23/09/2021

RESPONSE TO THE EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE CONSULTATION ON PRE-BUDGET SCRUTINY 2022/23

Alcohol Focus Scotland (AFS) is the national charity working to prevent and reduce alcohol harm. We want to see fewer people have their health damaged or lives cut short due to alcohol, fewer children and families suffering as a result of other people's drinking, and communities free from alcohol-related crime and violence. AFS welcomes the opportunity to respond to the Scottish Parliament Equalities, Human Rights and Civil Justice Committee consultation on Pre-Budget Scrutiny 2022/23.

Given the main sources of government revenue should the government further increase revenue available to it, and if so how?

Yes.

Alcohol Focus Scotland is the national charity working to prevent and reduce alcohol-related harm, and as such we have structured our response to focus specifically on those areas which we believe are most relevant to our remit.

Health is now recognised as both a fundamental human right in and of itself and a necessary element for the realisation of other human rights. The right to health finds legal expression in a number of key international instruments to which the UK is signatory, including the International Covenant on Economic, Social and Cultural Rights (ICESCR). In ratifying this Covenant, the UK has made a commitment, binding in international law, to abide by the terms of the Covenant. This requires government, Parliament and the courts to make efforts to ensure the fullest possible compliance with the terms of the ICESCR (including through legislative measures).

General Comment 14 of the ICESCR implies that the right to health includes an obligation to regulate unhealthy products. It outlines the state's duty to protect people from an infringement of their right to health by third parties, including corporations. If products are being consumed in a manner hazardous to health, an obligation is placed on the state to intervene to protect the right to health e.g., by developing a policy response to reduce the detrimental effects of alcohol to health by altering the market or consumption patterns.

In addition, General Comment 14 also supports the argument that states have an obligation to regulate unhealthy products in order to fulfil the right to health. Fulfilment of the right to health requires states to take positive measures *'that enable and assist individuals and communities to enjoy their right to health'*.[1] This could be interpreted as including the obligation to create an enabling environment for healthier lifestyle choices.

Alcohol, its heavy use, and the related harm on society, undermines the realisation of basic human rights in Scotland. For example, we all have 'the right to the highest attainable standard of physical and mental health', yet alcohol claims the lives of 3,700 Scots a year and blights the lives of thousands more.[2] Often it is people other than the drinker who feel the effects the most: children, family, friends, colleagues and those working in front line services like the NHS and police. Alcohol harm is estimated to cost Scotland £3.6bn each year, including almost £500 million a year in health and social care costs.[3] For example, recent research has identified that 16% of all ambulance callouts in 2019 were alcohol-related. This is an unacceptable and avoidable burden on or NHS.[4]

There is a strong international evidence base that increasing the price of alcohol, reducing its availability and controlling how it is marketed can prevent alcohol harm. These policies cost little if anything to implement. Where investment is required, however, is in fulfilling people's right to access the support and treatment they need to help them to recover when they experience an alcohol problem. We have recently seen a significant investment in drug treatment in response to the increasing numbers of people who are tragically losing their lives to drugs. This needs to be matched with investment in recovery-oriented alcohol services.

Alcohol Focus Scotland recognises the challenging financial environment which the country is facing as we recover from the pandemic. We believe that the Scottish Government can and should now use its fiscal powers to raise revenue from the sale of alcohol to support the COVID-19 recovery and fund public services including improved recovery-oriented services. The funds raised would help offset the significant costs to the public sector of dealing with the consequences of alcohol harm. Alcohol harm costs an estimated £3.6 billion per year. This includes an estimated loss of £865 million to the Scottish economy's productive capacity (due to presenteeism, absenteeism, unemployment and premature alcohol-related mortality), £268 million in health care costs, £230 million in social care costs, and £727 million for alcohol-specific offences and crimes (3).

While many retailers were forced to close during the pandemic this was not the case for those selling alcohol in the off trade. Off-trade sales - which represented 73% of all alcohol sales prior to the pandemic[5] - grew further due restrictions on the on trade.[6] This increase in revenue was in addition to the increased revenue which many retailers are likely to have seen since the implementation of minimum unit price in May 2018.[7] Alcohol Focus Scotland, therefore, believes it is fair and proper to apply the 'polluter pays' principle to retailers and to require them contribute to the costs of alcohol harm.

The Scottish Government's devolved and local tax powers provide two mechanisms through which those who profit from the sale of alcohol can be made to contribute towards alcohol-related harm costs and preventative action.

