

# Public Document Pack



To: Sandy Kelman, Convener; Ruary Campbell, Vice Convener; and Dave Bliss, William Christie, Craig Cole, Ken Eddie, Inspector Jim Hume, Andrew Jones, Vacancy (Youth Council), Emily Queen, Diane Sande and Linda Smith.

Town House,  
ABERDEEN, 10 September 2014

## LOCAL LICENSING FORUM

The Members of the **LOCAL LICENSING FORUM** are requested to meet in Committee Room 4 - Town House on **WEDNESDAY, 17 SEPTEMBER 2014 at 1.30 pm.**

JANE MACEACHRAN  
HEAD OF LEGAL AND DEMOCRATIC SERVICES

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**INTELLIGENCE (TO INFORM THE WORKING GROUP OF THE LICENSING FORUM)**

**LICENSING OBJECTIVE 1 : PREVENTING CRIME AND DISORDER**

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Website Address: [www.aberdeency.gov.uk](http://www.aberdeency.gov.uk)

Should you require any further information about this agenda, please contact Steph Dunsmuir, tel. 522503 or email [sdunsmuir@aberdeency.gov.uk](mailto:sdunsmuir@aberdeency.gov.uk)

### **Substantive Members (voting)**

<b>Holders of premises licences and personal licences</b>
Ruary Campbell, UNIGHT, <u>Vice Convener</u> William Christie, Off Sales
<b>Chief Constable for the police area in which the Forum's area is situated</b>
Inspector Jim Hume
<b>Persons having functions relating to health, education or social work</b>
Sandy Kelman, Aberdeen Alcohol and Drugs Partnership, <u>Convener</u>
Linda Smith, NHS Grampian
Craig Cole, Aberdeen Samaritans
Emily Queen, Community Safety Partnership
Andrew Jones, Education, Aberdeen City Council
Dave Bliss, Children's Services, Aberdeen City Council
<b>Young People</b>
Vacancy, Youth Council Dan McCroskrie (sub.)
<b>Persons resident within the Forum's area</b>
Ken Eddie, Aberdeen Civic Forum
<b>Licensing Standards Officer</b>
Diane Sande (or Tara-Erin Gilchrist)

### **Co-optees (non-voting)**

<b>Holders of premises licences and personal licences</b>
George Wyatt
Craig Adams
<b>Persons having functions relating to health, education or social work</b>
Gerry Bowyer, Street Pastors Representative
<b>Persons resident within the Forum's area</b>
Piotr Teodorowski, Aberdeen Civic Forum
<b>Other</b>
Bob Westland, Door Security

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## LOCAL LICENSING FORUM

Wednesday 18 June 2014

Members Present:

Sandy Kelman, Convener; and Billy Nicol (as substitute for Dave Bliss), Linda Smith, Diane Sande, Craig Cole, Inspector Barry Skinner (as substitute for Inspector Jim Hume), Ken Eddie, Emily Queen, Ruary Campbell.

Also present:

Heather Wilson and Shamini Omnes, NHS Grampian; Piotr Teodorowski, Civic Forum; Chris Fowler, Licensed Trade; Bob Westland, Door Security; Steph Dunsmuir.

Apologies:

Jim Hume, Dave Bliss, Andrew Jones, George Wyatt.

Item	Discussion	Action / Decisions	To be actioned by
1. Appointment of Vice Convener	Sandy Kelman nominated Ruary Campbell as the new Vice Convener. This was seconded by Ken Eddie and agreed unanimously by the Forum.	Ruary Campbell was appointed as the new Vice Convener.	
2. Training Presentation – Police	The Forum received a presentation from Barry Skinner in relation to how Police Scotland was operating in respect of incidents at licensed premises. He advised that some of the current issues for the Police included over-selling of alcohol; bingeing/hazardous practices (such as bottle packages); excessive consumption, and people becoming drunk and incapable; premises' awareness of the legislation and alcohol related violence and crimes, particularly sex crimes, where the Police would investigate whether the licensed	To thank Barry Skinner for the informative presentation, and to note that the next presentation would be from the Licensing Standards Officers.  Linda Smith suggested that it would be useful to hear about the types of intervention undertaken on a multi-agency basis at a future meeting.	T-E Gilchrist / D Sande (for November mtg)

Item	Discussion	Action / Decisions	To be actioned by
<p>Training Presentation – Police cont.</p>	<p>premises should have stopped the sale of alcohol, or perhaps intervened.</p> <p>Although an incident might happen elsewhere, the Police would look to see if there was a link to licensed premises – for example, had the victim been at the premises? Was the accused / suspect connected to the premises? There were many incidents where a victim had come from a licensed premises, so the Police now looked beyond where the incident had occurred to see if the activities of the premises had contributed to the incident, e.g. through a lack of training or policy in relation to asking for ID or searching on admission. In particular incidents, the Police might inspect the premises to identify if all the staff had been trained; if anyone had been ejected that night; was a first aider on duty etc.</p> <p>Where premises had been identified in relation to e.g. thefts, assaults or underage drinking, then that might instigate task visits.</p> <p>The Police reviewed information on a 24 hour basis, looking at all data for crimes which were linked to premises / alcohol. Analysts identified hotspots in relation to disorder / crime recording, i.e. recency, frequency,</p>		

Item	Discussion	Action / Decisions	To be actioned by
<p>Training Presentation – Police cont.</p>	<p>gravity. Resources would then be deployed tactically.</p> <p>Barry ran through the most common offences, and advised that the ‘responsible person’ detailed could be the premises manager, the personal licence holder, or whoever else was on the premises and took the decision to sell alcohol. He discussed the issue of vicarious liability where if the staff were charged, the licence holder would also be charged.</p> <p>Where premises were monitored and it was felt that intervention was required, the licence holder would be invited to meet the Police to discuss an action plan – partnership working was key to the process. Where there were ongoing issues, the premises could be reported to the Licensing Board seeking a review of their licence. Barry advised that there was some flexibility within the processes used, but highlighted that there was national scrutiny of local incidents. Some of the intervention options included CCTV, search reviews, door steward reviews and safe drinking receptacles.</p> <p>The Forum then watched the ‘Who are you?’ video clip which encouraged bystander</p>		

