

# **LICENSING (SCOTLAND) ACT 2005**

## **TRAINING OF STAFF IN LICENSED PREMISES – A CONSULTATION ON DRAFT REGULATIONS**

### **SUMMARY OF RESPONSES**



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## INTRODUCTION

1. Thank you to all who responded to the consultation on draft regulations concerning training of staff working in licensed premises.
2. The proposals on training for staff were developed with the assistance of the Training Advisory Group. This group was established by the Scottish Executive to develop proposals on training based on a national training framework developed by the National Licensing Forum.
3. The Training Advisory Group was chaired by Jack Law, Chief Executive of Alcohol Focus Scotland and comprised representatives from licensed trade associations, Licensing Boards, and awarding bodies.
4. The Group recommended that staff working in licensed premises should be required to undergo mandatory training and the areas the training should cover should be set out in regulations. All premises should also be required to keep a record for training undertaken by their staff and this record should be available for inspection on the premises at all times.
5. The Government consulted on a draft of the proposed regulations between April and June 2007. 21 responses were received. The responses can be viewed on the Scottish Government's website, (<http://www.scotland.gov.uk/Publications/2007/08/30121748/0>). This report sets out a summary of the main issues raised in the consultation (**Annex A**), along with the Government's response to these (**Annex B**).

### Next steps

7. The Cabinet Secretary for Justice has now approved the proposed framework for training of staff which has been set out in regulations which have now been made and were laid before Parliament on 3 September. The regulations will come into force on 1 February 2008. This will allow the licensed trade a period of 19 months (1 February 2008 – 1 September 2009) to ensure all staff have undertaken the necessary training for the coming into force of the Licensing (Scotland) Act 2005 on 1 September 2009.



No.	Comments
1	Delete reference to Licensing Boards, as there is not need for staff to require this knowledge. Specific reference should be made to permitted hours for sale in the premises in which the employee is working.
2	Fully supportive of proposals for training & the key areas to be covered
3	<p>I agree with the flexibility of the proposals to allow in-house training. However this does raise the question of the quality of training which will vary considerably. It really depends on how the proposals balance the requirement of any form of training with the achievement of expected levels of competency. Is it considered that the extent of learning or awareness by the employees through this procedure is sufficient to meet the levels of competency expected under the Act?</p> <p>Many casual staff will have more than one employer and many more will move from employer to employer often in quick succession. In these circumstances must the employer and employee go through the training process every time? In addition employers may wish to recruit additional staff quickly to meet demand for special events many of which are arranged at short notice. Is it envisaged that on these occasions statutory training has to be provided for all such staff including experienced staff who have undertaken such training under a different employer?</p> <p>Are there any proposals for refresher training to be required? It may be considered that once initial training is completed it can be supplemented by experience on the job. However, is it expected that if there are any future changes which will affect licensing staff this will be provided by the employer as part, for example, of risk assessment of the management of the premises?</p> <p>Proof of meeting the training requirements is provided by a document signed by the employer and employee agreeing that the requirements have been fulfilled. This is probably adequate for its purpose: again it promotes flexibility yet formalises part of the risk assessment of the management procedures which should be carried out anyway by a competent manager.</p> <p>Although the flexibility of the training methods may be considered to be desirable, the documentation requiring to be completed for proof of training should be uniform throughout the country. Details should also be spelt out as to where this document should be kept and the methods by which it should be made available for inspection by the appropriate authority. This would considerably assist the duties of the licensing standards officers in confirming that these procedures have been carried out in compliance with the Act.</p>

4	<p>The Board agrees with the general requirements of the proposed Regulations but wishes to make the following points:-</p> <p>The Regulations, as drafted, do not include a timescale within which staff should be trained. Without this, Licence holders may delay training of staff, which will lead to varying standards across Scotland. The Board considers that all new members of staff should complete such training within a period of 4 weeks from commencement of employment. A similar timescale should be introduced for the training of existing staff.</p> <p>The Board is concerned that there is no indication within the Regulations of the length of time for which training will be considered to be valid. The Board is of the view that such training should be valid for a period of three years only, after which time staff should be required to undergo refresher training every three years.</p>
5	<p>It is in the public interest that all staff working in licensed premises receive appropriate and preferably accredited training. It therefore supports the Mandatory Licence Condition requirement for a written, signed and dated training record to be kept for each member of staff working on the premises, and that this should be open to inspection by the Licensing Standards Officer. This requires to be underpinned by quality assured, robust and accredited training. This helps drive up standards of service and operation within the licensed trade.</p> <p>It is the content of training which is the key to delivering safe and well informed practice within the licensed trade. Having scrutinised Schedule 1 - Training matters to be covered - the JADA T notes one important omission, that of the effects of alcohol on the body. We recommend that this is added to the matters to be covered. An understanding of the effects of alcohol will underpin the application of other elements, including the licensing objectives and the place of an operating plan within the licensing system. A requirement for regular refresher training is also important to help ensure every staff member is able to deliver the operational plan effectively. The JADA T therefore urges the Scottish Executive to encourage the training to be promoted as soon as possible in advance of the regulations taking effect. From a local perspective, the JADAT can commend the use of the 'Best Bar None Award scheme', which has high standards of training, as a quality award which can assist in delivering on the aims of the Licensing (Scotland) Act.</p>
6	<p>As a Licensing practitioner I have had to defend wrongdoings on behalf of Licensees, both in the On and Off Trade. The fact is that more often than not these misdemeanors have been perpetrated by staff members, not licensees. Clearly they have vicarious responsibility but the fact is that staff will not take as much notice of their responsibilities and simply do not care as much. Their home and business is not on the line. I therefore feel that rigorous training of staff is required to make</p>

	<p>them better aware of their responsibilities and the ramifications of contravention. I don't think that can be left solely to the Licensee. In the case of bad licensees they will circumvent these requirements, so their staff are unlikely to remedy their shortcomings. Some owners may be intimidated by having to insist on personal training requirements. Few will have training or experience in passing on their knowledge.</p> <p>I would suggest that at least part of the Course ( perhaps relating to items 1,2,3,4,5,6,7,8,and 11) form part of a formal qualification which might take no more than two hours. I think that would make the Licensees job a lot easier and take away the doubt that might be expressed by an LSO that the Training Record was correct.</p>
7	<p>Alcohol Focus Scotland is dismayed to find that the training content included in the Draft Regulations only covers the parts relating to licensing law and not the full list of areas that had been agreed by the training subgroup of the National Licensing Forum and accepted by Ministers.</p> <p>The Draft Regulations contain a list of fourteen 'Matters to be Covered'. We propose that the following should be added:</p> <ol style="list-style-type: none"> <li>15. An understanding of the staff member's responsibilities under other legislation relating to their job role</li> <li>16. Awareness and understanding of alcohol misuse and its consequences to health and society as set out in the Scottish Executive's Plan for Action on Alcohol Problems update.</li> <li>17. An understanding of units of alcohol and how this relates to the different strengths of alcoholic drinks</li> <li>18. An awareness of the UK recommended sensible drinking limits for males and females</li> <li>19. Recognising the stages of drunkenness</li> <li>20. An understanding of the common causes of conflict, how to prevent conflict and how to manage conflict situations</li> <li>21. An understanding of the best practice for refusals of service.</li> </ol> <p>If it proves to be not possible for all these terms to be added, then Alcohol Focus Scotland feels that the only acceptable option is for the training requirement for staff to be a formal qualification based on the training specification already</p>

