SUBMISSION ON

Alcohol Reform Bill

Waikato District Health Board

February 2011

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5.6 Reporting and consultation [Section 95 and Section 131 (1) (b)]

The more coherent approach to reporting and consistency of the reporting role of the Medical Officer of Health as reflected in the above section is welcomed and is in keeping with the role currently played by public health practitioners. However this should extend to Section 131 (1) (b)

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The Waikato District Health Board would support the reduction of the adult blood alcohol limit to 0.05 and would press for any further review of research to be treated as urgent

6.4 Public Drunkenness

Acceptability of drunkenness should be challenged in statute - public drunkenness should be an offence.

1. Introduction

The Waikato District Health Board serves a population of more than 368,815 people within 10 local authorities, stretching from the northern tip of Coromandel Peninsula to south of National Park and from Raglan and Awakino in the west to Waihi in the east. The majority of its population lives in areas that the Board considers to be rural.

The Waikato District Health Board has its own hospitals (5), community services, older persons and rehabilitation service, population health service and mental health and addiction services (collectively known as its provider arm, Health Waikato). It directly employs more than 5548 doctors, nurses, allied health professionals and support staff.

The Waikato District Health Board also funds and monitors (through contracts) a large number of other health and disability services that are delivered by independent providers such as GPs and practice nurses, rest homes, community laboratories, dentists, Iwi health services, Pacific peoples' health services, and many other non-government organisations and agencies.

The Waikato District Health Board is extensively engaged in providing services concerned with the downstream effects from the supply and consumption of alcohol in the region both directly through the provider wing of the organisation and indirectly through other providers.

These include personal health services

- emergency services dealing with and, at times, inundated by the acute harms caused by alcohol,
- surgical and medical services managing alcohol harm and
- treatment services specialising in providing assessment services and in the treatment of alcohol addiction.
- public health or population based health services (regulatory).

2 Acknowledgement

The Waikato District Health Board wishes to thank the Select Committee for the opportunity to submit on the Alcohol Reform Bill and acknowledges the step forward that the Bill represents. The Waikato District Health Board shares the grave concerns about alcohol harm that have been expressed throughout the review process especially at the ways in which these harms are experienced throughout its many services and communities.

In particular the Waikato District Health Board applauds the urgency with which the Minister of Justice has approached the alcohol issue and is of the view that the Bill, once law, can represent a significant step forward in addressing alcohol issues.

3 This Submission

It is not the intention of the Waikato District Health Board or purpose of this submission to repeat background data and information effectively embodied in the Law Commission report or to labour over general matters that are addressed in the Bill and supported.

Rather this submission will

- Spell out support for some key issues that are addressed in the Bill
- Advocate for additions or adjustments to the Bill on some specific matters

- Outline the position of the board with respect to some key issues not addressed in the Bill.

  In general this submission strongly supports the Bill though the Board advocates urgency with regard to addressing matters that have not been included.

4. Background

There is consensus across the Waikato District Health Board that the lowering of the age of purchase to 18 years old was a serious and, as it has transpired, tragic mistake. While the implications of this are very evident to population health based "damage control" programmes the toll that has resulted from increased access to alcohol for younger people is a daily and a weekly issue for the Emergency Department with seriously alcohol affected presentations as young as 12 years.

This adds to the alcohol woes of the Emergency Department staff who are not only dealing with the clinical issues of alcohol related injury and chronic user presentations but are also forced to allocate precious resources to the full time management of intoxicated patients and, as often as not, intoxicated family members or friends of the patient. This includes the allocation of security staff.

These problems experienced by the emergency departments are, as observed by the Law Commission, the tip of the iceberg of alcohol issues faced by health services. The seriousness and complexity of alcohol induced injuries mean they regularly take precedence for theatre and beds placing further pressure on elective surgery (and waiting lists). Further resources are committed to managing a raft of chronic conditions resulting from excessive and sustained alcohol consumption such as liver disease and effects of alcohol addiction.

Given the diversion of health resources to managing alcohol injury and illness, more effective laws on alcohol have the potential to be, in the view of the Waikato District Health Board, a key government measure in reducing waiting lists. The above costs are in addition to the social harm caused by alcohol as reflected, for example in family violence incidents.

In many ways the 1999 amendments to the Sale of Liquor Act (1989) of which the lowering of the age of purchase was one and the liberalising of restrictions with regard to *off licences* was another, are seen as representing a tipping point. This was when a cautious approach to liberalising licensing laws represented by the 1989 Act was taken a step too far, undoing much of the progress toward more civilised drinking environments and reversing the gradual downward trend of per capita consumption. There is a view across this organisation that these issues must be revisited if there is to be major progress on issues such as the culture of binge drinking and preloading.

