages for details.

All communication should be addressed to the Clerk to the Moray Licensing Board. If a party has made representations and wishes to withdraw the same then that party should indicate this to the Clerk of the Board in writing no later than 7 days before the hearing. If all representations are withdrawn then the hearing may be cancelled and the application may be considered under delegated powers.

Except where otherwise provided, a requirement to give a notice (or to notify) is a requirement to give notice in writing, and for that purpose, a message sent by facsimile transmission or electronic mail must be treated as a notice given in writing.

## 2. When the Moray Licensing Board Will or May Hold a Hearing

### 2.1 Premises Licences

Where, on an application for a premises licence:

Under section 23(2) the Board must hold a hearing for the purpose of considering and determining a premises licence application. A hearing under this section must take place no later than 119 days after the last day on which objections/representations on the application should be received by the Board.

Where, in respect of a premises licence:

The Board receives an application under section 29 to vary the premises licence and the variation is not a minor one;

THEN: Under section 30(3) the Board must hold a hearing for the purpose of considering and determining the application. A hearing under this section must take place no later than 119 days after the last day on which objections/representations on the application should be received by the Board.

Where, on an application to transfer a premises licence:

Under section 33 the Board receives a notice under subsection (6)(b) of relevant conviction(s) on the part of the transferee;

THEN: Under section 33(9) the Board must hold a hearing for the purpose of considering and determining the application. A hearing under this section must take place no later than 42 days after the date on which the Board received the s. 33(6)(b) notice.

Where, in respect of a premises licence:

The Board makes a premises licence review proposal under section 38(1)(a) or receives a premises licence review application under section 38(1)(b);

THEN: Under section 38(1) the Board must hold a hearing for the purposes of considering and determining the proposal or application. A hearing under this section must take place no later than 42 days after the date on which the Board made the s. 38(1)(a) proposal or received the s. 38(1)(b) application.

Where, in respect of a premises licence in place:

The Board receives notice of a relevant conviction on the part of the licence holder under section 44(4)(b);

THEN: The Board must make a premises licence review proposal and under section 38(1) the Board must hold a hearing for the purposes of considering and determining the proposal (for which see above).

## **2.2 Extended Hours and Occasional Licences**

Where, in respect of a premises licence:

The Board receives an application from the licence holder for extended hours for a special event under section 68;

THEN: Under section 70(2) the Board may hold a hearing for the purpose of determining the application. Any hearing under this section must take place no later than 42 days after the date on which the Board received the extended hours application.

Where, on an application for an occasional licence:

Under section 59, the Board receives a report from the police or the LSO or received objections/representation to the application;

THEN: Under section 59(4) the Board may hold a hearing for the purpose of determining the application for an occasional licence. A hearing under this section must take place no later than 42 days after the date on which the Board received the occasional licence application.

## **2.3 Closure Orders**

Where on application for a closure order:

Closure orders under section 97. Section 100 allows for the making of regulations in respect of the procedures, including hearings, for closure orders.

## **2.4 Personal Licences**

Where, on an application for a personal licence:

(Assuming that: the applicant is aged 18 or over; the applicant possesses a licensing qualification; and no personal licence previously held by the applicant has been revoked within the period of 5 years ending with the day on which the application was received)

AND where:

The Board has received from the appropriate chief constable a notice under section 73(3)(b) or section 75(6)(b) specifying conviction(s) of the applicant for a relevant offence;

THEN: Under section 74(5) the Licensing Board must hold a hearing for the purpose of considering and determining the application.

Where, after grant of the personal licence:

The Board has received from the appropriate chief constable a notice under section 83(4)(b) specifying conviction(s) of the applicant for a relevant offence;

THEN: Under section 83(7) the Licensing Board must hold a hearing for the purpose of considering revocation, suspension or endorsement of the personal licence. A hearing under this section must take place no later than 42 days after the date on which the Board received the notice under s. 83(4)(b).

Where, on a hearing for review of a premises licence:

The Board makes a finding in accordance with section 84(2) that the licence holder concerned acted in a manner which was inconsistent with any of the licensing objectives;

THEN: Under sections 84(3)(A) or 84(5) the Board must hold a hearing or give notice to the relevant Licensing Board which must hold a hearing for the purpose of considering revocation, suspension or endorsement of the personal licence.

Where, after the grant of the personal licence:

3 endorsements have been made in any personal licence;

THEN: Under section 86(1) the Licensing Board which issued the licence must hold a hearing with a view to suspending the licence for such period, not exceeding 6 months, as the Board considers appropriate, or revoking the licence.