Item	Discussion	Action / Decisions	To be actioned by
<p>Training Presentation – Police cont.</p>	<p>intervention to assist where someone was under the influence of alcohol and potentially in danger. Barry advised that if the Police came across a couple where one person was in a worse state than the other, they would stop them and ask whether everything was ok.</p> <p>The Forum thanked Barry for the informative presentation and asked several questions.</p> <p>The Vice Convener raised the issue of incidents being linked back to premises, noting his concern that an incident would then always link back to a nightclub as the last venue visited, when the majority of the alcohol might have been consumed in e.g. 4 or 5 pubs before the person got to the nightclub. Barry advised that the Police had to establish if there was a link to the premises, and if so, how recent it was. The Police would look at whether anything happened on the premises which contributed to the incident, and if there were lessons to be learned. Often, it would simply be more of an awareness raising exercise.</p> <p>The Vice Convener also raised the issue of off-sales, and the fact that although the alcohol was purchased there, it would be consumed</p>		



Item	Discussion	Action / Decisions	To be actioned by
<p>Training Presentation – Police cont.</p>	<p>elsewhere. Barry advised that this had been identified as an issue by the Police and work was ongoing in this area. If there had been an incident, the Police would look at where the alcohol might have been purchased, and would raise awareness of any problems with local shopkeepers. The Convener agreed that work was needed around off-sales, noting that the licensed trade was undertaking a lot of good work – for example, the Best Bar None scheme. He added that the Police were doing a lot of work around the contribution of off-sales to domestic abuse incidents.</p> <p>Emily Queen asked if there was a potential issue of non-reporting, as the premises might feel that this would cause them trouble. Barry advised that the Police undertook a lot of work with the premises to highlight that reporting an incident would not be seen as a ‘black mark’ against them.</p>		
<p>3. Minute of Previous Meeting of 23 April 2014</p>	<p>Linda Smith advised that she had not been in attendance at the meeting with the Kincorth and Leggart Community Council, and Sandy Kelman had attended the meeting alone.</p>	<p>The minute was otherwise confirmed as accurate and approved.</p>	

Item	Discussion	Action / Decisions	To be actioned by
4.	<p><b>Matters Arising</b></p> <p><b><u>Meeting with Licensed Trade</u></b>  The Convener advised that the suggestion of a specific event to be held with the Licensed Trade had been made as the result of the benchmarking exercise with other LLFs in Scotland.</p> <p><b><u>LLF Website</u></b>  A meeting was to be arranged between the Convener, Tara-Erin Gilchrist, the Clerk and Karen Riddoch to discuss the new LLF website and links which could be made with Community Councils.</p> <p><b><u>Statement of Licensing Policy</u></b>  The Forum again discussed their thoughts around the fact that the policy should take in more than simply the Licensing objectives. Barry Skinner suggested that there were also some formatting issues with the document which needed to be rectified.</p> <p><b><u>LSO Report to Licensing Board</u></b>  The Forum heard that the report had not yet been presented to the Licensing Board, and would therefore come before the Forum at its September meeting instead.</p>	<p>Ruary Campbell advised that some representatives of the Licensed Trade had shown an interest in attending meetings of the Forum. He undertook to find out if they would also like a separate event to be arranged.</p> <p>Members suggested that it would be helpful to invite Karen Riddoch to the September LLF meeting to discuss engagement with Community Councils in more detail.</p> <p>Issues / comments on the Policy to be raised as part of the joint meeting with the Board on 3 July.</p> <p>To be presented to the Forum at its September meeting.</p>	<p>R Campbell</p> <p>S Dunsmuir</p> <p>All</p> <p>T-E Gilchrist / D Sande</p>

Item	Discussion	Action / Decisions	To be actioned by
Matters Arising cont.	<p><b><u>Workshop Session</u></b> The Convener advised that a meeting had been arranged with Linda Bowie of Alcohol Focus Scotland for 2 July.</p> <p><b><u>Samaritans</u></b> At the previous meeting, the Forum had asked if it would be possible for the Samaritans to record when they felt a caller was under the influence of alcohol. Craig Cole advised that this would be difficult to assess, as calls were not necessarily from the Aberdeen City / Shire area and therefore it would be difficult to obtain local data. It was also noted that it would only be an assumption made by the call-taker that the caller had been drinking. He advised that work was going on nationally in relation to what was recorded from calls.</p>	Update to be given at September LLF meeting.  Noted.	S Kelman / D Bliss
5. Air Weapons and Licensing (Scotland) Bill	The Convener advised the Forum that he had suggested this item be placed on the agenda to raise awareness of the new Bill. Diane Sande advised that she had a set of notes from a presentation by Quentin Fisher in relation to the Bill which could be circulated to members to provide further information.	The Forum agreed that it would be helpful to receive a copy of Diane Sande's notes.	D Sande

Item	Discussion	Action / Decisions	To be actioned by
6. Conflict Management Training	The Clerk advised that she had been approached by the company as they wanted to attend a future meeting of the Forum. Emily Queen advised that she had also been approached, however it was not clear how the Forum would benefit from the company's attendance. The Forum heard from Bob Westland who advised that there was already a conflict management aspect to the door supervisors' course and therefore he felt it was unnecessary for the Forum to hear from the company.	The Clerk undertook to advise the company that members did not feel that the Forum was the most appropriate place for them to visit, as most operators already had in-house conflict management training.	S Dunsmuir
7. Attitudes towards alcohol in Scotland – Results from the 2013 Scottish Social Attitudes Survey	The Forum had the results of the survey before it for information. The Convener noted that there was still work to be done around people not realising the dangers of binge drinking. Members agreed that the information was useful in terms of informing public health.	Noted.	
8. Licensing Objective 1: Preventing Crime and Disorder - Update from Police Scotland	The Forum heard from Barry Skinner who advised that at the recent Licensing Board meeting, there had been two new off-sales requests – one had been refused in line with policy, and one had been granted against policy. He advised that the local Community Council had objected to the request which had ultimately been refused, and that he felt the	Noted.	