1. A public health supplement to non-domestic (business) rates, applied to retailers licensed to sell alcohol and linked to volume of sales
2. The creation of a new local public health tax that applies a levy to the sale of alcohol in the off trade

Revenues would be levied, collected and spent by local government on mitigating the wide-ranging social costs associated with alcohol use, and could include local preventative and enforcement activities.

The first mechanism, that of a **public health supplement**, was previously employed by the Scottish Government between 21 April 2012 and 31 March 2015, in order "to address the health and social problems associated with alcohol and tobacco use" and to generate income for preventive-spending measures.[8] The supplement (9.3 p per pound of rateable value in 2012-13 and 13p per pound in 2013-14 and 2014-15) applied to retailers licensed to sell alcohol and registered to sell tobacco, with a rateable value of £300,000 or more. The supplement was regulated for through the Non-Domestic Rates (Levying) (Scotland) (No. 2) Regulations 2012, in exercise of the powers conferred by section 153 of the Local Government etc. (Scotland) Act 1994. The supplement was successful in raising significant revenue of £95.9m over its 3-year duration.[9]

Alternatively, a **new local alcohol harm prevention tax** could apply specifically to alcohol retailers and be linked to the volume of pure alcohol sales rather than to rateable value. This would facilitate even greater generation of income than the previous supplement, creating the means to claim a proportion of the increased revenue that off-trade alcohol retailers have likely experienced as a result of the implementation of minimum unit pricing (MUP) since 2018 (7) and on-trade COVID-19 restrictions.[10] For example, off-trade sales increased by 28% in Scotland between March and July 2020 as compared to the same period in 2019,[11] and by 16% in 2020 compared to 2019.[6] Linking the tax to the amount of pure alcohol rather to the rateable value would more directly relate the tax to the harm caused.

It is reasonable to expect that some of the costs of this tax would be passed on to the consumer. As price is a key driver of alcohol consumption, this could provide an added benefit of contributing to reduced consumption. Improving the health of the population would also increase economic growth.

How might particular groups be affected differently by efforts to raise revenues?

As noted above, it is reasonable to expect that some of the costs of an alcohol harm prevention tax would be passed on to the consumer. However, the burden of alcohol harm falls disproportionately on those in our poorest communities, where rates of alcohol-specific deaths and alcohol-related hospital stays were eight times higher than in the most affluent areas before the crisis.[12] The pandemic and the social restrictions which have accompanied it appear to be polarising drinking habits in Scotland, with a real risk of widening existing inequalities in alcohol harm. As such, it is people in our poorest communities who would stand to benefit the most from fiscal measures to prevent and reduce alcohol harm.

What kinds of analysis are necessary to ensure that resources are raised (and allocated) in such a way that supports the progressive realisation of rights?

To ensure a fair and equal recovery from the COVID crisis, AFS would recommend using human rights to create and scrutinise Scotland's national budget. The Scottish budget should promote, protect and fulfil our human rights, including our right to health. We refer the Committee to the briefing papers produced by the Scottish Human Rights Commission which set out the human rights principles and standards that should shape budget goals and processes, and provide a detailed set of practical questions and considerations to help assess budget decisions (https://www.scottishhumanrights.com/news/human-rights-budget-work-what-why-and-how/)

In terms of resource allocation what areas do you think are: sufficiently resourced, and/or under resourced and where resources need to be redirected to?

- **'Minimum Core' - to allocate resources in a way that reduces inequalities whilst ensuring, at a minimum, a basic level of rights enjoyment for all.**
- **'Progressive Realisation' - to generally increase allocated resources, in line with increased revenue, to achieve the further realisation of rights.**
- **'Non-regression' - to ensure there is no unjustified reduction in allocation leading to regression in the realisation of rights.**

Civil society in Scotland is overwhelmingly committed to the progression and advancement of human rights in society, in law and in practice. Over 200 organisations are signatories to the Scotland Declaration on Human Rights,[13] a civil society statement that says that they "share profound concerns…about the persistent negative rhetoric around the protection and promotion of rights in the UK." They call for four principles to apply in all decisions that affect human rights:

- **No going back**: Human rights and equalities protections in law, policy and practice must not be reduced or regressed for any individual, group, community or sector of the population.
- **Progression**: Human rights standards should be continually strengthened over time. Scotland must help to shape and adopt the highest international human rights and equalities standards.
- **Transparency**: Any changes to existing rights protections should be undertaken only with a fully transparent consultation process and the appropriate degree of parliamentary scrutiny at all levels.
- **Participation**: The people of Scotland must be engaged in a process of understanding what their rights are, how they are protected and what more can be done to protect their rights. Any significant change in the protection of rights must be based on this meaningful engagement.