### **3. Notice of the Hearing**

#### **3.1 The Notice**

The Moray Licensing Board will give notice of any hearing that is to be held in relation to the Licensing (Scotland) Act 2005. The notice will specify:

- The date on which, the place at which and the time when the hearing is to take place;
- That the Licensing Board will make available the documents relevant to the hearing to any person that has made representations (unless the relevant committee considers that the representations are vexatious or frivolous).

The notice will be sent by ordinary post. The Moray Licensing Board will endeavour to ensure that it is received by relevant parties no later than 10 working days before the first day on which the hearing is to be held (as specified in the notice).

#### **3.2 Information to Accompany the Notice**

The notice of hearing will be accompanied by a copy of this document or will direct the recipient to the appropriate page of the website to find this document. This document contains information that explains the following:

- The consequences provided for where a party informs the relevant committee that he does not wish to attend or be represented at the hearing, or fails to inform the relevant committee whether he wishes to attend or be represented at the hearing;
- The requirements imposed on the Licensing Board in conducting a hearing;
- The consequences provided for where a party has indicated that he wishes to attend or be represented at the hearing but fails to attend or be represented at the hearing.
- The Procedure to be followed at the meeting.
- The time limit and method, if any, by which a party should inform the Board that he wishes to attend or address the hearing.
- The time limit and method, if any, by which a party should inform the Board that he wishes to be assisted or represented by another person.
- The time limit and method, if any, by which a party should inform the Board that he will want to call a witness to give evidence at the hearing, and the matters in relation to which he wishes a witness to give evidence.
- The time limit and method, if any, by which a party should inform the Board that he wishes to withdraw any representations.
- Where relevant the time limit and method, if any, by which a party should inform the Board that he is willing to consent to the application being determined without a hearing.
- The matters, if any, on which the Board considers at the time that it will want clarification at the hearing from any party.

#### **4. Prior to the Hearing**

##### **4.1 Exchange of Evidence**

Each party should as far as possible notify other parties and the Clerk of the evidence that they intend to adduce at the hearing including full details of that evidence, details of witnesses and copies of documents (defined in its widest sense) to be produced.

Notification including, where relevant, copy documents should be sent to other parties and the Clerk at least 7 days before the hearing.

Where a witness is unavailable for a particular hearing then the party may request an adjournment and should do so as soon as is reasonably practicable. The Clerk or the Moray Licensing Board will try and establish the likely nature of the witness's evidence before a decision is made in the light of all the circumstances as to whether to adjourn the hearing or proceed in any event.

##### **4.2 Site Visits**

Where appropriate the Moray Licensing Board will endeavour to make arrangements to visit the premises in advance of the hearing. Alternatively a hearing may be postponed for such arrangements. This will assist the Board in assessing the suitability of the premises and will provide an opportunity to view the surroundings.



The Moray Licensing Board is particularly interest in visiting premises where it is proposed that children and/or young persons be allowed access or where application is made to vary the provisions for access by children and/or young persons.

Site visits will be arranged with the applicant/premises licence holder. They will not generally be advertised to the public although the Board may choose to do so if appropriate.

#### **4.3 Calling for Further Evidence**

Where it appears to the Board, prior to any hearing, that the presence of further persons or documents or other evidence of any sort may be desirable in determining an application then the Board may call upon such persons to attend the meeting and/or produce such documents or other evidence for the purpose of the hearing as the Board sees fit.

### **5. Attendance at the Hearing**

#### **5.1 Citation of Parties**

See also notice of hearing at para 3.1 above.

Relevant parties will be given notice requiring them to attend at a hearing. The Moray Licensing Board will endeavour to ensure that it is received by relevant parties no later than 10 working days before the first day on which the hearing is to be held (as specified in the notice).

The notice will specify that should the party fail to appear then the Moray Licensing Board will decide what weight to attach to their evidence and may decide to deal with the matter as the Board sees fit in their absence. See also paragraph 5.3 below.

#### **5.2 Attendance**

Parties should attend or be represented and should notify the Clerk of their intention to attend and/or be represented in writing at least 7 days before the hearing. Details of any representative should be included in the notification.

By virtue of Regulation 14 of the Licensing Procedure (Scotland) Regulations 2007, a party may be represented by another person at a hearing. However the Board may decide not to hear from the representative where he/she cannot produce evidence, in the form of a written authority, confirming his/her standing to appear for the party.