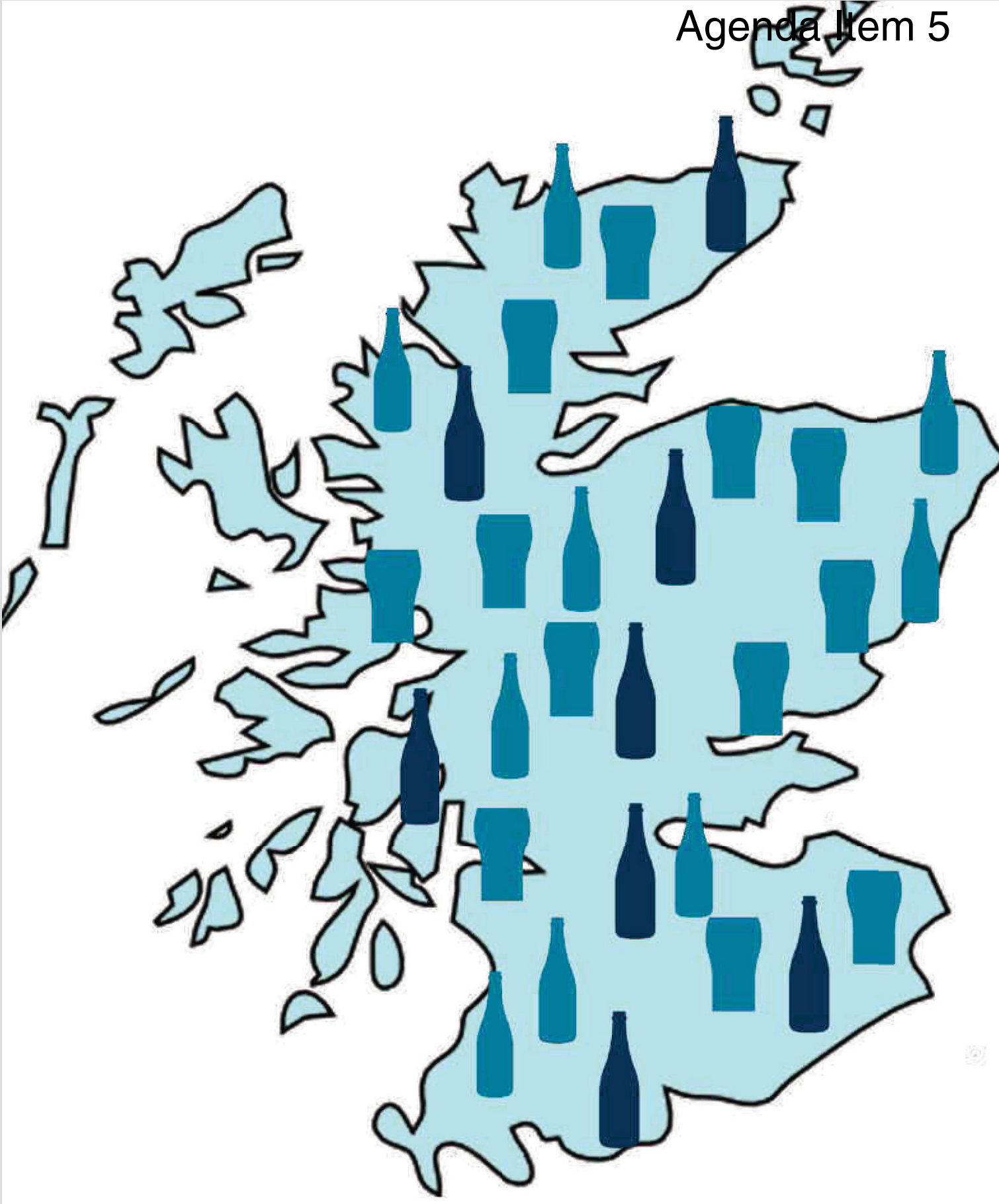
Item	Discussion	Action / Decisions	To be actioned by
<p>Licensing Objective 1: Preventing Crime and Disorder - Update from Police Scotland cont.</p>	<p>Board had found it very helpful to have a local perspective on the potential effects of granting the licence.</p> <p>The Convener advised that Heather Wilson attended the Board meetings on behalf of the NHS and that objections were being tracked in order to see how many licences were granted contrary to policy. He added that presenting the Police and Health data to the Forum would allow members to start to identify any trends.</p> <p>Linda Smith added that there was work to be done with Community Councils in terms of helping them to understand how they could make objections. She added that she would be keen to see the health professionals in local areas also feeding in their comments to the process.</p>		
<p>9. Licensing Objective 2: Securing Public Health – Update from LSO</p>	<p>Diane Sande advised that the LSOs continued to meet monthly with the Police and that they also liaised closely with the Noise pollution officers from Environmental Health. Two unannounced visits had been carried out and there had been one joint operation with Police Scotland in the northern area of Aberdeen.</p>	<p>Noted.</p>	

Item	Discussion	Action / Decisions	To be actioned by
<p>10. Licensing Objective 3: Preventing Public Nuisance - Update from Unight Representative</p>	<p>The Vice Convener advised that UNIGHT had met the day before. At the May AGM, it had been agreed to open up UNIGHT to include other major late night premises, which would increase the membership of UNIGHT. He advised that there were discussions around the suggestion that the Windmill Brae and Justice Mill area should be pedestrianized during the hours of the night-time economy. It was suggested that there be a trial of this during Freshers Week. This would also assist the Street Pastors who would look to set up a mobile spot in that area. He advised that the University of Aberdeen and RGU had different dates for Freshers Week and therefore it would be held over a month, rather than a week.</p> <p>Finally, he advised that UNIGHT were supporting the summer designated driver campaign and free soft drinks would be provided for designated drivers.</p>	<p>Noted.</p>	
<p>11. Licensing Objective 4: Protecting and Improving Public Health - Update from NHS and ADP</p>	<p>Linda Smith suggested that Chris Littlejohn could attend a future meeting of the LLF to give an alcohol needs assessment presentation.</p> <p>The Forum heard that the most recent ADP</p>	<p>Possibly for the November agenda.</p> <p>Noted.</p>	<p>S Dunsmuir</p>

Item	Discussion	Action / Decisions	To be actioned by
	<p>statistics showed that 797 people had been taken to a designated place of safety, in comparison with 665 in the previous year. Discussions were ongoing with the Policy and A&amp;E in terms of dealing with D&amp;Is in the face of decreased funding.</p> <p>Finally, the Forum was advised of the recent updates with the Meet the Hendersons campaign.</p>		
<p>12. Licensing Objective 5: Protecting Children from Harm</p> <ul style="list-style-type: none"> <li>- Update from Children's Services Representative</li> </ul>	<p>Billy Nicol advised that there was no further update on PRS at this time. A meeting had however been held to discuss PRS and an update could be given at the next meeting.</p>	<p>Noted.</p>	<p>D Bliss – if update available for next meeting</p>
<p>13. Progress Statement</p>	<p><b><u>Door Stewards</u></b></p> <p>Bob Westland provided the history of the issue, and advised that the Door Stewards Working Group had met three times to consider the issue of a formula for the number of door stewards employed, and the perceived inconsistency in when premises were required to have door stewards in place. Further to the Working Group meetings, Bob advised that his company had met with Police Scotland and SIA to discuss the matter further, but they had</p>	<p>Noted. The Convener advised that if there was any evidence of inconsistency in relation to when the Licensing Board required door stewards to be employed, he would be happy to write to the Board on behalf of the Forum.</p>	