	developed.
8	<p><b>Schedule 1 Regulation 3 Training matters to be covered.</b></p> <p>It is felt that the subject headings listed are relevant to a person who may wish to apply for a Personal Licence, but we feel that a person conducting sales at a till in a supermarket, or a person assisting the holder of an occasional licence at a church fete, does not necessarily need to understand the function of the Licensing Boards nor the special provisions for clubs. We feel that training needs should be tailored to the specific needs and responsibilities relevant to the duties that the individual is to undertake. We would suggest that operators of licensed premises, or events, be left to identify their own relevant training needs and undertake training as appropriate.</p> <p><b>Relevant Training</b></p> <p>Given that individuals' training needs vary depending upon many factors we feel that a prescribed timescale for the duration of a training course is not required, and the duration of an individual's training should be based upon their personal needs and can be established by the operator of the licence.</p> <p><b>Training requirement – Qualified or accredited trainers</b></p> <p>The requirement for the training provider to be accredited or qualified could create significant roadblocks, both short and long term, as there may well be insufficient numbers of people to deliver the amount of training that will be required throughout the industry. For many years training at this level has been provided directly by the operators of the licence. For those who have not been able to deliver this training in-house, suitable courses are available through training companies. The cost issues associated with using accredited or qualified trainers would result in a substantial budgetary increase. Many individual operators and charities using Occasional Licences may find this cost too onerous to bear. Many training modules are now delivered away from the classroom in a similar manner to a vocational qualification, which involves the use of: workbooks, using learning objectives, learning sets, resource documents and test questions. The Workbook is then assessed to establish the individual's understanding and levels of competence. Similar training is also conducted via the internet and by the use of training films/DVD. Creating the need for a four hour training program conducted by a qualified or accredited person will in many respects be seen as a step backwards, as it will hinder the development of vocational and internet training, and may force the individual's pace of learning. It is therefore felt that such a structured training program is not needed.</p>

However, we would suggest that if it is felt necessary to stipulate the use of “trainers” we would invite you to consider changing the requirement for an “accredited” or “qualified” trainer to read as “a competent person” and that the proposed timescale of four hours be removed.

**General Comments.**

**Cost to business**

Cost is a concern to all those affected by the new act, and not only those who operate licensed premises. However the cost of re-training existing colleagues and new employees joining the business in the future will be even greater if training has to be provided in the format suggested.

**Part time working environment**

If training has to be provided as currently prescribed it may adversely affect the appointment of part time and occasional colleagues in retail due to the financial investment that is required in training. Nearly 70% of our colleagues are part time. Whilst we would not base our own recruitment policies on this consideration, we would be concerned that some employers may prefer to engage one full time member of staff as opposed to two or even three part time members.

**Colleague inductions**

Colleague induction may also be hindered through the new process as it would not always be viable for larger employers to arrange a training course for just one new employee. In a similar way, it would be difficult for smaller operators who outsource their training to engage staff as and when required due to the availability of training courses and the geography of location and transport issues. This could result in operators trading with reduced staffing levels.

**Transferable Recognition**

The proposed mandatory condition stipulating the manner in which training is recorded does not require that the individual is issued with any official record of training (although individual companies will keep their own records). If a person involved in the sale of intoxicants undergoes training with one employer and then moves to a different company will the training they have undertaken be transferable? Under the proposed scheme it would be difficult for a person to satisfy a new employer that they have been trained and the new employer may well have to retrain the individual. Whilst Asda fully appreciates the need to train existing and new colleagues in all aspects of the licensing act, it is felt that the requirement to

	<p>legislatively prescribe such measures is not necessary. The industry has for many years ensured that its employees are suitably trained, not only in the requirements of the current licensing act but also under other legislation governing their business.</p> <p>Many operators of licensed premises have invested in establishing quality training programs and have demonstrated competence in delivering such training. It is accepted that new training modules will have to be established and delivered and many operators have this in hand.</p> <p>Having considered the consultation document in full we would suggest that operators of licensed premises are left to identify their own training needs and undertake training as they feel appropriate to the individual.</p>
9	<p>Content with wording of mandatory licence condition. Difficulty may arise with movement of staff (i.e. casual staff). Presumably it is responsibility of PLH to ensure record of training is kept in correct place. With regard to key areas to be covered in training, this should also include: -</p> <p>Steps to be taken to prevent noise, complaints from neighbours and others; responsibilities in relation to race, disability and gender; health and safety; drug awareness training and addiction awareness (alcohol and gambling)</p>
10	<p>Generally supportive of framework for proposed training.</p> <p>Specific concerns: -</p> <ul style="list-style-type: none"> <li>• Lack of formal training and assessment of staff skills or competency;</li> <li>• The ability of the trade to ensure consistency and continuity of training</li> <li>• The adequacy of a 4-hour training session; and</li> <li>• The content of the training itself.</li> </ul> <p>Recommendations</p> <ul style="list-style-type: none"> <li>• Training must be delivered by trainers holding an accredited qualification, be robust, quality assured and with the potential for a standardised training pack to be made available to staff</li> <li>• Training should be promoted and made available in advance of regulations taking effect</li> <li>• Consideration should be given to developing a formal qualification along lines of “hygiene certificate” awarded by local authorities</li> <li>• Certificates should have a valid start and expiry date</li> </ul>

	<ul style="list-style-type: none"> <li>• Refresher courses should be made available</li> <li>• Should be a specific time within which all staff are trained (including casual staff) e.g. within 4 weeks of starting training</li> <li>• The content of training should be expanded to include the following: -</li> </ul> <p>An understanding of units of alcohol and how this relates to different strengths of alcoholic drinks  An awareness of UK sensible drinking limits for males and females  An understanding of alcohol as a drug, its interaction with other drugs and health implications  The ability to identify stages of drunkenness and the use of best practice for refusal of service  First Aid  An understanding of staff responsibilities under other legislation</p>
11	<p>We support the concept of training for staff without formal qualification. To do otherwise would be to place an unnecessary cost burden on convenience store retailers of the order of £3m using a nominal £50 per head for the qualification. Clearly this is an unacceptable cost and one that is quite unnecessary. It is wholly appropriate for staff to receive training and this can be done to a standard which will allow them to understand the requirements of the law, ensuring that they fulfil their duties properly, safely and within the law.</p> <p>Regarding the need for training records to be kept on the premises, many of our multi-site operators would keep staff training records in a central area such as a head office under the control and supervision of a training officer or within a human resources department. Therefore, we would propose an additional phrase along the lines of <b>“or made available within 24 hours of request from a retailer’s central offices”</b> to be included at the appropriate junctures where reference is made to records being kept on the premises.</p> <p>Under the section headed “Relevant training”, reference is made to the required duration of “at least 4 hours”. We feel that this is excessive but would be happy to agree to a comment referring to <b>4 hours maximum</b>.</p> <p>With regard to the matters to be covered within the training programme, we believe that several subjects are inappropriate and unnecessary. Their inclusion could in fact serve to dilute the emphasis on the importance of the key aspects of this training requirement. Items numbered 5 to 9 on the list of matters to be covered are not relevant to the issue of staff members performing their job function legally and safely. SGF would much prefer concentration on the other listed matters and, by consequence, emphasising their importance in relation to legal and responsible retailing.</p>

