

LOCAL LICENSING FORUM

Friday 23 August 2013

Members Present: Shelly Nicols, Vice Convener; and Dave Bliss, Ken Eddie, Sergeant Ed Fitzgibbon (as a substitute for Sergeant Barry Skinner), Councillor Martin Greig, Sandy Kelman, Dr. Maria Rossi (as substitute for Linda Smith), Diane Sande, David Wright.

Co-optees Present: William Christie, Allan McIntosh.

Also present: Vikki Cuthbert (Roddy MacBeath, as a substitute for Vikki Cuthbert, for the latter part of the discussion) and Dmitry Gavin.

Apologies: Barry Black, Garry Burnett, Gerard Rattray, George Wyatt.

LICENSING BOARD DRAFT STATEMENT OF LICENSING POLICY - CONSULTATION RESPONSE

1. The Forum had before it a copy of the Licensing Board's draft Statement of Licensing Policy for the purposes of agreeing a consultation response.

The Forum resolved:-

to approve a response to the consultation, as outlined in the appendix to this minute.

ANY OTHER COMPETENT BUSINESS

2. None discussed.

- **SHELLY NICOLS, Vice Convener.**

Page No.	Para No.	Addition/Amendment
General Comments	Where appropriate	<ol style="list-style-type: none"> 1. The Forum strongly believes that it would have been preferable if the policy had been completely re-drafted rather than the existing one re-worded. It should also provide a more balanced reflection on all licensed premises, i.e. on and off sales. 2. Whenever there is a mention of child or children it should follow thereafter that the rights or welfare of the child is the primary concern. 3. Can smart links to each of the documents listed in the appendix be inserted throughout for ease of reference and to encourage readers to access these. 4. Once the document has been finalised, can it be issued in hard copy to license holders, including off-sales, and also issued electronically with a reminder that the Licensing Standards Officers can provide support in accessing associated documents. 5. The Forum asks that the Board give consideration to including within the Policy a reference to the operating plans for premises whose licence includes entertainment, in order to ensure that due consideration is given within such plans to guarantee that alcohol is not used as a main focus of the promotion of that entertainment as part of any publicity material.
2	3 3 & 4	<p>The Forum recommends that the Policy make stronger reference to the purpose of the 5 objectives, as per 2007 guidance¹:</p> <p>‘These represent the principles on which the new licensing system is based, and provide Licensing Boards with a solid foundation on which to build their own local policies. These objectives are not ranked in order of importance. Each has equal weighting and all must be paramount considerations when Licensing Boards are carrying out their responsibilities.’ ‘As well as complementing the wider policies of the Scottish Executive these objectives aim to improve the environment for social drinking to one which is safe and welcoming for all.’</p> <p>The Forum recommends the addition of the below wording, to be inserted after ‘In preparing the policy, the Board will have due regard to the guidance issued by the Scottish Government in April 2007...’</p> <p>“Guidance has been produced in accordance with section 142 of the Licensing (Scotland) Act</p>

¹ <http://www.scotland.gov.uk/Publications/2007/04/13093458/3>

		2005.’ Departure from the Guidance may give rise to an appeal or judicial review, and the reasons given could be relevant if the courts are asked to consider the lawfulness and merits of any decision taken.’
4	1.2	<p>The Forum takes the view that this, as currently phrased, the bias is towards the economy, and contribution of licensed establishments to this. There should be more balanced and reflect the 10 year vision agreed by community planning partners and outlined in the 2013 Single Outcome Agreement, so include, for example: ‘...its continuing economic success is benefiting all its citizens and advancing equality in City’... the City centre is a ‘vibrant hub of commercial and cultural activity with easy and safe access for Aberdeen’s communities and tourists.’</p> <p>As part of developing this vision, changing the City’s culture toward alcohol was identified as a key priority across Community Planning partners and recognised to portray a negative (and unsafe) image for visitors and businesses in the City, hence one of the strategic priority for health & wellbeing is ‘people in Aberdeen who consume alcohol drink responsibly and within sensible weekly drinking guidelines’.</p>
4	1.3	The Forum wishes to know how the Board intends to now assess and consult on a policy of overprovision (see separate submission from NHS Grampian) and take into account provision of both off and on sales as per 2007guidance (p.15-18) which inverts the approach to assessing overprovision with reference to town or city centre. In assessing overprovision, the Board is asked to acknowledge the change in trend in alcohol purchase, with 68% of purchases now from off sales; and rise since early 90’s in consumption among adults as well as young people (see submission from NHS Grampian).
5	2.1 2.2 and 2.8	<p>The Forum asks that this be updated to reflect who the Board consulted on with the current draft policy.</p> <p>The Forum asks that the Policy refer to 2013 Single Outcome Agreement vision and specific</p>