Item	Discussion	Action / Decisions	To be actioned by
	<p>been unable to come up with a formula to be enforced. He advised that each premises should undertake a risk assessment based on the number of entrances and exits, as well as the capacity and levels. His company would then provide staff based on what the premises had asked for – if his company disagreed with what had been requested, they would undertake their own risk assessment. He advised that if Police Scotland were always being called to an establishment where door stewards were not employed, they might wish to carry out an intervention. If matters were still unresolved, the Licensing Board could be informed.</p>		
14.	<p>Licensing Board – Agenda for 17 June 2014</p>	<p>Noted.</p>	
15.	<p>Joint Meeting – Licensing Board and Local Licensing Forum</p>	<p>All members to pass any topics for the agenda for the joint meeting to the Clerk.</p>	<p>All / S Dunsmuir</p>





Review of statements  
of licensing policy

**2013 to 2016**

## Introduction

Every three years, licensing boards in Scotland must prepare and publish a statement of licensing policy. The policy statement sets out the general approach a licensing board will take to regulating the sale of alcohol and licensed premises in its area. Latest policy statements were due for publication at the end of November 2013.

Licensing law, statutory guidance and regulations make up the broad legal framework for alcohol licensing. Some rules and conditions, such as the legal purchase age, are mandatory. However, the law gives licensing boards' considerable discretionary power on a range of actions to control the availability of alcohol. The policy statement is intended to provide licence applicants, community members, and other stakeholders with an indication of how a licensing board will exercise its discretion in managing the overall provision of licensed premises in its area; its views on opening hours; how it will deal with particular types of application; and the operating conditions it is likely to impose. Measures included in the policy statement must seek to promote the licensing objectives.

Policy statements are potentially a valuable tool in helping to make licensing decisions more strategic. Formulating a statement of licensing policy provides licensing boards with the opportunity to stand back from routine administrative practice and consider the bigger picture in relation to licensing in their area. Patterns and trends in alcohol problems can be examined with remedial and preventative licensing action identified. This is important because licensing is primarily a mechanism to reduce the risk of alcohol-related harm. Consulting on a draft policy statement gives local people a chance to have their say on the approach to alcohol licensing in their community. Using a published policy statement to guide licensing practice supports consistent and well-reasoned decision-making and can make licensing process more transparent.

For a policy statement to be effective, however; and for its preparation, consultation and publication to be a meaningful and worthwhile exercise; it needs to be evidence-based, focused on promoting the licensing objectives, be genuinely responsive to the views of consultees, and applied in practice. If not, the potential value of a policy statement is unlikely to be realised.

## Alcohol Focus Scotland's work on alcohol licensing

Alcohol Focus Scotland is Scotland's national alcohol charity. We work with a wide range of partners to advocate for evidence-based policy interventions to reduce the burden of alcohol-related harm in Scotland. This includes effective regulation of the availability of alcohol through the licensing system.

Alcohol Focus Scotland provides training for newly-appointed licensing board members and we offer a range of courses for people working in the licensed trade. In 2011, we published *Rethinking Alcohol Licensing*, the report and recommendations of an expert workshop that examined how Scotland's licensing system could better promote the licensing objectives. In 2012, we hosted a series of regional events bringing together licensing stakeholders to debate issues relating to licensing policy and decision-making, and we developed a resource toolkit to facilitate and support good licensing practice.

This work has been supported by a grant from Alcohol Research UK.

For more information about our work, go to: [www.alcohol-focus-scotland.org.uk](http://www.alcohol-focus-scotland.org.uk)

## About this report

This report presents the findings of a review of statements of licensing policy for 2013 to 2016 carried out by Alcohol Focus Scotland. The review was undertaken to assess the extent to which published policy statements for 2013 to 2016 fulfil their legal purpose, and whether there are any lessons to be learned from current policy statements to inform the development of future statements.

Policy statements were examined in relation to the following criteria:

- Presentation and readability
- Use of evidence
- Process of consultation
- Licensed hours
- Overprovision
- Children's access
- Occasional licences
- Operating conditions

In evaluating presentation, evidence use and consultation, Alcohol Focus Scotland has applied commonly accepted principles and standards for public bodies performing a public service.<sup>1</sup> These standards include ensuring that information provided is accessible and easy to understand; being open and transparent about the reasons for adopting a particular course of action; publicising consultation responses and explaining how they have been used in the formulation of policy. Policy content, such as overprovision and licensed hours, has been considered in relation to the specific aims and purpose of licensing and the licensing objectives.

All licensing policy statements published by the end of April 2014 were included in the analysis. Twenty-five out of a total of 36 statements were available. Six of the 25 published statements did not include a statement on overprovision (see Appendix 1). Policy statements from 2007 and 2010 were also re-examined to enable an assessment of whether there has been any policy development over time.

## Format of report

Each of the above criteria is examined in the report in terms of the legal requirements set out in licensing legislation or statutory guidance. A summary of key findings from the review of published policy statements is then presented (with more detail included in the appendices), followed by discussion and analysis of the findings. The report concludes with some general observations and recommendations for future licensing policy development.

For the most part, the report addresses what is presented in the policy statements. How statements are used in practice and whether they have a bearing on licensing decision-making are also key issues in determining policy effectiveness, but are largely outside the scope of this review.

<sup>1</sup> See, for example, Councillors Code of Conduct <http://www.scotland.gov.uk/Publications/2010/12/10145144/0>

## Background

### History of licensing policy statements in Scotland

The duty to prepare and publish a statement of licensing policy is a relatively new requirement for licensing boards, introduced by the Licensing (Scotland) Act 2005.<sup>2</sup>

The 2005 licensing legislation was enacted following a review of the licensing system by a government-appointed committee.<sup>3</sup> The Nicholson Committee was set up in 2001 with a remit to “review all aspects of liquor licensing law and practice in Scotland, with particular reference to the implications for health and public order; and to recommend changes in the public interest.” One of the recommendations of the Nicholson Committee was that licensing boards be placed under a statutory duty to issue policy statements. The Nicholson Committee believed that policy statements could be highly beneficial for all those involved in the licensing process. It anticipated policy statements being used to “reflect any views or suggestions made to licensing boards by local licensing forums”, “give a broad indication of special terms and conditions which a board might consider appropriate in relation to particular forms of licensed business”, and be a useful means of “indicating a board’s approach to licensing hours”.