The principles of 'progressive realisation' and 'non-regression' also have particular relevance to the right to health. It is acknowledged that this right is difficult in practice to achieve in a short period of time, and that states may be subject to resource constraints. The ICESCR therefore imposes a continuing obligation on states to work towards the progressive realisation of this right, as best they can within their means, and rules out deliberately regressive measures which impede that goal. Furthermore, the obligation to "fulfil" requires States to adopt appropriate legislative, administrative, budgetary, and other measures towards the full realisation of the right to health.

SPICe have set out the standard budget process. How easy is it for people to engage with the budget process? For example:

- **How can the links between policy commitments, allocations and achievements of rights be made more transparent?**

Human rights outcomes need to be firmly embedded within national and local performance monitoring mechanisms to prevent disconnects between central government policy and local delivery. There is currently a national outcome to 'respect, protect and fulfil human rights' and related indicators pertaining to issues such as the delivery of public services. However, this does not appear to have been reflected in the enactment of policies and procedures and even less so in peoples' day-to-day lives. There is currently an absence of evidence that human rights have been used as an ethos and as a way of working to improve the delivery of public services. Alcohol Focus Scotland believes it is this last area that requires the most urgent attention; addressing the disconnects between structure, process, and outcomes.

In order for the Scottish Government and public bodies to respect, protect and fulfil their human rights obligations, it is necessary to carry out Human Rights Impact Assessments of new policy, law and resource decisions. However, it is unclear whether and to what extent this has been done in COVID-19 decision-making. For example: vital services, such as alcohol and addictions services, which were already stretched even before the pandemic, were deprioritised without any evident human rights impact analysis. It is vital therefore the Scottish Government and other public bodies more regularly undertake and publish Equality and Human Rights Impact Assessments.

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[1] CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), Adopted at the Twenty-second Session of the Committee on Economic, Social and Cultural Rights, on 11 August 2000

[2] Tod, E. et al. (2018). *Hospital admissions, deaths and overall burden of disease attributable to alcohol consumption in Scotland.* Edinburgh: NHS Health Scotland.

[3] York Health Economics Consortium, University of York (2010). *The Societal Cost of Alcohol Misuse in Scotland for 2007.* Edinburgh: Scottish Government Social Research.

[4] Manca, F. et al. (2021). Estimating the Burden of Alcohol on Ambulance Callouts through Development and Validation of an Algorithm Using Electronic Patient Records. *International Journal of Environmental Research and Public Health*, 18(12), 6363.

[5] Giles, L. & Richardson, E. (2020). *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2020.* Edinburgh: Public Health Scotland.

[6] Giles, L., & Richardson, E. (2021). *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2021*. Edinburgh: Public Health Scotland.

[7] It was estimated that a minimum unit price would result in increased revenue to the alcohol industry, specifically to retailers (off-trade), of around £40m a year - Angus, C., Holmes, J., Pryce, R., Meier, P., and Brennan, A. (2016). *Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Scotland: An adaptation of the Sheffield Alcohol Policy Model version 3*. ScHARR: University of Sheffield.

[8] Scottish Government (2011). *Scottish Spending Review 2011 and Draft Budget 2012-13*. Edinburgh: Scottish Government.

[9] Hellowell, M., Smith, K. E., & Wright, A. (2016). Hard to avoid but difficult to sustain: Scotland's innovative health tax on large retailers selling tobacco and alcohol. *The Milbank Quarterly*, *94*(4), 800-831.

[10] Briggs, F. (29 July 2020). Brits almost halve alcohol intake in lockdown despite spending additional £1.9bn on drink at UK supermarkets. *Retail Times*. Retrieved 12/08/2020 from https://www.retailtimes.co.uk/brits-almost-halve-alcohol-intake-in-lockdown-despite-spending-additional-1-9bn-on-drink-at-uk-supermarkets/

[11] Richardson, E. et al. (2021). *The impact of COVID-19 and related restrictions on population-level alcohol sales in Scotland and England & Wales, March–July 2020*. Edinburgh: Public Health Scotland.

[12] Giles, L., & Richardson, E. (2021). *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2021*. Edinburgh: Public Health Scotland.

[13] Full Declaration and list of signatories available at www.humanrightsdeclaration.scot