5. Feedback on Sections of the Alcohol Reform Bill

5.1 Object of the Act (Section 4)

Broadening of the object of the Act supported

The Waikato District Health Board welcomes the broadening of the object of the Act. It is appropriate, in the view of the Board that the object of the Act should set out a raft of policy objectives that will create a reference point for decision making from those entities that are empowered to do so under the Act.

The Waikato District Health Board further notes that:

- The object of the Act, will provide a context for, in particular, *section 7* (effects of licence on amenity values and good order) and *section 100* (criteria for issue of licence) to form a consistent orientation in the application of the Act.
- The former section 4 (2) or equivalent, is not included. This subsection was effectively a directive for officers working under the Act and as such was a useful mechanism of accountability. There is, in the view of the Waikato District Health Board, merit in retaining this adjunct to section 4.

5.2 Age Issues:

The Waikato District Health Board has been active in attempting to stem the flow of alcohol to minors both through the direct sale (actively working alongside the Police and District Licensing Agencies in controlled purchase operations) and through social supply.

(a) *Age of Purchase (Part 2)*

It has been the view of the Waikato District Health Board that a return to an age of purchase of 20 years old is the most desirable option. Retaining the age of purchase at 18 years old is not supported.

Given the objective for persons under 20 years who consume alcohol to do so in a supervised environment there is, in the view of the Waikato District Health Board, some merit in the split age of purchase as currently included in the Bill as 18 and 19 year olds would be consuming alcohol in the supervised and regulated environment of licensed premises. This would be a preferred option to that of retaining the purchase age of 18 years for all licences.

(b) *Supply to minors (Section 224)*

Provisions aimed at reducing supply to minors and to impose responsibility when supply is present, are strongly supported. However the wording "reasonable grounds" for believing the young person is old enough or has parental consent is too loose and does not place sufficient onus on the supplier to verify age or parent consent.

The harm to young people and the community from the supply of alcohol to minors was well documented in the Law Commission report. The intent of Section 224 is strongly supported by the Waikato District Health Board.

The Waikato District Health Board is concerned that, with respect to Section 224 (1) (b) and (c), the onus will fall to the Police to prove that "reasonable grounds" did not exist. This has a weakness similar to Section 160 of the Sale of Liquor Act (1989) which has placed the onus on the Police to prove an

intention to supply. As a result of this and the difficulty in applying viable charges, the Police were reluctant to utilise this part of the Act.

It is our view that Section 224 should place the onus more firmly on the supplier of alcohol to obtain demonstrable grounds for their belief of either age or parental consent. This would put increased pressure on those who are supplying alcohol to others to take a precautionary approach to ensure that the alcohol does not illegally fall into the hands of a minor.

5.3 Trading Hours (Section 44 – 46)

Provisions for default trading hours are supported but there is a need for transitional recognition of hours stipulated in existing alcohol policies

Proposed default trading hours are supported though it is noted that, in the ten local Authorities in the Waikato District Health Board region, existing local authority alcohol policies stipulate hours that fall well within the 4 a.m. closing time.

It is recommended that transitional provisions specifically provide for the continuation of hours specified in existing alcohol policies where these fall within the default hours until such time as a Local Alcohol Policy is finalised. This would avoid creating a "window of opportunity" for licence applicants to seek hours beyond those in the local policy.

5.5 Local Alcohol Policies (Subpart 2)

Local authority Local Alcohol Policy is the community's best opportunity for input into the nature of liquor supply and the Waikato District Health Board strongly supports provisions for them. However they should be mandatory.

The Waikato District Health Board welcomes any provision that strengthens the ability of the local authorities to achieve a planned approach to alcohol management. It is the Waikato District Health Board's belief that the Local *Alcohol Policy* proposed in the Sale and Supply of Liquor and Liquor Enforcement Bill, and now included in this Bill, will help facilitate this end. It is appropriate, in the view of the Waikato District Health Board, to draw alcohol issues into a coherent document that reflects local conditions, problems and solutions.

The concerns of communities generally find their most effective and balanced expression through the consultation processes engaged in by local authorities and in the resulting policies, *long term community consultation plans*, *district plans* etc. It is the view of the Waikato District Health Board that local authorities, if empowered to do so, are well placed to represent the concerns of communities and citizens through their own planning and policy processes with specific reference to alcohol.