The legal requirement to publish a statement of licensing policy came into force in November 2007.<sup>4</sup> Policy statements for 2013 to 2016 are therefore the third policy statement that licensing boards have produced.

### The content of a policy statement

Licensing legislation and the accompanying statutory guidance specify a number of conditions for the preparation and content of policy statements. In addition to the duty to publish a statement of licensing policy every three years, the Licensing (Scotland) Act 2005 also states that:

- A licensing board must consult in the preparation of its statement of licensing policy;
- Measures contained in the policy statement must seek to promote the licensing objectives. These objectives are: preventing crime and disorder; securing public safety; preventing public nuisance; protecting children from harm; and protecting and improving public health;
- The policy statement must include a statement as to the extent to which a board considers there to be overprovision of licensed premises in any locality within its area;
- A licensing board must have regard to the content of its policy statement when making licensing decisions.

Licensing boards must have regard to the both the legislation and statutory guidance in preparing and publishing policy statements. However, much of the detail and substance of a policy statement is left to a licensing board to decide.

<sup>2</sup> <http://www.legislation.gov.uk/asp/2005/16/contents>

<sup>3</sup> The Nicholson Committee: Review of liquor licensing law in Scotland, Scottish Executive 2003. <http://www.scotland.gov.uk/Publications/2003/08/17590/22947>

<sup>4</sup> SSI 2007 No. 128 The licensing (Appointed Day and Transitional Provisions) (Scotland) Order 2007. This statutory instrument lays down 30th November 2007 as the appointed day for the beginning of the period of 3 years referred to in section 6 (7) of the Licensing (Scotland) Act 2005.

## Review of statements of licensing policy 2013 to 2016

### 1. Presentation and readability

Legislation does not specify how a policy statement should be organised and presented and the 2013 published policy statements vary considerably in structure and length.

#### Findings

- The shortest policy statement is 15 pages.
- The longest policy statement is 123 pages, including appendices.
- Most policy statements include information on matters that cannot really be regarded as policy.
- Some policy statements, but not all, are written in legalistic language and provide exhaustive detail of administrative processes and procedures, making them laborious and difficult to read.

#### Discussion

The policy statement serves a different purpose to licensing law, statutory guidance and regulations. Ideally, therefore, it should not repeat at length what is already laid out in law, regulations, or guidance. The aim of the policy statement, as envisaged by the Nicholson Committee, is to provide a broad indication of how a licensing board will exercise its discretionary power.

Statutory guidance directs licensing boards to include information on non-policy matters, such as how licensing standard officers can be contacted and the agreed procedures a board has developed for handling applications. Consequently many of the published 2013 policy statements include a wealth of information on the administration of the system. Although licensing boards are following statutory guidance, the inclusion of a lot of administrative information results in policy statements that are arguably longer than they need to be. Lengthy policy statements written in legalistic and bureaucratic language can be off-putting for some stakeholders and potentially act as a barrier to community engagement in the licensing process. Furthermore, consultation on a draft policy statement that contains extensive repetition of the law and guidance, which licensing boards have no power to change, could be misleading for respondents.<sup>6</sup>

Typical writing style of many policy statements:

*“The Board will, where it considers it necessary or expedient for the purposes of securing public safety, impose conditions requiring anything to be done or prohibiting or restricting anything from being done in connection with the sale of alcohol on the premises or in connection with any of the other activities carried on in the premises. To this end, applicants will, where appropriate, be expected to demonstrate in their operating plan in respect of activities listed in section 5 that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and the specified activities”*

<sup>6</sup> Consultation principles guidance published by the UK Government Cabinet Office recommends that public bodies be clear about the areas of policy on which views are sought and what aspects of the policy being consulted on are open to change to avoid creating unrealistic expectations. <https://www.gov.uk/government/publications/consultation-principles-guidance>

Accessible information describing how the licensing process works is undoubtedly important; but it is questionable whether the policy statement is the best place to make this available. Instead, licensing boards could publish information of this type online and/or in a booklet, or series of booklets, written in clear and simple terms and in plain English. Information could be tailored for different stakeholders. Step-by-step guides could be produced explaining how to apply for a licence and objecting to a licence, for example, enabling stakeholders to obtain the most relevant information when they need it, leaving the policy statement to focus on policy issues.

## 2. Use of evidence

Licensing boards have a statutory duty to ensure that measures included in their policy statements seek to promote the licensing objectives. It is therefore incumbent on licensing boards to gather sufficient information on each of the licensing objectives to enable them to ensure that the policy measures they adopt serve to promote the licensing objectives. Sources of evidence can include consultation responses as well as the local knowledge of licensing board members.

Evidence must be considered in the formulation of policy, but it is also important that the evidence used to develop policy positions is demonstrated and explained in a policy statement, in order that a particular policy approach can be understood.

In proposing the mandatory publication of policy statements, the Nicholson Committee expected that any such statement would be "...framed in the context of local circumstances within a licensing area." Contextual information includes local licensing statistics, population size, tourist/visitor numbers, and evidence relating to the licensing objectives. Statutory guidance also recommends that licensing boards provide a clear indication of how their policy statement relates to other local strategies, such as community safety and crime prevention, as well as the national alcohol strategy.

### Findings

- In the majority of 2013 policy statements looked at, the evidence base for the policy approach is not demonstrated. Little or sometimes no explanation is provided for why particular policy positions are adopted.
- Four policy statements stand out for presenting licensing policy in context, summarising the evidence, and providing meaningful explanation for a particular policy approach. These are: Glasgow City, Aberdeen City, Dumfries and Galloway, and Highland.
- Nearly all policy statements state they will have regard to other local strategies, but with the exception of Glasgow City fail to demonstrate how. Two policy statements make reference to the national Plan for Action on Alcohol Problems, which was superseded in 2008 by Changing Scotland's Relationship with Alcohol: a framework for action.
- More policy statements highlight the contribution of the licensed trade to the economy and tourism of a local area, than mention any adverse health and social consequences linked to alcohol, which the licensing system is there to address.