		outcome on alcohol, now in a very different format (see above).
6	2.4 with subsequent paragraphs to be renumbered	<p>The Forum asks that reference be made to the Adult Support and Protection (Scotland) Act 2007 and that the following wording be added:</p> <p>“Article 3 of the UN Convention on the Rights of the Child, as ratified by the UK government, requires that in all actions concerning children {defined in the UNCRC as being anyone under age of 18 years}, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. The Board will have regard to this in determining applications.”</p> <p>‘The UNCRC helps us all to articulate what makes for a safe, healthy, happy childhood and a good start in life. It underpins the approach to children’s rights in Scotland, providing us with a framework for ensuring we consider children’s rights whenever decisions are made’.</p> <p>{http://www.scotland.gov.uk/Topics/People/Young-People/families/rights/uncrc}</p>
8	2.16	<p>Amend to reflect wording in 2013 SOA, as referred to above:</p> <p>Health & Wellbeing Outcome: ‘people in Aberdeen who consume alcohol drink responsibly and within sensible weekly drinking guidelines;</p> <p>Safer Communities: ‘people feel safe throughout Aberdeen’s communities’ and ‘Safer Roads’</p>
10	5.1	After “the relevant Health Board” a generic e-mail address for the Health Board should be added.
11	6.5	Request that there is a regular review of Police advice on the requirements around CCTV. For clarification, the Forum would also like to know whether the guidance attached at appendices 5/6 is mandatory or just for information.
13	9.8	The Forum would like to see the two current areas of overprovision (the Justice Mill Area and the Belmont Street Area) expanded and further areas added.

		<p>Paragraph 9.8 amended as follows:</p> <p>“The effect of the identification and adoption by the Board of this over-provision statement is that:</p> <ul style="list-style-type: none"> • there is a presumption in the city centre area (as defined in Appendix 3) against the grant of an on-sales premises licence, except for restaurants (as defined in Appendix 4), and • there is a presumption throughout the whole extent of the Board’s geographical area against the grant of an off-sales licence for all premises. <p>84% of the city’s 18 years and over population is already within 500 metres of an off-sales premises and 96.5% is within 1,000 metres, both reasonable walking distances..</p> <p>However, the Board will consider each case on its merits and the presumption may be overturned where cause is shown.”</p> <p>The Forum appreciates that designation of the whole of the city as an area of over-provision in respect of off-sales may not be feasible, but would request the Board to include as much as possible of its geographical area based on the evidence presented.</p>
16	12.6	<p>The proposed change is as follows: “The Board will enforce <i>robustly</i>...by acting <i>timeously</i> on receipt of such a report.”</p> <p>Clarification also sought on what is meant by “appropriately acting”.</p>
16-17	13	Does this refer to management of premises-both off and on sales?
18	15.2	The Forum asks if experience of working in the licenced trade can be a desirable criteria in applying for a licence, appreciating that there is a need for compliance with the Act.
18	16.3	Where it says “Significant numbers of children” the words “young people” should also be added, and the reference to “other premises” changed to “other places”.

20	17	The Forum recommends that each new application for an off sales licence must include evidence of need.
21	19	The Forum is unclear why outside seating areas are excluded from CCTV and asks the Board to review its position in this area.
20	20.1	The addition of the following: “the Board will facilitate a reduction in licencing/opening hours by licence holders that are either permanent or temporary as long as licence holders make the Board aware of these changes.” The Board may insert this in another article if it thinks it more appropriate to do so.
21	20.3	The Forum recommends that 14 hours is the maximum a premises should be allowed to be open in one session (without closing), although the Board should still consider any applications for an extension to this. The word “maximum” should be inserted where appropriate.
21	20.3	The time 10am should be substituted with 11am.
25	23	The Forum supports the additional wording inserted at para. 23.5.
26	24.3	The Board is asked to look at whether CCTV radio link should be introduced for all premises as best practice.
27	27.1	<p>The Forum requests</p> <ul style="list-style-type: none"> • that the following line be removed ‘Board wishes to see premises thriving in the City’ on the basis that this is contradictory to next line as does not pre-empt introduction to the other 4 licensing objectives. • that the Board support the Health & Wellbeing outcome in 2013 SOA, i.e. ‘people in Aberdeen who consume alcohol drink responsibly and within sensible weekly drinking guidelines and negative outcomes are reduced’ – refer also to submission from NHS Grampian, Public Health. The Forum suggest that we now need to take cognisance of the rise in consumption and off sales. • that ‘public health & wellbeing’ be changed to protecting and improving the public’s