#### **5.3 Failure to Appear**

Where a party fails to appear or be represented then The Moray Licensing Board will try and establish the reason(s) for that failure. The Moray Licensing Board will then decide whether to proceed with the hearing in the absence of that party or postpone the meeting to another date. Each matter will be judged on its own merits but in general:

- If a party has indicated an inability to appear at a hearing and has a genuine reason for that inability then a request for an postponement will normally be granted;

- if a party has indicated an intention to appear but fails to do so then the hearing will be postponed;
- if a party has given no indication about appearing and there is no apparent reason for the failure then the hearing will proceed and the Moray Licensing Board will make such decision as it thinks fit in the absence of that party;
- if a party leaves a hearing in circumstances such that it can reasonably be inferred that they do not wish to take any further part then the hearing will proceed and the Moray Licensing Board will make such decision as it thinks fit in the absence of that party;
- a hearing will normally only be postponed on one occasion.

Where a hearing proceeds in the absence of a party, the Board will consider at the hearing the application or any representations made by that party.

Where a hearing is postponed to a specified date the Board will, as soon as reasonably practicable, notify the parties of the date, time and place to which the hearing has been adjourned.

#### **5.4 Power to Postpone at Any Time**

The Moray Licensing Board may at any time postpone a hearing to a specified date (even if parties are in attendance). The Board may postpone a hearing for any reason including the following\*:

- to enable it to consider any information or documents provided by any party in response to a notice or at a hearing; or
- having regard to the ability of any party, person representing a party or a witness to attend the hearing; or
- for a site visit; or
- to call for further information; or
- to provide fairness between the parties where one party requires time to consider the evidence of another; or
- in the interests of natural justice in general

\*List is not exhaustive

Where the Board has postponed a hearing to a specified date it will, as soon as reasonably practicable, notify the parties of the new date, time and place of the hearing.

## **6. Hearings**

### **6.1 General**

The Moray Licensing Board will always endeavour to ensure that the rules of natural justice are observed.

### **6.2 Hearings to be in Public**

In accordance with paragraph 12 of Schedule 1 of the Licensing (Scotland) Act 2005 hearings will generally be conducted in public although The Moray Licensing Board may deliberate in private.

This means that any person attending or evidence to be provided to the Moray Licensing Board will be heard in public and made available to the public.

Agendas, minutes and other relevant documents will be published in accordance with the Moray Licensing Board's scheme of publication (available on the website at [www.moray.gov.uk/licensing](http://www.moray.gov.uk/licensing) ).

In exceptional circumstances, for example to protect a particular person (particularly a minor) or possibly a commercial interest, a party may request that a hearing be conducted in private. This should be raised as a preliminary matter before the hearing, preferably with the Clerk before the actual day of the Board meeting. Consideration will be given to this having regard to the interests of natural justice, fairness and potential prejudice to other parties or the public.

### **6.3 Conducting a Hearing**

In general a hearing will take the form of a discussion led by The Moray Licensing Board and in particular the Convenor. The Moray Licensing Board wishes to create, as far as possible, a less formal and more relaxed atmosphere so as not to intimidate parties.

Each party will have the opportunity to address the Board and present evidence.

At the beginning of the hearing the Board will endeavour to explain the procedure that it proposes to follow in conducting the hearing.

For convenience, in general the running order will be as follows:

- The application will be introduced. This may be by the Convenor and/or the applicant may be invited to confirm their status, the nature of the application and any initial comment;
- The Clerk or Depute will advise the Board of the existence of any objections or representations or other relevant issues and distribute any necessary documents to members;
- Any party that has made representations on the application will be invited to present their case;
- The applicant will then have an opportunity to present their case in more detail and respond to any points raised;
- Members may also ask questions for clarification purposes, through the Convenor, at any time during or after the presentations;
- First the representer(s) and then the applicant will have chance to deal with any new evidence and/or final points arising from the prior evidence;
- The Convenor will then invite further questions from members of the Board;
- The representer(s) will have an opportunity to sum up;

- The applicant will have the last word to respond to any outstanding points and sum up;
- The Board may request legal advice from the Clerk or Depute at any time. The Board may also decide to retire to receive advice and/or deliberate.

#### **6.4 Evidence and Presenting a Case**

In general:

- It is up to the party to present their case. Presentation of a case may be through the use of documents (provided before the start of the hearing – see para 4 above), the attendance of witnesses, oral or written submissions or a combination thereof;
- Cross examination will not generally be allowed in respect of other parties' witnesses as this is not conducive to a less formal procedure;
- Hearsay evidence is admissible;
- No new evidence should be introduced when a party is summing up;

The Moray Licensing Board will retain a general discretion, where it is considered appropriate, to depart from the foregoing and/or disregard procedural errors and/or remedy prejudice to any party.