- Although most policy statements include some relevant contextual information, it is often not sufficiently detailed to illuminate policy decisions.
- 15 policy statements provide basic licensing statistics. 21 contain some population information. However, the relevance of this information to the formulation of licensing policy is generally not made clear.
- Three policy statements do not include any contextual information or supporting evidence.

## Discussion

If the purpose of the licensing system is to manage the retail provision of alcohol to promote the licensing objectives, then it seems appropriate that licensing policy is presented in the context of how the system currently operates and the nature and extent of alcohol problems in an area. That way an assessment can be made of whether any changes in licensing practice are necessary or possible to better promote the licensing objectives. In considering overprovision, for example, it is pertinent to know the number of premises licences in force, the number of licences of a particular type (supermarket, independent retailer, pub, nightclub etc.); whether this number has increased or decreased over previous years, and extensions/reductions in capacity. It is also relevant to know the population size of an area and localities within an area, such as towns and cities, as well as visitor numbers, and whether these have changed over time. An expanding population or visitor numbers may explain increased demand for licensed premises or licensed premises of a particular type.

Evidence considered by licensing boards in formulating their policy positions should be referenced or included in an appendix; but it is also important for accessibility, transparency and accountability that evidence is summarised within the policy statement, along with an explanation of how it has been interpreted by a licensing board and used to inform policy positions. In three licensing board areas, Alcohol Focus Scotland is aware of evidence gathering exercises involving licensing board members or officials being undertaken as part of the preparation of the new 2013 policy statement. However, in the subsequently published policy statements the use of evidence is not well demonstrated. It is therefore not clear whether evidence gathered was applied to policy formulation, or if so, in what way.

Evidence-based policy statements that demonstrate a clear line of reasoning from the evidence to a particular policy approach make the licensing system more transparent and understandable. In the absence of supporting evidence, it is difficult to judge whether measures included within a policy statement are appropriate, proportionate, or sufficient for the purpose of achieving the licensing objectives.

## 3. Process of consultation

In preparing a statement of licensing policy, a licensing board must consult with the local licensing forum for its area and any other people it thinks appropriate. The membership of a licensing forum must include a local licensing standards officer and the health board. Membership should be representative of the interests of licence holders, police, health, education or social work, young people and residents.

Increasing community involvement in the licensing process was one of the aims of the Nicholson Committee in recommending changes to the licensing regime. Consultation on a new policy statement gives local people an opportunity to input into shaping the licensing environment in their area.

In the preparation of 2013 policy statements, Alcohol Focus Scotland responded directly to 11 policy consultations, which gave some insight into how licensing boards' approached consultation on their policies. Alcohol Focus Scotland conducted a further small-scale review of consultation processes during early 2014. All licensing clerks were contacted to provide information on how licensing boards consulted on their policies, the level and nature of responses they received, and how the responses were considered by the boards. Five licensing boards replied to the request. Information from the responses submitted by Alcohol Focus Scotland and the additional information supplied by licensing clerks suggests consultation methods and extent of engagement with licensing stakeholders varied from board to board.

### Findings

- Some licensing boards consulted on an old or existing policy statement inviting open comment, some circulated new draft policies for comment, and some circulated questionnaires on specific aspects of licensing policy.
- Two licensing boards adopted a multi-phased approach to their consultation. This method appeared to generate higher response rates compared to other areas.
- One licensing board conducted oral evidence sessions.
- Most of the published 2013 policy statements refer to a consultation being carried out in the preparation of the statement.
- More than half include a list of named consultees. However, in most cases it is not clear whether those listed are individuals and organisations invited to comment, or actual respondents, so the level of participation in the consultation process is uncertain.
- Most policy statements say the licensing board gave 'due consideration', 'took account of', or 'had regard to' the views of consultees, but very few actually demonstrate how.
- Those boards that refer to the views of consultees include Glasgow City, North Ayrshire and to some extent Aberdeen City, Dumfries and Galloway, Highland and East Lothian.

### Discussion

The views of consultees are referred to throughout Glasgow City's policy statement and appear to have carried weight in the formulation of policy, with a proposal to extend closing times in the city centre being dropped due to a lack of support from consultees. East Lothian included a summary of consultation views in an appendix to a draft of its policy statement and provided the licensing board's response to the points raised.

Although it is not a legal requirement, demonstrating and reflecting the views of consultees within the policy statement provides an indication to stakeholders that the consultation exercise is genuine, and that there is meaningful engagement with the community in the formulation of licensing policy. Simply stating that consultation views have been taken into account is not sufficient to demonstrate that they have.



### Policy statement examples

In Edinburgh, the licensing board's consultation on its new policy statement invited consultees to submit views on the availability of licensed premises in the city. Edinburgh Alcohol and Drug Partnership (EADP) produced a report on overprovision with a number of recommendations, one of which proposed seven areas of the city with high numbers of licensed premises and high rates of alcohol-related hospital admissions and crimes be declared areas of overprovision. This proposal was supported by the City of Edinburgh Licensing Forum. Of the 22 responses to the public consultation, 13 (including 7 from community organisations and individuals) called for an increase in the designated overprovision areas in the city, and one called for better enforcement of the existing overprovision policy.

In response to the consultation, the licensing board stated that, on the basis of legal advice, if it wished to adopt overprovision localities such as those named in the EADP report, it would be necessary to carry out a further consultation on those specific localities. However, it did not do this. No reason is provided for why the licensing board did not consult further on the proposed overprovision localities.

A licensing board has a legal duty to consult on overprovision. If the views of consultees cannot be considered and taken into account without a further consultation taking place, then a decision not to consult further raises the question of whether a licensing board can be considered as having fulfilled its legal duty.

## 4. Licensed hours

According to statutory guidance, policy statements should provide information on a licensing board's policy on licensing hours. It suggests that licensing boards may wish to consider applications for on-licensed opening hours of up to 14 hours a day as being reasonable.

With the introduction of the 2005 Act, the legal position on licensed hours changed. Under the old 1976 licensing Act,<sup>7</sup> opening hours for licensed premises were specified in the legislation. Permitted hours for on-licensed premises were 11am to 11pm on Monday to Saturday, and 12.30pm to 14.30pm and 18.30 to 11pm on Sundays. However, regular extensions to these opening hours meant that on-sales premises were often open for longer. Trading hours for off-sales were fixed as no earlier than 8am Monday to Saturday and 12.30pm on Sunday, and no later than 10pm in the evening.