	<p>In relation to the requirement for the training to be delivered by qualified or accredited trainers, it is our understanding that this could be conducted by a personal licence holder. This is an important issue which requires confirmation as there could be a significant cost implication and major disruption of convenience stores' operations if this is not the case.</p>
12	<p><b>Voluntary Sector Interests</b></p> <p>The voluntary sector has a considerable interest in this set of Regulations from three perspectives:-</p> <ul style="list-style-type: none"> <li>• The many volunteers who help in the provision of licensed services at local community events, both indoors and outdoors, but particularly in village and community halls;</li> <li>• The relationships built up with suppliers, including those in the local licensed trade, and their shared objectives in providing quality service, particularly in the more remote areas where conventional licensed activity is often uneconomic or marginal;</li> <li>• The work of a wide variety of voluntary organisations in promoting the responsible use of alcohol, via Voluntary Health Scotland and the many organisations, both national and local, involved in preventing and treating alcohol addiction and misuse.</li> </ul> <p><b>scvo approach to regulation</b></p> <p>SCVO always supports regulation where it is clearly in the public interest and allows communities to be safer and more secure. We have issues with regulation over the potential imposition of additional costs, which are often not appreciated by legislators, and the practicalities and costs of providing or accessing training.</p> <p><b>The merits of a national training scheme</b></p> <p>In the case of these Regulations, there are clear public benefits from consistent national accreditation for individuals who from time to time are called to provide this sort of service for those in their local community. It is also manifestly true that these ad hoc arrangements have worked well for many years with markedly less disruption and social strife than in the more conventional retail or off-sales locations where alcohol can be purchased.</p> <p><b>Proportionality</b></p>

In discussion with Jack Law of Alcohol Focus Scotland, who chaired the Group which framed these Regulations, SCVO was concerned that there should be a lesser total time commitment by volunteers to the training required. This would reflect the difference in circumstances with paid employees working in the licensed trade. That discussion resulted in broad agreement that some two hours of training would be appropriate for such volunteers. This could, of course, be enhanced by those who wished to "top-up" their training at their own expense, for example, if it was helpful to their own employment prospects. This might be particularly true for those studying for further or higher education qualifications to supplement their income when studying away from home, or providing holiday or relief cover in local licensed premises.

### **Logistics and costs**

There are obviously logistical and cost dimensions involved for the voluntary sector in undertaking to train people as necessary, in keeping with the spirit of the public benefits to be secured.

In logistical terms, we would hope that the Scottish licensed trade, the alcohol manufacturers, existing initiatives such as ServeWise, and public agencies, including the Scottish Executive, local authorities and Scottish Enterprise would all have a role to play. It will be important, wherever possible, to "piggy-back" the attendance of local volunteers onto training events being run by any and all of the training providers associated with implementing licensing reform. We see a central role for local Councils for Voluntary Service in helping to identify volunteers for such training, publicising the arrangements for training, and even providing facilities in some cases to support such training. We see this as a good, practical, potential early working example of how to deliver the Dynamic, Inclusive Communities objectives of the major Big Lottery Fund award made earlier this year.

### **Unresolved concerns**

However, there are outstanding issues of concern. We have identified particular issues around how training can be brought to the most remote communities, in which the village hall network is central to the effective provision of local licensed functions, not just for dances and ceilidhs, but for family events, including weddings and funerals. Sevo believes that it may be necessary for the Scottish Executive directly to contract and pay for training in these communities to ensure complete national coverage. There is likely also to be a need for some "infill" training in some of those areas outside the cities and major towns.

### **Recognising existing community based expertise**

	<p>To recognise the existing expertise in local communities, we would also like to see specific recognition for those who have recently retired from the licensed trade, and who now provide their services and advice as volunteers in local communities on alcohol licensing issues. Whether these individuals need to be separately identified in the body of the Regulations is a matter for officials and Ministers to determine, but sevo believes this might prove particularly helpful in the transitional phase of implementing the new Regulations, and would recognise the expertise available. Indeed, providing training for these individuals to then act as trainers themselves in local communities might accelerate the dissemination of best practice.</p> <p><b>The future debate</b></p> <p>sevo wishes to be involved in the ongoing debate on these Regulations and looks forward to a satisfactory solution being achieved. We are, of course, happy to meet with officials to discuss any of the issues we have raised in response to this consultation.</p>
13	<p>In response to the consultation document in relation to the training of staff working in licensed premises, as Depute Clerk to East Ayrshire Licensing Board I would agree with the proposal that staff should not be required to undergo a formal qualification. Due to the high turnover of staff within licensed premises, if the training was too prescriptive this would become unworkable. I also agree that a minimum training requirement would need to be set and that it would be necessary for training records to be available within licensed premises for inspection.</p> <p>Having met with the local representative of the Scottish Licensed Trade Association and discussed the matter fully, it was felt that the training pack currently issued to members of the SLTA could be adapted for use by licensees when training staff. This pack could contain all the mandatory matters to be covered in the training and be available at all times within the licensed premises for use by staff and reference.</p>
14	<p>The Ayrshire and Arran Alcohol and Drug Action Team (ADAT) welcome the opportunity to respond to schedule 3 of the licensing. (Scotland) Act 2005 as outlined in the Draft Regulations. Ayrshire and Arran ADAT is on the whole happy with the proposed regulations but in addition to the detail outlined we would like to make the following comments which are noted below:</p> <p>The ADAT agree that training must be delivered by trainers holding an accredited qualification. We also note that the Training Advisory Group recommend that staff should not be required to undergo a formal qualification. However, it could be very useful to consider awarding some type of recognised qualification or certificate for the following reasons:</p>