		<p>health.</p> <ul style="list-style-type: none"> • that reference also be made to local authorities' power to promote or improve wellbeing as part of the Local Government in Scotland Act 2003.
29	27.6	UNCRC includes 'Every child has the right to the best possible health' and the Forum asks that this is reflected here.
30	28.1	<p>Please amend as follows:</p> <p>"28 LICENSING OBJECTIVE - PROTECTING CHILDREN AND VULNERABLE GROUPS FROM HARM the licensing objective is 'protecting children from harm' Other 'at risk' groups are protected by the Adult Support and Protection (Scotland) Act, 2007 (see above)</p> <p>"Adults at risk" are adults who—</p> <p>(a) are unable to safeguard their own well-being, property, rights or other interests,</p> <p>(b) are at risk of harm, and</p> <p>(c) because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected.</p> <p>(2) An adult is at risk of harm for the purposes of subsection (1) if—</p> <p>(a) another person's conduct is causing (or is likely to cause) the adult to be harmed,</p> <p>or</p> <p>(b) the adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.</p> <p>28.1 The Board wishes to see family friendly premises thriving in the city. It welcomes applications from those who wish to operate licensed premises which accommodate children and families."</p>
30	28.2	<p>Please amend as follows:</p> <p>"28.2 Where applicants wish to operate such premises, the Board expects them to appreciate</p>

		that this places additional responsibilities upon them, at the same time as recognising that parents and other adults accompanying children or vulnerable adults also have responsibilities.”
30	28.3	<p>Please amend as follows:</p> <p>“28.3 In determining any such application, the Board requires the applicant to demonstrate how they have taken the best interests of children and vulnerable adults into account and assessed and mitigated the risks to them.”</p>
30	28.4	<p>Please amend as follows:</p> <p>“28.4 Although, children and vulnerable adults may be adequately protected from harm by the action taken to protect adults, they may also need particular measures to be taken. When demonstrating how they have done this, the applicant must consider those factors which may particularly impact on children and vulnerable adults.</p> <p>These include but are not exhaustive:</p> <ul style="list-style-type: none"> • the provision of entertainment or services of an adult or sexual nature are provided. • employment of members of staff who have convictions for serving alcohol to children, or convictions against children or vulnerable groups, in premises where families are encouraged. • where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided there. <p>28.4 The following examples of control measures are given to assist applicants.</p> <ul style="list-style-type: none"> • effective and responsible premises management • adoption of best practice guidance • limitations on the hours when children may be present, in all or parts of the premises • limitations or exclusions by age when certain activities are taking place

		<ul style="list-style-type: none"> • imposition of requirements for children to be accompanied by an adult • acceptance of accredited proof of age cards with photographs, or passports • measures to ensure children do not purchase, acquire or consume alcohol • measures to ensure children are not exposed to incidences of violence or disorder.”
30	28.5	<p>Please amend as follows:</p> <p>“28.5 The Board requires applicants who submit operating plans which include provision for children to ensure that they are not given access to premises when activities such as adult entertainment or gambling are taking place.”</p>
30	29 (new paragraph to be inserted)	<p>The Forum recommends the following additional paragraph:</p> <p>“29 PROTECTING CHILDREN FROM HARM IN RELATION TO OFF-SALES</p> <p>Off sales premises, especially supermarkets, need to show a due diligence to children’s exposure to alcoholic products. Off sales premises need to ensure that they are not contributing too greatly to the normalisation of alcohol and its consumption in the home. With this in mind, the Board requires the applicant to demonstrate how they have taken the best interests of children and vulnerable adults into account and assessed and mitigated the risks to them.”</p>