#### **6.5 Exclusion of Disruptive Persons**

Where a person is behaving in a disruptive manner the Board may:

- require that person to leave the hearing and not return; or
- permit that person to remain or return only on such conditions as the Board may specify.

Where a person is required to leave the hearing the Board will instead:

- permit him to submit in writing, before the end of the hearing, any information which he would have been entitled to give orally had he not been required to leave; and
- take into account that information in reaching a determination.

### **7. Procedure where a Hearing is Not to Take Place**

Where a hearing is not required by the Act the Moray Licensing Board will endeavour to canvass and account for the views of the parties on the desirability of holding a hearing, although the Moray Licensing Board will not be bound by those views.

Where it has been decided that a matter can be determined without a hearing (with or without consent of the parties) the Board will, as soon as reasonably practicable:

- notify all the parties that the hearing has been dispensed with; and
- determine the application or review.

Where the Licensing Board does not hold a hearing, in an instance where there is an option to hold a hearing, the Board will ensure that all relevant parties have the opportunity to state their case, in particular the applicant will have a chance to respond to any Police or Licensing Standards Officer observations.

### **8. Record of Proceedings**

The will endeavour to ensure that a record of the hearing is taken in a permanent and intelligible form.

Hearings are not generally recorded and a transcript will not be available. However, hearings may sometimes be recorded for training purposes.

Any such record is normally kept for a period of six years from the date that the matter is finally determined (including any appeal).

Please see the Board's publication scheme for detailed information.

## **9. Irregularities & Clerical Mistakes**

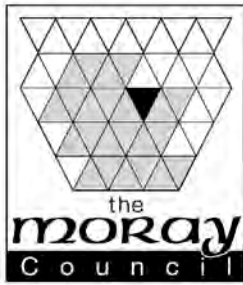
The Board may disregard any irregularity resulting from a failure to comply with a provision of this appendix, or with a procedure otherwise determined by the Board, where that irregularity comes to its attention prior to it making a determination of the matter in hand.

If the Board considers that any person may have been prejudiced by any such irregularity, it must take such steps that it considers necessary to remedy the consequences of the irregularity, before reaching its determination.

The Board may correct clerical mistakes in any document recording a determination of the Board, or errors arising in such a document from an accidental slip or omission.

The Board may also correct mistakes and clarify matters arising from accidental slips or omissions. If necessary this may be by:

- recalling a determination for further consideration, which may be with or without a further hearing;
- such other method as the Board may deem suitable.



## **Moray Licensing Board**

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**Clerk to the Board: Rhona Gunn**

# **The Licensing (Scotland) Act 2005 The Moray Licensing Board's Guide to Preventing Noise Nuisance from Licensed Premises**

These guidance notes have been prepared for the Moray Licensing Board by the Moray Council's Environmental Health Department.

This guidance does not constitute legal advice. It is a general description that is not intended to be definitive in particular situations. If you have any queries over and above this guidance then you should seek advice from a solicitor. Please also review the general *exclusion of liability* below.

**Exclusion of Liability** - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

## **Aim**

The purpose of this guide is to help you identify potential sources of noise that could cause nuisance and to prompt you to take certain steps to prevent it.

It is for your own use – you do not need to return it to the Council.

You are advised to contact Moray Council's Environmental Health Service if you require further information or assistance.