	<ul style="list-style-type: none"> <li>• Provide staff with a certificate that is transferable</li> <li>• Certificate would have valid start and expiry dates</li> </ul> <p>The ADAT is concerned that any training session lasting no more than 4 hours duration is not sufficient time to cover all 14 items (or possibly more) covered in Schedule 1, regulation 3 in any great depth. We suggest that in addition to the 14 areas listed that the following be considered for inclusion:</p> <ul style="list-style-type: none"> <li>• A definition of alcohol should be included in the training session</li> <li>• A specified time limit for all staff (including casual staff) in which they must be trained, for example, in 4 weeks of commencing employment in the licensed trade</li> <li>• Training to incorporate the issue of not selling alcohol to a person who has been drinking excessively.</li> </ul> <p>It is noted that the issue of refresher training for staff has not been included in the draft regulations and suggest that this is a matter for consideration.</p>
15	<p>We fully support the mandatory requirement that all staff involved with selling or serving of alcohol be fully trained. We also support the need for adequate documentation (training records) to be in place as set out in the Mandatory Licence Condition.</p> <p>The training must be delivered by a ‘qualified training provider’ as set out in the regulations. We note the draft regulations set a minimum duration for the training to be 4 hours and the schedule sets out those topics which must be addressed by the training. The list is comprehensive covering 14 specific points; we understand that training actually delivered could cover other issues for example ‘people skills’ on how to handle difficult situations etc.</p> <p>We note the Training Advisory Group recommended that staff should not be required to undergo a formal qualification, based on the sound reasoning that this will allow the trade to develop their own in-house training for their staff. What is unclear from the draft regulations is how an employee moving between employers can take forward their training record to demonstrate they have been trained. Obviously different establishments as part of the induction of new employees will wish to introduce them to their own specific business processes, but there should be a facility which allows employees to demonstrate they have already received appropriate training. Is the intention to tackle this issue in the guidance to the regulations? We also strongly believe that training will be important in supporting and underpinning enforcement of the new licensing regime.</p>

16	<p><b>Training Regulations</b></p> <p>FSB Scotland broadly supports the principles outlined in the consultation document. We welcome the Scottish Executive's attempts to ensure that these regulations do not place too onerous a burden on businesses with regard to the training of staff. We particularly welcome the degree of flexibility afforded to businesses in implementing the required training provision.</p> <p><b>Clarification</b></p> <p>However, there are some areas where we would like to see further clarification. In particular, we would pose the following questions:</p> <ol style="list-style-type: none"> <li>1. How will these regulations apply to casual workers?</li> <li>2. If an employee has recently completed the required 4 hours of training (either in-house or externally with some form of accreditation), and then takes a position with a new employer, will that individual be required to undertake the 4 hours of training again?</li> <li>3. How will these regulations apply to people with multiple employers? Will they be required to undertake the required 4 hours of training with each different employer?</li> </ol> <p>FSB Scotland would like to see further guidance on these issues, to avoid confusion among employers and employees about the requirements placed upon them by these regulations.</p>
17	<p>I would start by repeating the support of the SBPA and the BHA in Scotland for the flexible approach, which the Executive has implemented in the Draft Regulations as regards complying with the need for training for staff in licensed premises involved in the sale and serving of alcohol. SBPA and BHA and our members have been fully supportive of raising standards across the licensed industry in Scotland by ensuring that staff are appropriately trained to ensure that alcohol is</p>

sold responsibly and as required within the terms of the new Licensing (Scotland) Act 2005. Indeed, our members currently spend millions of pounds each year training their bar staff to sell alcohol responsibly, for example by obtaining the Servewise Scottish Licensee Certificate or the BIIAB's Scottish Award for Responsible Alcohol Retailing, or through existing staff induction programmes.

Our additional comments below are not intended to undermine this flexible approach outlined in the Draft Regulations, merely to seek further clarity as regards how these requirements are implemented in practical terms in licensed premises.

#### Timescales for Training

We note in your communication that *“the Commencement Date for the relevant provisions of the Act will be 1 September 2009 which is the date by which staff will be required to have undergone training in line with the requirements of these regulations.”* Whilst we can appreciate this suggested requirement, we would highlight the fact that the hospitality industry employs some 200,000 people, not all of whom will have to be trained by 1<sup>st</sup> September 2009 as per this requirement, but that given the training will be in relation to the Licensing (Scotland) Act 2005 that many licensees will leave training their staff until near this Commencement Date in order that the training is fresh in their minds at 1<sup>st</sup> September 2009.

We understood that there was a possibility that training for all staff a cross the industry would not have to be completed until some months after the Commencement Date in order to avoid trying to train a significant number of staff in a relatively small time frame well in advance of the Commencement Date. In addition, we noted that in the original proposal produced by the Scottish Executive that *“any new staff employed after big bang date (1 September 2009) must complete their training within 10 days of appointment”*.

**We would therefore ask that the wording of the Draft Regulation be amended to allow all “staff serving or selling alcohol” to be trained by 1<sup>st</sup> December 2009. We believe this would avoid the obviously difficult, time consuming and costly exercise of trying to train a very large number of staff in a relatively short time frame and recognise that the transition process is a one-off situation. After this date, we would support the Regulations confirming that that**

**any new staff employed must complete their training within 10 days of appointment, as per the Executive’s original proposals, which we thought had been agreed.**

**Record Keeping for Training Undertaken**

We note the comments in the document that “*at any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in paragraph 6(2), there must be kept on the premises a written statement ...*” Whilst we support the principle involved in this, we would highlight some practical issues around this requirement.

For example, where a function is being held in a hotel and temporary agency staff are involved in serving alcohol would the licensee be expected to hold this information, or would it be sufficient for the agency supplying the staff to do so? Similarly, these staff may only be on a specific premises for one function and then leave. Another issue relates to the fact that staff rotas determine who is working in a licensed premises at any time. These rotas can change frequently and often unpredictably, e.g. due to illness or bereavement, and as such having to frequently vary a written statement could be very onerous and difficult especially for larger premises.

We would therefore ask for clarification of what is intended by this suggested condition and propose that one written record could cover and list all staff employed by the premises, not just those working at a specific time, and could also allow for the names of former staff members to be deleted from the record without undermining its status. We would also appreciate confirmation that this “written statement” can be different from any specific training records that in larger businesses for example could be held elsewhere.

**Some companies might obviously prefer to keep a centralised record e.g. at head office and we would have thought that as long as the relevant information was also accessible at the premises that would be a reasonable option.**

On the position of agency staff we would be grateful if clarification could be added to any advice accompanying the Regulation that these staff are, unless otherwise agreed, the specific responsibility of the agency employing them, not the licensees employing the agency, otherwise licensees could find themselves having to personally train agency staff who were already trained.