In the 2005 Act, only off-sales hours are specified in law. Off-sales are allowed between 10am to 10pm Monday to Sunday, although licensing boards can decide to grant more limited off-sales hours if they consider it appropriate. It is left to each licensing board to determine the licensed hours for on-licensed premises, however there is a presumption in law against granting 24-hour licences.

In the 2013 published statements, as was the case in previous policy statements, most licensing boards indicate what they regard as being standard operating hours. These are the hours that a board says it will normally grant for on-licensed premises, often differentiated as pubs, pubs offering entertainment, nightclubs, restaurants, and hotels. Commonly, what is set out in the statements is the usual commencement and terminal hours, and any variations on different days of the week.

<sup>7</sup> <http://www.legislation.gov.uk/ukpga/1976/66/contents>

## Findings

- Over the past six years, at least 17 licensing boards have extended normal licensed hours.
- One licensing board has reduced licensed hours.
- One licensing board decided against increasing licensed hours following a consultation.
- 11am is the most common standard opening time set.
- 9am is the earliest standard opening time.
- 11pm or 12 midnight are the usual standard pub closing times for nights at the beginning of the week, extended until 1am at weekends.

## Discussion

Different licensing boards appear to adopt different attitudes towards granting longer hours than their standard operating hours. In terms of early morning hours, East Ayrshire and Renfrewshire, for example, only refer to early opening in relation to funerals. In its 2013 statement Glasgow City Licensing Board states that it is unlikely to grant any more early morning licences, believing that there “is no longer a justification for such early morning hours in terms of shift workers or market workers”, which was the historic basis for granting such hours. A review in Glasgow indicated that premises with early morning licences tended to attract individuals with dependency issues and allowed for sustained drinking over long period of time, which was contrary to the licensing objectives.<sup>8</sup> In contrast, other policy statements appear more amenable to granting early hours and for much less specifically-defined reasons, such as tourism and the provision of food.

Since policy statements were first produced in 2007, most of the changes to policies on standard operating hours have been to extend overall licensed hours. Following the introduction of 2005 Act, many licensing boards maintained 12.30pm Sunday opening, but today only Western Isles retains it with the rest having brought Sunday opening forward. In 2010, Orkney Isles licensing board extended its standard opening hour from 11am to 10am, having previously indicated in 2007 its satisfaction with 11am opening. In September 2013, Dundee Licensing Board agreed an amendment to its policy to extend pub closing hours by an hour at weekends.

The reasons for extending licensed hours in policy statements are often not fully explained. Sometimes reference is made to supporting the tourist trade and the need for more flexibility, but the impact on the licensing objectives is generally not considered. It is notable that extensions of licensed hours in Scotland have occurred at a time when rates of alcohol harm, despite recent falls, have been historically high and the national strategy has been aimed at reducing overall availability of alcohol.

The impression gained from policy changes adopted is one of licensing boards following suit: if one licensing board area increases its standard hours then so do many others, to bring their board area ‘into line’ with other areas. This being the case, it underlines the value of continuing to fix off-sales opening hours in legislation, as well as a presumption against 24 hour licences.

<sup>8</sup> <http://www.eveningtimes.co.uk/news/city-calls-time-on-breakfast-bar-booze-141204n.22575303>

### Policy statement examples

**Licensing boards imposing curfews on late opening, preventing admittance/re-admittance after a certain time:** Aberdeen City – 2am (changed from 12.30am in a policy amendment in 2009), Moray – 12.30am, North Ayrshire, Fife – 1.15am, Inverclyde – 12 midnight.

**Licensing boards setting different terminal hours for premises within/outwith the city/town centre:** Glasgow City, Aberdeen City, Dumfries and Galloway (Stranraer).

**Licensing boards expressing the expectation that special events should be accommodated within normal licensed hours and not automatically justifying an extension in hours:** East Ayrshire, Orkney, Shetland, West Dunbartonshire, West Lothian, Scottish Borders.

**Licensing boards defining the types of entertainment that would be considered for a late licence:** Aberdeen City, Clackmannanshire, Dumfries and Galloway, Dundee City, Highland.

Only one licensing board has changed its policy position to reduce standard hours. In 2010, Dumfries and Galloway cut closing time by one hour from 2am to 1am in two of its divisional areas in response to representations from the licensing forum and police, highlighting resource difficulties with policing the night-time economy. More recently, Glasgow City Licensing Board announced that it would not be extending closing time for city centre pubs by an hour following consultation on the proposal: “The board acknowledged that there was not any significant support for this proposal during the consultation process and that substantial concerns were expressed by a broad range of interested parties as to the negative impacts in terms of the licensing objectives by increasing the availability of alcohol in that area.”

Having a policy on standard operating hours does not mean that all licensed premises will be granted those hours. However, information on actual licensed hours granted is not made available in policy statements or elsewhere. The lack of relevant information on licensed hours impedes an analysis of whether licensing board policies on operating hours are consistent with promotion of the licensing objectives.

## 5. Overprovision

Licensing boards have a legal duty to assess the extent to which they consider there is overprovision of licensed premises, or licensed premises of a particular type, in their area. A statement on overprovision must be included in their statement of licensing policy. In deciding whether there is overprovision, licensing boards are required to consider the number, type and capacity of licensed premises in a locality. Overprovision in an area is one of the grounds for refusing to grant a new premises licence.

Statutory guidance states that licensing boards should ensure that their policy on overprovision is expressed in such a way that “interested parties are left in no doubt as to the reasons for its adoption, including the evidence upon which the board relied and the material considerations which were taken into account.”

## Findings

- In the published 2013 to 2016 policy statements, 10 licensing boards find overprovision of licensed premises to some extent within their area. This is four more than in 2010.
- 5 declare overprovision across a large part of their area.
- 13 licensing boards determine that there is no overprovision of licensed premises in their area.
- 17 licensing boards had not published an overprovision statement by the end of April 2014.
- 8 licensing boards do not provide any explanation of how they reached their decision that there is no overprovision in their area or the evidence they took into account in formulating their policy position.
- 1 licensing policy statement expresses scepticism as to whether there is a causal link between number of premises licences and the incidence of alcohol-related health problems, crime, disorder and anti-social behaviour.