<b>INITIAL SCREENING: By answering all the questions below you will be able to identify if your premises is likely to be the source of noise nuisance.</b>		
<p>1. Do (or will) <u>any</u> of the following activities take place at your premises? <i>If YES tick box</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> amplified music?</li> <li><input type="checkbox"/> singing (including karaoke)?</li> <li><input type="checkbox"/> use of public address systems?</li> <li><input type="checkbox"/> use of large screen TV or other video displays?</li> <li><input type="checkbox"/> external plant or machinery, e.g. chillers, air conditioners, ventilators?</li> <li><input type="checkbox"/> on site customer car parking?</li> <li><input type="checkbox"/> outdoor play areas?</li> <li><input type="checkbox"/> gardens for customer use?</li> <li><input type="checkbox"/> firework displays?</li> <li><input type="checkbox"/> other potentially sensitive commercial uses?</li> </ul>	<p>If you answered YES there is a risk of noise nuisance.</p> <p>Even before 23:00 hours a nuisance could occur if the event occurs frequently.</p>	<p>If you answered NO you are unlikely to cause a noise nuisance.</p>
<p>2. Are any of the following “noise sensitive premises” in the vicinity or adjoining your premises, where the activity could be heard (especially, though not exclusively after 23:00 hours)? <i>If YES tick box</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> houses?</li> <li><input type="checkbox"/> halls of residence?</li> <li><input type="checkbox"/> hospitals?</li> <li><input type="checkbox"/> hospices?</li> <li><input type="checkbox"/> nursing homes?</li> </ul>	<p>If you answered YES there is a risk of noise nuisance.</p> <p>Please continue to the next section.</p>	<p>If you answered NO you are not likely to cause a nuisance and will probably not need to take any further action.</p>
<b>REDUCING THE IMPACT OF NOISE: where noise nuisance might occur you will be expected to take steps to reduce the risk. Answer ALL questions.</b>		
<p>3. If you provide amplified music, will limiters be installed to restrict the sound level, e.g. microphone controlled or in-circuit devices?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Yes</li> <li><input type="checkbox"/> No</li> </ul> <p><i>You will need to ensure that devices are properly maintained and that staff or performers cannot override them.</i></p>	<p>If you answered NO there is a risk of noise nuisance. Reconsider your decision and/or look at alternative control measures.</p>	<p>If you answered YES the likelihood of noise nuisance is reduced but might not be eliminated completely.</p>
<p>4. Will windows and doors ever be kept open for ventilation whilst the entertainment is in progress?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Yes</li> <li><input type="checkbox"/> No</li> </ul> <p><i>Openings in the structure of the premises, such as windows, doors and vents will allow the noise to escape easily. Generally, Air Conditioning systems provide high levels of ventilation without the need to leave windows and doors open.</i></p>	<p>If you answered YES there is a risk of noise nuisance, especially during warm weather. You may need to consider adding mechanical ventilation.</p>	<p>If you answered NO the likelihood of noise nuisance is reduced but you may still need to do more.</p>

<p>5. If you have mechanical ventilation, chilling units or air conditioners, have exterior vent grilles and plant been sited where they could give rise to noise nuisance?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>Ventilation grilles provide no resistance to the transmission of noise unless acoustically treated e.g. by fitting acoustic baffles or attenuators. Using existing plant for longer hours or installing new or upgraded plant may cause problems.</i></p>	<p>If you answered YES there is a risk of noise nuisance. You may need to consider screening or sound proofing, replacement with quieter models or relocation.</p>	<p>If you answered NO, the likelihood of noise nuisance is reduced but you may still need to do more.</p>
<p>6. Will external doors allow noise to spill out when opened/used?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>Acoustic lobbies to exits often provide good noise control. Care should be taken that any door to a lobby on a fire exit route is still capable of easy and rapid opening in the direction of exit in the case of emergency evacuation, and that the appropriate fire protection is provided after acoustic treatment.</i></p>	<p>If you answered YES there is a risk of noise nuisance. You may need to consider resiting exits or providing lobbies.</p>	<p>If you answered NO the likelihood of noise nuisance is reduced but you may still need to do more.</p>
<p>7. Is any part of the building constructed from lightweight materials?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>In some instances there is insufficient resistance to the passage of sound through the walls or roof, particularly low frequency noise. Additional sound insulation will be needed before the premises can be used without causing noise problems.</i></p>	<p>If you answered YES there is a risk of noise nuisance. You may need to add sound insulation.</p>	<p>If you answered NO the likelihood of noise nuisance is reduced but you may still need to do more.</p>
<p>8. Do you:</p> <p>a) have a conservatory-type structure in which the noisy activity will take place or which communicates with the entertainment room?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>or</p> <p>b) intend to hold entertainment, particularly the playing of amplified music, in a marquee?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>These structures offer relatively little sound insulation and should not be used if located near to noise sensitive premises. An internal lobby between a conservatory and those parts of the premises where noise levels are highest will restrict problems.</i></p>	<p>If you answered YES there is a risk of noise nuisance. You may need to relocate the entertainment and/or construct an internal lobby in the case of a conservatory.</p>	<p>If you answered NO, the likelihood of noise nuisance is reduced but you may still need to do more.</p>