Duration of Training

	<p><b>We note in the Draft Regulation the suggestion that “<i>“relevant training” means training of at least 4 hours’ duration which covers each of the matters specified in the Schedule</i>”. We do not recall any minimum time frame being set in the deliberations on the Training Advisory Group on the suggested duration of training for staff, indeed the wording that was used in papers to the Advisory Group, was that the training should take “no longer than four hours,” but there was no prohibition on a shorter time frame.</b></p> <p><b>It is our belief that a “minimum” four hours duration for training of these staff in the limited, but important, number of issues identified in the Draft Regulation is unnecessary and will involve a good deal of cost for operators in meeting a time limit rather than communicating the necessary relevant information in order to comply effectively with the law. We would agree that the proposed remit for the staff training to cover is more than adequate to deal with the issues that an ordinary staff member will encounter.</b></p> <p>We would point out the proposed four hours duration in training for a staff member “serving alcohol” is just less than half the notional 10 hours training required by a Personal Licence Holder (PLH) who has a much wider range of subject material to cover and also not much shorter than the notional 10 hours for training the members of Licensing Boards.</p> <p>We would therefore suggest that the wording of the Draft Regulation is amended to reflect the earlier position of a training taking “no longer than four hours.” Or if a specific time frame has to be set that this be a minimum of two hours which should be more than sufficient to cover the points identified in the training requirement.</p>
18	<p>BII would like it noted that the recommendation by the group was not a unanimous decision. BII consider that the decision that staff should not be required to undergo a formal qualification is ill-conceived for a number of reasons:</p> <p>It does not provide portability for the industry. Staff in licensed retail move around a lot – will all have to be retrained when they change venues?</p> <p>This method does not contribute to the pool of trained staff for the industry as a whole. Having a highly trained industry can only be a benefit to the economy in Scotland.</p> <p>How can the effectiveness of training be evidenced if there is no assessment attached to the training? – this is particularly true in the case of migrant workers. Training without assessment for regulatory purposes is wide open to abuse.</p> <p>No quality control over what is covered in any training input without externality.</p> <p>It does not accord with the wider skills agenda through sector skills strategies which will determine robust and coherent</p>

	<p>approaches to upskilling the Scottish workforce for future prosperity. It also disenfranchises the licensed retail sector from other occupations subject to the above agenda.</p> <p><b>Mandatory Licence Condition</b></p> <p>This does not reflect the agreement at the meeting of the group that certification from an SQA awarding body would replace the requirement for training records. We suggest that an extra paragraph is added to the existing wording as follows:</p> <p>(d) A certificate which evidences an individual’s qualification achievement which is accredited by SQA and is issued by an SQA accredited awarding body will fulfil the above criteria and that the trade should be allowed to develop their own training programme for staff giving flexibility to deliver by in-house or training provider.</p>
19	<p>Proposals strike a reasonable balance. The minimum four hours training seems a bit too onerous a burden for some particularly if this applies to all staff (for example village halls). No distinction made between different categories of staff, and perhaps, even more basic instruction is all that is required for casual staff, or occasional volunteers, engaged in serving alcohol. With regard to item 9 of the schedule, not sure that there is a need for staff in all types of premises to know about the special rules for clubs. Perhaps that should only be relevant for those working in clubs.</p>
20	<p><b>Introduction</b></p> <p>Whilst the introduction to this document clearly explains the requirement and definition relative to Schedule 3 Paragraph 6(1) and (2), members believe that it has failed to highlight the requirement under Schedule 3 Paragraph 6(3)(c) which states;</p> <p><i>“that any person providing training, or any particular description of training, in accordance with the regulations, hold a personal licence or such other qualification as may be prescribed in the regulations.”</i></p> <p>The regulations do not specify a ‘qualification’ and in that respect is it inferred that ‘trainers’ have to be personal licence holders.</p> <p><b>Background</b></p> <p>Within this section, at bullet point 1, reference is made to the fact that there is to be no formal qualification, and the trade should be allowed to develop their own training programme for their staff.</p> <p>This flexible method of training may lead to the standard of delivery being inconsistent, subjective, and variable, in</p>

circumstances where the licensee decides not to adopt the training commonly available and elects to complete an ‘in-house’ training programme. Specific reference is made within bullet point 3 that any statement kept within the premises is available for inspection by an LSO at any time. It is felt it may be appropriate that such a statement should also be made available to a police officer, as it may be appropriate that such evidence be produced by the respective Chief Constable to the Licensing Board in any form of representation.

### **Mandatory Licence Conditions**

The training requirement in relation to the application of the mandatory licence condition is applicable to those persons mentioned in paragraph 6(2) which involves that person:

- a. making sales of alcohol, or*
- b. where alcohol is sold on the premises, serving such alcohol to any person.*

This clearly is all encompassing in relation to those involved in the sale of alcohol, and there is no specific direction within the regulations as to the mode or record of training where alcohol is provided by persons operating the sale of alcohol under an occasional licence, or on a temporary basis, in respect of a voluntary organisation. Section 125 of the Act exempts members clubs from the requirement to have a premises manager and removes the need to have the sale of alcohol to be authorised by a personal licence holder. There is inference therefore that there is no requirement for training of persons making sales or serving alcohol within clubs despite the new Act stating that supply of alcohol within clubs are now classified as sales transactions.

Specific reference is made within Section (2) that any statement kept within the premises is available for inspection by an LSO at any time. Again it may be appropriate that such a statement should also be made available to a Police Officer, as it may be appropriate that such evidence be produced by the respective Chief Constable to the Licensing Board in any form of representation.

### **Draft Regulations**

Reference is made within Section 3 to ‘relevant training’ being for the duration of 4 hours, covering each of the matters specified in the Schedule. Members believe that this timescale may be insufficient to cover the subject area, taking cognisance of individuals learning capabilities, and it is important that the mode of training is specified as direct contact with the trainer, and not for example, two hours of pre-read as part of the allocated time.

There is no quantitative check of understanding from the individual of the training specified within the Regulations, which indicates that the importance is demeaned and is contrary to five basic licensing objectives upon which the legislation is

	founded. In conclusion, in ‘Schedule 1 – Matters to be Covered’ members agree that it may be worthy of consideration to include ‘police powers’ within the listed topic areas.
21	<p>The SRC appreciates the opportunity to comment on the draft regulations relating to the training of staff working in licensed premises, and would make the following general comments as background to our response:</p> <p><b>Sector Overview:</b></p> <p>Our membership covers a range of large and small grocers, including the major multiples as well as the Scottish Grocers’ Federation, representing approximately 75% of the Scottish grocery market.</p> <p>We are committed to our role as responsible retailers. We treat alcohol issues extremely seriously, and as well as our ongoing partnership work with the Scottish Executive, we have established an independent alcohol strategy group to discuss innovation and best practice in responsible alcohol sales amongst our members.</p> <p>The SRC is an active and constructive stakeholder, working with the Scottish Executive on a range of food and health related issues. We are a key stakeholder in the Alcohol Industry Group Partnership Agreement with the Scottish Executive, and a lead partner in the development of a Scottish version of the ‘Social Responsibility Standards for the Production and Sale of Alcoholic Drink.’</p> <p>The SRC and BRC have developed sector specific standards (‘Responsible Retailing of Alcohol: Guidance for the Off-Trade’) which have been adopted and promoted within the sector.</p> <p>We are keen to play our part beyond the parameters of the Licensing (Scotland) Act. As an industry we are currently working on a package of measures that our member’s are willing to adopt on a self regulation basis, including unit labelling information, and the promotion of sensible drinking messages in-store.</p> <p>Our members recognise their key role within communities and work closely with the police and local authorities to tackle anti-social behaviour.</p> <p><b>Under Age Sales:</b></p>

We recognise that we have a major role to play enforcing age related sales, to prevent young people getting access to alcohol from our stores. We accepted that our performance to prevent sales could improve and two years ago our members were the driving force behind the development of the Retail of Alcohol Standards Group (RASG). All our members are part of the group and it has expanded to cover the majority of outlets in the off-sector. It has been so successful it has also been adopted in the on-trade. The group has been very successful in agreeing common approaches to tackle this issue and for sharing best practice amongst retailers.