Along with the daunting cost of alcohol harm to New Zealand communities one of the drivers for the review of alcohol law has been the inability under the existing legislation, for community's to have a say on the location and density of liquor outlets. As a result many communities have become dominated by liquor outlets to the detriment of the environment as a place to raise families.

Under the proposed legislation these issues can be addressed and the community have a say, through the Local Alcohol Policy. This will only reliably occur however, if each local authority has one.

Currently better performing local authorities have put together an alcohol Policy and, while these have only had a limited scope, it has served as a guide, for the Liquor Licensing Authority, for officers working under the act, and for potential licence applicants. Other Local Authorities have not developed a policy and, in some cases, it is these Authorities that would benefit most from them.

Compliance with the Local Alcohol Policy is strongly supported as one of the criteria in the consideration of any licence application. [Section 100 (c)]

5.6 Reporting and consultation, [Section 95 and Section 131 (1) (b)]

The more coherent approach to reporting and consistency of the reporting role of the Medical Officer of Health as reflected in the above section is welcomed and is in keeping with the role currently played by public health practitioners. However this should extend to Section 131 (1) (b)

Public health practitioners have been participating operational partners in the context of the current regulatory framework for alcohol. It is noted by the Waikato District Health Board, that regulatory health staff have been instrumental in the development of key methodologies that are used extensively in the management of alcohol harm. Furthermore, alcohol misuse or abuse is at it's heart, a health issue whether with respect to direct/acute alcohol harm through injury or illness, long term illness or disability, or the indirect effects and impacts on community.

Expertise and overview on these matters resides in the health sector from the relationship between environmental risk factors and use patterns to the methodology around health impact assessment (HIA) for communities.

To date public health practitioners within the Waikato District Health Board provider arm, have established and worked in operational partnerships with the Police and District Licensing Agencies staff across our 10 local Authorities. Waikato District Health Board, public health staff are also actively involved in training Police and DLA staff on the implementation of key tactics in the implementation of the Sale of Liquor Act as well as providing training for hospitality providers at all levels from management to security staff. Public health staff audits of liquor licensed premises are, in some cases, the only regulatory visit that these premises receive throughout an entire three year renewal period. Public health practitioners are experienced and skilled in preparing legal papers and making representations to the tribunal with respect to applications/premises.

It is the view of the Waikato District Health Board that engagement with representatives of the Medical Officer of Health should also be included in Section 131 (1) (b) and that the section should read.

> *(b) require the applicant to liaise with the Police, the territorial authority and the Medical Officer of Health on planning for the event.*

This would be consistent with reporting roles and would also reflect current practice. The Waikato District Health Board notes that representatives of the Medical Officer of Health in the Waikato region have been engaged in planning for major events involving alcohol both within the region (for example the Rowing World Cup) and nationally and have contributed significantly to the development of the ALAC national guidelines for such events.

This engagement has been pivotal but will be compromised by exclusion from Section 131 (1) (b).

5.7 Promotions (Section 220)

Section 220 supported but restrictions on price advertising by licensed premises should be stronger.

A key link between proliferation/density of premises and alcohol associated harm is competitive pricing and the increased availability of alcohol that bargain basement prices represent.

The Waikato District Health Board was pleased to note the account taken by the Law Commission and subsequently the Ministry of Justice of the effect of the price differential between *off* and *on* licensed premises, and the widespread pattern of drinker behaviour that has developed around the phenomenon of "pre" or "front end loading". This is an issue throughout this health district but most significantly in Hamilton City with its large urban area and high student population.

Competing interests within the retail sector are such that *off licence* licensees are not only competing with each other but are also, in effect, competing with hospitality providers to maximise the consumption of product purchased from their premises. This product, in the case of *off licensed* premises, is subsequently consumed in the unregulated, unlicensed environments of private addresses and public places.

In Hamilton City cheap drink promotions are also a significant issue in relation to the *on licence* environment. The *on licence*/hospitality environment is extremely competitive and where customers are particularly price sensitive (such as with the student market) the market place is vulnerable to unscrupulous operators initiating price wars. Saturation of the market with advertising for cheap drink promotions distorts the perception of young people around alcohol by peripherally marketing other key messages including "the point of going out is to drink as much as possible" and "you're not having fun if you're not getting drunk".

These cheap drink promotions put enormous pressure on responsible operators to similarly engage in cheap drink promotions in order to survive in the market place. The direct effect is heavier consumption, more drunkenness, more disorder and increased harm.

In this context, cheap drink promotions are damaging with respect to the increased incidence of alcohol abuse and damaging with respect to the distortion of the young drinkers perception and expectation of the alcohol environment and occasion. It is also damaging with respect to the bottom line for the hospitality provider with a reduction of margin and a reliance on selling more product to customers in order to achieve the same return.

