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Dear John

Overprovision Evidence Session - 13 September 2024

My thanks to you for providing a copy of the NHS Report and to the Convenor for the opportunity to respond.

I shall make some general observations and then address the materials relied upon by the NHS which they purport provide an evidence base for their suggested overprovision areas.

General observations

Edinburgh is a thriving capital city which is a must visit for tourists from all over the world. Looking at outlet density on a per permanent resident basis ignores what, I hope, is obvious to every Board Member. It is not only the permanent residents who make use of the licensed hotels, bars, restaurants, cafes, nightclubs and shops etc but the huge numbers of tourist who flock to Edinburgh all year round.

The areas identified by the NHS as having a high density of outlets are around the City Center which again cannot be a surprise. The NHS seemingly ignore the fact that demand will, for the most part, drive the supply.

In my submission it shouldn't be a controversial proposition that there is high demand for premises in and around the City Centre where residents live and work and tourists visit. Obviously, this is because a disproportionately high percentage of people who wish to dine and enjoy a drink are visiting the area.

Reading the NHS submission it is apparent that there is no causal connection made between the density of outlets and any alleged harm, at best it is correlation (which is not the statutory test). An examination of the base material (when it is available) shows the studies acknowledge that supply and demand

dynamics cannot be evaluated for the purposes of the studies. Reliance on this submission to create an overprovision policy would, in my submission, be flawed and liable to legal challenge.

Turning to the alleged harm statistics (which I note are not produced) the footfall within the City Centre, plus the variety of people frequenting the area and the extended period of use, must be taken into account. What is being offered to the Board is a reference to bald statistical information about crime rates or hospital admission data. The inference is that density is the cause but I would respectfully suggest that the inference does not stand any scrutiny.

Even without access to the statistics the NHS refer to, common sense tells me the City Centre and immediate curtilage are always going to return a combination of higher incidents. It will also have a higher density of outlets. Anyone who knows Edinburgh would understand that the undernoted locations, given the character of the areas, are vibrant year round and well used. The Board have that local knowledge which, in my view, that should be applied when considering the weight to attach to any correlation the NHS seeks to make in their highlighted City Centre areas -

- Tollcross
- Old Town, Princes Street and Leith Street
- Great Junction Street
- South Leith

Academic studies

It is regrettable that the academic materials relied upon are not provided as an appendix. Whilst there are links in the footnotes not all the materials are open source. Many journal articles require subscriptions to obtain access. Others are only available as a summary document. For reasons which will become apparent it is my submission that the full text material is required to assess the probative value of the studies. They should, as a matter of good practice and transparency, be provided by the NHS in future.

I will keep my specific comments on the studies as brief as possible.

Place and recovery from alcohol dependence: A journey through photovoice

(Niamk K Shortt, Sarah J Rhynas, Aisha Holloway)

Only the abstract is available via the link but it appears to be a limited study of individuals recovering from addiction and is based on their "lived experience". The sample size is unknown as is the methodology used.

In general terms overprovision is a whole population measure and it would be my respectful submission that those recovering from addiction deserve tailored support. Whilst a city-wide policy should have regard to those individuals and their challenges, it also needs to strike the balance between the needs of all communities, not just the recovery community.

The Effectiveness of Limiting Alcohol Outlet Density As a Means of Reducing Excessive Alcohol Consumption and Alcohol-Related Harms
(Campbell C, Hahn R, Elder R et al)

Again, via a search, only an extract is available and the full text is not open source. This is an American academic peer review of other reports. The peer review itself dates to 2009 so the reports on which it is based will be before that date. As a result many of the studies referenced will now be 20+ years old. It is unclear what relevance a 2009 peer review report of older US studies has to Edinburgh in 2024.

Is local alcohol outlet density related to alcohol-related morbidity and mortality in Scottish cities?
(E.A. Richardson, S.E. Hill, R. Mitchell, J. Pearce, and N.K. Shortt)

This full text was available open source and importantly demonstrates the need for access to the full documents.

At part 4 "Discussion" it notes the limitations of the study -

*"Our study had limitations. ... **we excluded areas on the periphery of each licensing board area – largely suburban areas with low outlet densities – which will have introduced some bias towards inner city locations.** ... we considered only the outlet densities within the neighbourhood of residence at the time of hospitalisation or death. In reality individuals move between areas with different alcohol outlet densities (over daily and longer time periods). ... **causal inference is not possible because of the cross-sectional study design.** Longitudinal **analysis is required to ascertain the mechanisms underlying the relationships we found, recognising that supply and demand dynamics interact to shape alcohol outlet availability** and alcohol consumption patterns ..."[my emphasis]*

I would reiterate my view to the Board that the NHS submission for City Centre overprovision which relies on these studies does not, insofar as I can see, make out an evidence based case. The Board should be aware of significant limitations on the purported evidence base.

The outlet density study, which on the face of seems most relevant, accepts there is no causation (the Board are obliged to base overprovision policy on a dependable causal link between any evidence and the harm). Indeed the authors acknowledge a bias in the findings towards inner city locations as suburban areas were excluded. The weight attached to it should reflect this.

Conclusion

The "general comments" from NHS Lothian (footnote 1 & 11) cites Alcohol Focus Scotland's (AFS) explanation of the purpose of licensing and the methodology and rationale for overprovision. With respect to AFS they are an alcohol harm charity and whilst their view on such matters may be of interest it should not be held out as definitive. The Board's Clerks should confirm the legal purpose and the lawful methodology the Board should follow when considering overprovision.

The Board have a legal obligation to have regard to the Scottish Government's Statutory Guidance not AFS's interpretation.

The said Guidance requires the Board to

To demonstrate a "dependable causal link", the proof of the link must be on a balance of probabilities. What this means in practice is that based on the evidence of harm in a locality, it is more likely than not that alcohol availability is a cause, or that increasing the availability of alcohol in that area will increase that harm. [S142 guidance para 5.31]

<https://www.gov.scot/publications/licensing-scotland-act-2005-section-142-guidance-licensing-boards/pages/6/>

I trust that before the Board accepts the NHS submission as evidence on which to base its policy, a deeper analysis of the reports and statistics being offered up is undertaken. A cynical reading of the how the submission by the NHS is that the "evidence" is being made fit their position rather than being used to form it.

I would be grateful if this response was read along with my earlier response and the graph showing the numbers of licences in force in Edinburgh over a 15 year period from 2007.

Yours faithfully



Niall Hassard
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