The principle measure members of RASG agreed to adopted to tackle under age sales was the voluntary introduction of a challenge 21 initiative. All customers who appear under 21 are challenged for accredited identification, despite the legal age for purchase being 18; if the customer cannot supply approved id they are not sold the alcohol. This reduces the problem of age identification and through training and till prompts is ensuring cashiers are much more effective in preventing under age sales.

We also believe the widespread use of the principle and the common approach to signage throughout the retail market is changing the culture amongst younger customers where they expect to be challenged for id if they wish to buy alcohol and routinely carry it with them.

The principles of challenge 21 also apply in self-scan tills in stores, where the sale cannot proceed unless the supervising cashier confirms the age of the purchaser and clears the till for the final transaction. It also applies to home deliveries by supermarkets for purchases made over the internet. All our members who operate this service have procedures for their delivery drivers to ensure alcohol is only supplied if the receiving customer is able to demonstrate they are old enough, following the principles of challenge 21.

All our members have strict company policies on training staff and how sales must be made to reinforce the challenge 21 approach. They also have regular discussions with other members of RASG to pass on and adopt industry best practice.

In response to the regulations as drafted, the SRC agrees in principle with the majority of the regulations however we request that you note a number of our concerns as follows:

We believe that the training of staff selling alcohol should be tailored to the specific needs and responsibilities relevant to

the duties that the individual is to undertake in-store.

Furthermore a number of our members feel that the '14 Matters to be Considered', within Schedule 1 are excessive, and whilst for example points 1 to 4 and 10 to 13 are relevant, the other areas as listed do not require formalised training to allow staff to complete their roles within store. It is felt that the subject headings 5 to 9 are relevant to a person who may wish to apply for a Personal Licence, but we feel that a person conducting sales at a till in a supermarket or convenience store does not require training in these areas.

We are concerned that by requiring staff to be trained in areas over and above what they need to know, there is a danger of diluting key training messages. For example, a cashier needs to know that they should not sell alcohol to a person under 18 and the implications if they do so, but they do not need to what the responsibilities of Licensing Boards are.

In relation to the requirement for the training to be delivered by qualified or accredited trainers, we would make the point that this could create significant bottlenecks, both short and long term, as there may well be insufficient numbers of people to deliver the amount of training that will be required throughout the industry. The cost issues associated with using accredited or qualified trainers should also be noted.

**SE RESPONSE TO MAIN ISSUES RAISED IN CONSULTATION TO DRAFT REGULATIONS**

**Staff should be required to undergo a formal qualification accredited by the SQA**

**Scottish Executive response**

Whilst there was some support for a qualification within the Training Advisory Group, the recommendation of the Group based on a majority decision was that there should not be a requirement for a mandatory qualification.

This recognised the nature of the licensed trade in Scotland. There are a large number of casual staff and other short-term working patterns. To require a mandatory qualification would place an unfair financial burden and resource burden on the licensed trade. Consideration had been given to require that only full time staff should undertake a qualification, however, it proved impossible to find consensus on what constituted 'full time'. This may also have allowed a loophole whereby some may have used this to avoid the requirement for staff to undertake any qualification, thereby undermining the whole concept.

The requirement that all staff must undergo mandatory training applies to all staff including casual staff which will remove any loophole which would allow anyone to avoid the statutory requirement.

However, Ministers consider that awarding bodies will wish to develop a qualification for staff working in licensed premises as an incentive to career progression. However, this will not be a mandatory requirement of employment.

It is also expected that anyone who undertakes such a qualification would be compliant with the requirements of the mandatory training regulations, so long as work which led to the qualification was consistent with the regulations, or exceeded them.

**In absence of a qualification there is no element of quality control or ensuring that the training requirement is delivered and completed**

**Scottish Executive response**

We accept that there is no national accreditation process. The key issues set out in the regulations that training must cover set the competencies expected from staff working in licensed premises. We would stress that licensees will be subject both to the mandatory requirement of the regulations and also a mandatory licence condition with regard to training records. They need to train staff is not something they can ignore. Any licensee found to have not ensured their staff had undertaken the necessary training would be in breach of their licence. They would then face a review of their licence with the potential of a sanction taken against them by the Licensing Board. Such a failure to comply with the mandatory condition may also place them in breach of section 1 of the Act with the potential of a fine for up to £20,000 or imprisonment for a term not exceeding 6 months; or both.

**Unclear as within what timescale staff must complete their training**

**Scottish Executive Response**

All staff must be trained by the commencement date of the Licensing (Scotland) Act 2005 (1 September 2009). Any new staff employed on or after that date must be trained before they can sell alcohol.

**No mention of refresher training. Staff should be required to undergo such training at regular intervals**

**Scottish Executive Response**

The Scottish Executive recognises that refresher training is an important element in ensuring knowledge is kept up to date. However, we would like to monitor the training once in place to ensure the effectiveness of it. Following this, consideration will be given to the most appropriate timescale and content of any refresher training.

**Number of key areas that training should cover with regard to effect of alcohol on health have been ignored. These must be incorporated in any training package**

Scottish Executive response

The Cabinet Secretary for Justice has decided that the key areas that the training must cover will be those 16 issues set out in the schedule to The Licensing (Training of Staff) (Scotland) Regulations 2007 (SSI no. 2007/397).

These are: -

The legal basis of the requirement for the training of staff under paragraph 6 of schedule 3 to the Act.

The licensing objectives.

The definition of “alcohol” in the Act.

What constitutes an unlicensed sale.

The functions of Licensing Standards Officers, including their powers of entry.

The nature of an operating plan and its place in the licensing system.

The different types of premises licence conditions under section 27 of the Act.

Special provision for clubs under section 125 of the Act.

Licensed hours under Part 5 of the Act.

Offences under the Act, particularly those involving persons under the age of 18.

Proof of age under sections 102 and 108 of the Act and the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007 (SSI No. 2007/93).

Test purchasing of alcohol under section 105(2) of the Act.

Best practice as regards standards of service and refusing service.