As with o*ff licenses*, the heart of the problems relating to cheap drink promotions lies in the ability, and therefore the inevitability, of premises using price advertising as a strategy to compete for market share. As with *off licences* also, the net result includes an increase in consumption, intoxication and harm.

This situation with respect to both *on* and o*ff licences* would be significantly improved if liquor licensed premises were not permitted to price advertise alcoholic products through media, internet, mail-drops, flyers etc, or signage visible outside the premises. Such a measure would fit appropriately and easily into the Act as it relates, in all cases, to licensed premises and is a natural adjunct to the Section 220

5.8 Banned and restricted Alcohol Products (Sections 221 and 383)

Provisions are supported

Because of the ability of industry to respond relatively quickly to perceived market opportunities this part of the legislation needs to be structured in such a way that it can be response to new products. Measures set out in the Bill appear to achieve this.

5.9 Local authority "liquor bans" (Part 9)

Measures to strengthen "liquor ban" by laws supported

Each of the 10 local authorities in the Waikato District Health Board area has, in one form or another, a liquor ban. These have been implemented for good reason. They represent communities taking steps to protect themselves from the negative impact of alcohol related behaviour and fill a gap left by central government removing that protection. They also represent local communities reclaiming public spaces that had been taken over by drunken, abusive and threatening behaviour.

While these liquor bans have been seen as problematic by some they perform a vital task and it is the view of the Waikato District Health Board that:

- They should be strengthened as provided for in the Bill
- They should be supported as a measure to clean up behaviour in public places by the reintroduction of an offence relating to public drunkenness.

6. Waikato District Health Board position on policy Issues not addressed by Alcohol Reform Bill

6.1 Excise Tax

Excise tax seen as an effective, user pays measure targeting heavy/high risk drinkers

It is the view of the Waikato District Health Board that, rather than the blunt instrument it is purported to be, excise tax is, in effect, a user pays levy targeting those that drink in a hazardous manner. That is, the heavier the consumption the greater the risk of harm and eventual cost to the tax payer via health or other services.

While the emergency department is a profound example of access to health services for the general public being compromised or delayed by alcohol related cases, it reflects the phenomena across the range of health services. This would also be the case in other sectors for example, Police resources committed to managing alcohol issues (disorder, violence, motor vehicle crashes etc) being unavailable for other duties

The positive outcome of user pays fairness comes in addition to the well researched benefits of reduced alcohol consumption by high risk, heavy drinkers resulting in reduced health and other costs.

Thus the minimal cost of excise tax increase to the low risk drinker is more than compensated for by the improved access to health resources services and reduced waiting lists.

6.2 General Liquor Advertising

All liquor advertising seen as potentially harmful to the young especially advertising that "normalises" alcohol as part of every day activities.

There is consensus across this organisation regarding liquor advertising and its effect on young people. In particular it is noted that it is not only advertising that is deemed to be contrary to the codes that impact on the young, but the way in which advertising has systematically "normalised" the integration of drinking with almost every aspect of young life so that young people who do not drink are seen as abnormal and "on the outside". This is seen by treatment staff, in particular, as effectively removing choice for young people.

For this reason it is the view of the Waikato District Health Board that any advertising of alcohol is likely to have a negative effect on the health and well being of the population and that a level of urgency is warranted in any review of the liquor advertising issue. A ban on liquor advertising would be a preferred policy direction but in the event of this not being achievable the setting up of an authority, independent of the advertising industry, would be a more credible course of action rather than rely on the 'fox guarding the chicken coup' scenario of industry self-regulation.

6.3 Adult Drink Drive Limit

The Waikato District Health Board would support the reduction of the adult blood alcohol limit to 0.05 and would press for any further review of research to be treated as urgent

6.4 Public Drunkenness

Acceptability of drunkenness should be challenged in statute - public drunkenness should be an offence.

There is consensus across this organisation on the issue of public drunkenness and the current cultural signal that it is acceptable to be drunk in public. With the apparent "acceptability" of drunkenness comes the greatly increased risk of becoming a perpetrator or victim of physical violence. For very intoxicated young women (especially), comes the greatly increased vulnerability to sexual assault.

It is the view of the Waikato District Health Board that, until public drunkenness is, once again, an offence there is no prospect of challenging its acceptability.

Treatment staff have made the point strongly that the level of consumption implied by drunkenness has serious health implications in the relatively short term. Furthermore the current acceptability of drunkenness has a normalising effect, effectively removing the option of moderate consumption from members of some (especially young) cohorts.