<p>9. Do customers use outdoor areas for activities, e.g. parties, barbecues, music, children's play areas, etc, that could cause noise nuisance?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>These are more likely to cause problems in the summer months and the location in relation to noise sensitive premises is important.</i></p>	<p>If you answered YES there is a risk of noise nuisance. You may need to relocate the entertainment, limit the hours/season it is used or screen adjacent sensitive premises. Strict management will be essential.</p>	<p>If you answered NO the likelihood of noise nuisance is reduced but you may still need to do more.</p>
<p>10. Are deliveries made to the premises, or is waste (such as bottles) collected, between 23:00 and 07:00 hours?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>Refuse and empty bottle/barrel storage areas should be positioned away from noise sensitive premises and preferably screened or enclosed. Working methods should be adopted that minimise noise, e.g. use of padded mats where beer barrels are dropped, careful handling of empty bottles and crates and careful manoeuvring of empty beer barrels and waste.</i></p>	<p>If you answered YES there is a risk of noise nuisance. You may need to reschedule deliveries during the day and/or adopt new working methods.</p>	<p>If you answered NO the likelihood of noise nuisance is reduced but you may still need to do more.</p>
<p>11. Do you take steps to urge patrons to leave the premises quietly so as not to disturb neighbours?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>Playing calmer-type music at lower volume towards closing time can help. Door supervisors will manage the coming and going of patrons and in some cases specially trained staff may be also be used to patrol the surrounding area to help control noise.</i></p> <p><i>Taxi horns can cause a nuisance but licensees can reach agreement with local cab firms that drivers come to the door or into the premises to collect their passengers.</i></p>	<p>If you answered NO there is a risk of noise nuisance. You may need to introduce new working methods and staff training and erect signs which remind patrons to act responsibly.</p>	<p>If you answered YES the likelihood of noise nuisance is reduced but you may still need to do more.</p>

Where there is a likelihood of noise nuisance from your premises you will need to take steps to prevent it. It may be a good idea to consult the occupants of noise sensitive premises in the vicinity and to develop good working relationships, which will reduce the risk of complaint.

A list of noise consultants and any further information can be obtained by contacting The Moray Council Environmental Health Section, High Street, Elgin, IV30 1BX (01343 563345).

**Supportive of the proposals re children**

Elgin CC – although would like the Board to review carefully in the case of younger children for appropriate circumstances

Beam Suntory

NHS Grampian – also suggesting inclusion of guidance to the effect that alcohol not suitable for events that are primarily child focused

**Supportive of Removing the Curfew**

Elgin CC

**Not Supportive of Removing the Curfew**

Cairnstar (CS2010 Ltd)

**Supportive of Social Responsibility**

Proposed by Police Scotland – the Board will need to determine how to implement this as a condition

Beam Suntory

NHS Grampian – also proposing a definition of vulnerability

**Not Supportive of Social Responsibility**

Pizzeria Toscana – did not think it appropriate for restaurants / cafes and off licences.

**Other Comments**

Elgin CC – query removal of process related info as opposed to policy

Fochabers Public Hall Ltd – want more flexibility on the 28 days for occasional licences. Want less stringency in terms of conditions for occasional licences

NHS Grampian – want to include an introductory passage as well as details of how the policy relates to the LOIP – want to include directions about delivering alcohol to homes – link to the AFS plain English guide – would like the Board and the LLF to cooperate in producing guidance on promoting the licensing objectives

Alcohol Focus Scotland – would like to see links to other plans like: LOIP + MADP delivery plan + any strategies by the Health & Social Care Partnership + AFS Framework for Action – would welcome measures designed to increase public engagement like a toolkit for Alcohol Licensing in Your Community – would like to see more detail on promoting the licensing objectives like objective + concerns +

proposed actions including conditions + asking applicants for a statement on promoting the objectives – suggesting inclusion of guidance to the effect that alcohol not suitable for events that are primarily child focused – suggest 14 hours as a reasonable time instead of 15 for on sales – asking the Board to consider requiring a hearing for occasional licence applications where the applicant has made repeated applications plus an occasional licence supplementary form – urges the Board to set out its position in relation to online retailing and deliveries

Police Scotland – would like to see those with outdoor areas actively encouraged to include them on their licence – would like to re-visit the guidance on whisky tastings – would like guidance on applicants specifically mentioning certain events like boxing in the operating plan – would like 21 days to respond to occasional licence applications – have provided a suggested drugs policy

### **Comments on Overprovision**

AFS commented on the analysis and stated they can provide more general information but cannot comment on what streets or areas in Moray (if any) should be declared overprovided for. AFS can provide information based on general outlet density and licensed hours