Units of alcohol and the relationship between units and the strength of different alcoholic drinks.

The sensible drinking limits for males and females recommended by the British Medical Association.

Good practice in managing conflict situations.

## **The training requirements will place an unfair burden on small voluntary bodies**

### **Scottish Executive response**

It is important not to place an unreasonable burden on small voluntary bodies. However, it must be emphasised that alcohol is a different product to any other and should be treated as such. The serving of alcohol must be undertaken in a responsible and safe manner, regardless of the premises or event in question.

The mandatory condition requiring staff to be trained is set out in schedule 3 to the Act. This does not apply to schedule 4 of the Act which sets conditions for occasional licences, the procedure through which most voluntary organisations will be applying for events of limited duration. The matter of what licence conditions a Licensing Board may attach to an occasional licence will be a judgement for Licensing Boards based on the circumstances of the event covered by the occasional licence. This is a matter that the Government will consider further to determine whether further regulatory requirements may be developed with regards to conditions that could apply under schedule 4 of the Act to occasional licences with regard to training, or alternatively whether this could be addressed through guidance that could be given to Boards.

## **How will the training be delivered?**

### **Scottish Executive response**

The licensed trade will need to decide the best method of training their staff e.g. through buying training from specialist training providers or developing their own training programme.

It may be that licensed trade associations and/or alcohol producers may wish to develop their own training manuals or workbooks. We do not see the need for further differentiation e.g. between pubs and nightclubs and off-sales & on-sales. Any training programme must, however, comply with the regulations.

## **Where staff move between premises will they have to undertake the training all over again?**

### **Scottish Executive response**

No. The mandatory training condition requires that a training record be kept for all individual members of staff. We expect that this training record would be the property of the member of staff and can be transported with them from premises to premises as proof they had undertaken the appropriate training.

**Where licensed premises recruit temporary staff at short notice, e.g. for one function from an agency who is responsible for ensuring that staff member is trained, the licensee or the agency providing such staff?**

**Scottish Executive response**

The Act provides a power for Scottish Ministers to prescribe what training must be undertaken and the relevant competency required for persons to deliver such training. It would be out with the scope of regulations to deal with matters such as this.

Schedule 3 sets the mandatory conditions, of which training is one. Section 1 (3) of the Act places the obligation on the licence holder to ensure that alcohol is sold in accordance with the premises or occasional licence including the mandatory licence conditions.

However, this does not prevent any arrangements being made between licensed premises and recruitment agencies.

**The length of training set at 4 hours seems inappropriate. It would be better that the training should “take no longer than 4 hours”**

**Scottish Executive response**

The Executive wishes to ensure that effective training is put in place and does not allow any loophole that could result in token training of e.g. 15 minutes being offered. In light of this it is proposed that the regulation will set a minimum period of 2 hours rather than setting a maximum period, thereby allowing flexibility for any training to be offered over longer periods where appropriate.

**Clubs**

**Q Who will ensure training is undertaken in Clubs where there will be no premises manager and/or personal licence holder?**

**Scottish Executive response**

Where a members’ club does not have a personal licence holder, clubs may use the services of an external training provider. However, we expect in many cases clubs will wish to train a member of staff as a Personal Licence Holder who could then provide training “in-house”.

## **The training record should be set nationally to ensure consistency**

### **Scottish Executive response**

The Scottish Executive agrees with this and will prescribe the form of the training record that is required to be kept in regulations. These will create the mandatory licence condition concerning the requirement to keep the training record. The training record must be signed by the person who received the training and the person who provided the training.

We also recognise that some large organisations keep such records centrally. However, it is important that these training records are accurate and are available for inspection by LSOs at any time. We do not see it as an onerous duty to keep individual training records on the premises at all times.

An individual training record should be maintained for each member of staff.

## **The requirements that trainers must hold a qualification is too restrictive and an unnecessary burden**

### **Scottish Executive response**

It is important that the training of staff is done properly and to a high standard. Scottish Ministers, the public, and the licensed trade quite rightly expect this.

Should the licensed trade choose to use the expertise of an external training organisation, concern was raised by representatives from the trade that anyone who provides training for their staff must be properly qualified.

Scottish Ministers agree with this and wish to ensure that the licensed trade have confidence in the proposals on training. The proposals on training for trainers is set out at Annex F to this summary report.

## ANNEX C

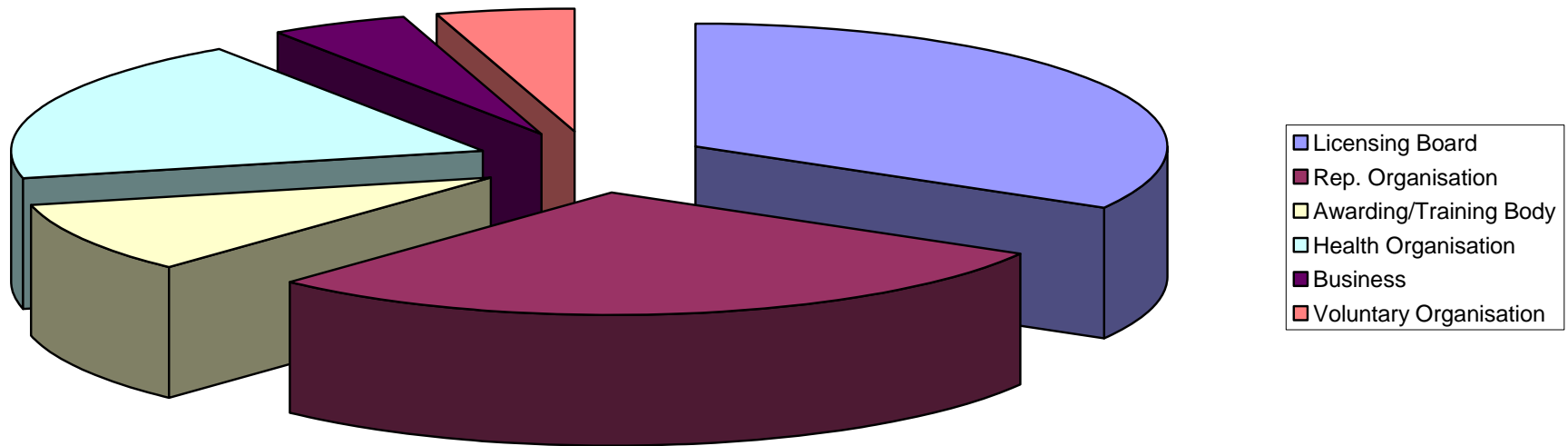
**CONTACT DETAILS FOR THOSE WHO RESPONDED TO THE CONSULTATION (WHERE PERMISSION HAS BEEN GRANTED TO PUBLISH DETAILS)**

<b>Ref No.</b>	<b>Name</b>	<b>Organisation</b>	<b>Address</b>
1	Donald Somerville	Highland Licensing Board	Town House, Inverness, IV1 1JJ
2	Clerk to Licensing Board	North Lanarkshire Licensing Board	PO Box 14, Civic Centre, Motherwell, ML1 1TW
3	Confidential	n/a	n/a
4	Fiona Stewart	Aberdeenshire North Licensing Board	St Leonards, Sandyhill Road, Banff, AB45 1BH
5	Alexander Kelman	Aberdeen Joint Alcohol & Drug Action Team	2 Eday Road, Aberdeen, AB16 5RE
6	Alistair MacDonald	Licensed Training Services Ltd	Thistle Court, 1-2 Thistle St. Edinburgh, EH2 1DD
7	Jack Law	Alcohol Focus Scotland	166 Buchanan Street, Glasgow, G1 2LW
8	Confidential	n/a	n/a
9	Frank Jensen	Fife Licensing Board	Fife Council, Fife House, North Street, Glenrothes, KY7 5LT
10	Theresa Martinus	SAADAT	2 <sup>nd</sup> Floor, 166 Buchanan Street, Glasgow, G1 2LW
11	John Drummond	SGF	222/224 Queensferry Road, Edinburgh, EH4 2BN

12	Martin Sime	SCVO	Mansfield Traquair Centre, 15 Mansfield Place, Edinburgh
13	Patrica Duncan	East Ayrshire Licensing Board	Council HQ, London Road, Kilmarnock
14	Ruth Shepherd	ADAT	ADAT Lodge, Kilwinning Road, Irvine, KA12 8SS
15	Douglas Meikle	SWA	20 Atholl Crescent, Edinburgh
16	Andy Willox	FSB	74 Berkley Street, Glasgow
17	Patrick Browne	SBPA	6 St Colme Street, Edinburgh
18	John McNamara	BII	Wessex House, 80 Park Street, Camberley Surrey
19	Brian Hill	Shetland Islands Area Licensing Board	4 Market Street, Lerwick, ZE1 0JN
20	Harry Bunch	ACPOS	Pitt Street, Glasgow
21	Fiona Moriarty	SRC	PO Box 13737, Gullane, EH31 2WX

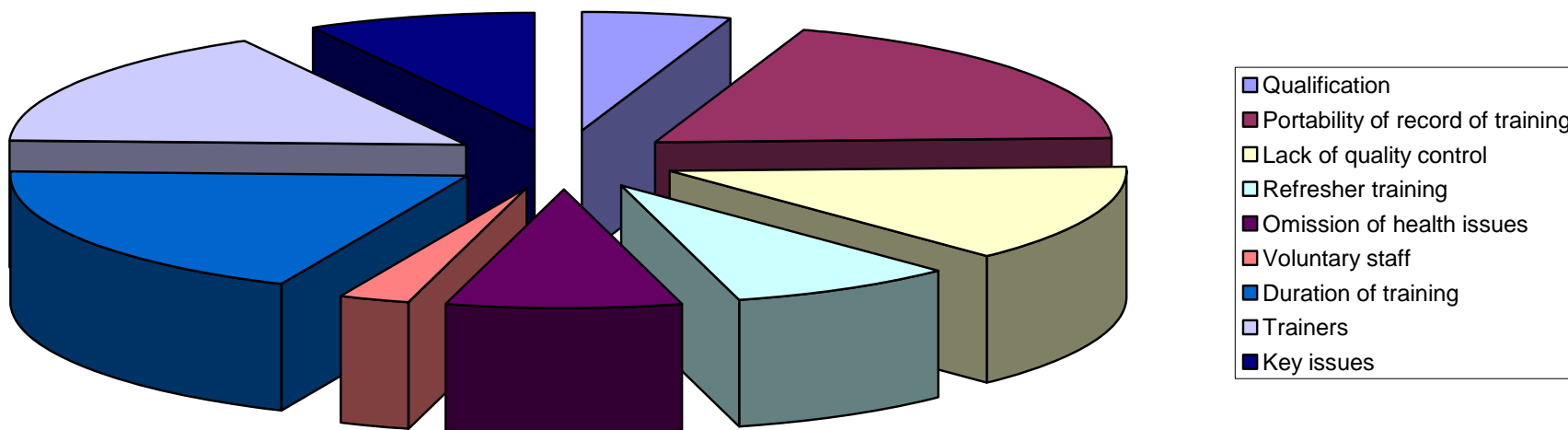


### Annex D - Category of respondents





### Annex E - Frequency of issues raised



## TRAINING OF TRAINERS

The recommendation of the Training Advisory Group remains the foundation for proposals on training of trainers, but we are conscious that we do not wish to introduce an inflexible system which does not recognise existing good quality training where it is in place. However we also wish to ensure that the licensed trade have the confidence in the system, which can only be achieved by ensuring the necessary quality assurance of trainers through the requirement that all trainers are trained to a nationally agreed standard.

The policy is that trainers must meet the following requirements:

### Training of staff

- Trainers should hold a Personal Licence Holder qualification, or
- Trainers must have an existing training qualification (accredited by the SQA. A requirement of this accreditation process will be that the person must also demonstrate an awareness and understanding of licensing law in Scotland attained within the last 3 years)

### **Existing training qualifications**

We are aware that the SQA has already accredited some awarding bodies to award, for example, the Learning & Development SVQs at level 3 and level 4. There are units within each of these SVQs which are relevant for training. The SQA have confirmed that for these existing qualifications that they would be willing to accept either the whole SVQ as being acceptable or relevant units, and this could be through, for example, the following units:

- Identify Individual Learning Aims and Programmes
- Develop Training Sessions
- Enable Learning Through Presentations
- Design Learning Programmes

The SQA can, and do, accredit individual units and would accept submissions from Awarding Bodies (ABs) in respect of individual units from ABs.

We are aware that in England, the QCA accredits NVQ qualifications in Learning and Development. As the NVQ is equivalent to the SVQ, the SQA have confirmed that they would accept that someone who has achieved the NVQ meets the relevant standards and would not require them to undertake any re-assessment with regards to the SVQ.

The SQA are also content to accept other awards where they have been mapped against the relevant National Occupational Standards.

Given that we are talking about potentially five awarding bodies operating in this sector, the SQA are confident that in the timescale available, there would not be a capacity issue for them in administering this process.

We are conscious that there may be centres that do not have trained and qualified staff in place and that it could potentially take some time to achieve the necessary qualification. This may be the case if the centre is brand new, as are the trainers, however, we believe that the majority of centres and trainers will already be operating, in which case, the trainers may already hold an award.

Where this is not the case, then the SQA have confirmed that it should be feasible to fast-track the trainers using Recognition of Prior Learning or Recognition of Prior Achievement. We have always maintained that there should be a process of accreditation of prior learning which was supported by the members of the Training Advisory Group.

With regard to the design and size of any proposed trainer qualification, that is a matter for the awarding bodies to determine themselves.