## Discussion

A number of licensing boards suggest difficulties in assessing and determining overprovision. These difficulties appear to centre around two interlinked issues: the relationship between outlet density and alcohol problems, and the standard of evidence required for a licensing board to find an area overprovided.

Policy statements from Clackmannanshire and Moray appear to question the link between numbers of licensed premises in a locality and alcohol-related problems. However, there is a well-established body of scientific evidence showing that increasing alcohol outlets can impact on a range of alcohol-related harms. Evidence in support of restricting the overall availability as a means of minimising alcohol-related harms is in fact far stronger than for other measures licensing boards promote, such as voluntary schemes of bar practice like Best Bar None.<sup>9</sup>

Many research studies, including in Scotland, reveal significant associations between the number of on- and off-licensed premises and rates of alcohol-related hospital admissions, risky and underage drinking, as well as violence and disorder.<sup>10</sup> The repeated findings from these studies are considered by recognised authorities to constitute sufficient evidence to support the general application of policies to regulate the overall availability of alcohol in the public interest. The Global Strategy to Reduce the Harmful use of Alcohol, adopted by consensus by UN Member States in 2005, including the UK, provides for the regulation of numbers and location of on- and off-premises alcohol outlets. In Scotland, the government's national alcohol strategy aims at reducing the overall availability of alcohol in the country, and provisions to regulate the total number licensed premises have been a component of Scottish licensing legislation for the past 30 years.

Applying the evidence to licensing policy and practice, however, appears problematic for some licensing boards, and this situation is not helped by statutory guidance. Statutory guidance specifies that licensing boards, in determining overprovision, should identify "robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached, *always provided that a dependable causal link can be forged between that evidence and the operation of licensed premises in a locality.*" In the years the 2005 Act has been in force, this requirement to demonstrate a causal link has been cited on numerous occasions as a reason why overprovision cannot be established in many instances.

<sup>9</sup> Babor et al (2010) Alcohol: No Ordinary Commodity, Chp 16 Alcohol policies: A consumer's guide.

<sup>10</sup> Alcohol-use disorders: preventing harmful drinking, NICE public health guidance 24, June 2010; Coghill N (2011) One every corner: the relationship between off-licence density and alcohol harm in young people, Alcohol Concern; Neighbourhood structures and crime rates in Glasgow, Go Well, November 2012; Young, R et al (2013) Associations between proximity and density of local alcohol outlets and alcohol use among Scottish adolescents, Health & Place 19 124–130.

It is, however, questionable whether a causal link is the correct standard of evidence to apply in licensing policy and decision-making, where it relates to the grant of new premises licences, increased licensed hours, or extensions in capacity, which are discretionary decisions. Whilst there is a presumption to grant applications for new premises licences under the 2005 Act if none of the grounds for refusal apply, determining whether there are grounds for refusal involves the exercise of a licensing board's judgement. There is no property right in a prospective licence, moreover, in matters of public policy, it is recognised that public authorities have discretion when instituting measures aimed at preventing harm and preserving public order. To date, when the legality of such measures has been tested in court, the standard of evidence applied is not causality, but what is reasonable based on the evidence.

In 2012, a sheriff court ruling upholding the decision of a licensing board to refuse an application for a new premises licence summarised the board's reasons as: "the existence of too many licensed premises leads to an undue availability of alcohol which, in a residential city-centre area with such socio-economic problems, and on the basis of ordinary experience, is liable to lead to public nuisance and disorder and public health issues." This, in the sheriff's opinion, was a 'logical and reasoned position'. Other public policy examples include the tobacco display ban in Scotland and a ban on alcohol marketing in France. Legislation enacting both these measures has been challenged and upheld by the UK Supreme Court and the European Court of Justice respectively.<sup>11</sup> The standard of evidence used to support bans on tobacco and display and alcohol marketing is of the same standard and scope as the evidence available to licensing boards in support of restrictions on numbers of licensed premises.

Licensing boards are administrative bodies with discretionary power. The standard of evidence applied by a licensing board to its policy and decision-making should be appropriate to its role as a regulator, and statutory guidance should be reviewed and amended to assist in the proper interpretation of use of evidence to support effective licensing practice.<sup>12</sup>

### Policy statement examples

**Edinburgh City:** In its 2013 policy statement, Edinburgh Licensing Board categorised seven localities within its area as 'areas of special concern' with regard to the number of licensed premises. However, unlike overprovision, the term 'areas of special concern' is not defined in the legislation and is not a specific reason for refusing to grant a new premises licence. Current indications are that this categorisation has little meaning in practice. Edinburgh's policy statement has been in force for five months and the licensing board has granted 11 (up until end of April) new premises licences in its areas of special concern.

**West Dunbartonshire:** West Dunbartonshire Licensing Board adopted a 'refinement' to its overprovision policy in 2013 to allow it to consider the health benefits with regard to increased employment opportunities in relation to applications for new premises licences. The policy states that this is a "...factor that an applicant may be able to use to rebut the current strict presumption (against grant in certain categories of premises in intermediate data zone areas deemed overprovided for) in the board's policy, where those benefits outweigh any likely harm." A legal opinion commissioned by Alcohol Focus Scotland, however, considers this refinement to West Dunbartonshire's overprovision policy to be unlawful. According to the legislation, the purpose of the policy statement is to set out a licensing board's policy with "respect to the exercise of their functions under this Act" (Licensing (Scotland) Act 2005). The licensing objectives are not freestanding, but must be pursued through the regulation of the sale of alcohol and licensed premises, which is the function of a licensing board. There is nothing in the 2005 Act to suggest that it is a function of a licensing board to promote employment or the positive health benefits of employment.

<sup>11</sup> [http://supremecourt.uk/decided-cases/docs/UKSC\\_2012\\_0066\\_Judgment.pdf](http://supremecourt.uk/decided-cases/docs/UKSC_2012_0066_Judgment.pdf). C-262/02 <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-262/02>

<sup>12</sup> In England, the UK government amended statutory guidance to the Licensing Act 2003 to lower the evidential hurdle for cumulative impact policies, allowing licensing authorities to have more control over outlet density and to give greater weight to the views of local people. <https://www.gov.uk/government/policies/controlling-the-sale-and-supply-of-alcohol>

## 6. Children's access

With the introduction of the 2005 Act, rules covering children's access to licensed premises changed. The system of children's certificates that existed under the previous regime was discontinued. Children's access and the hours they are allowed into licensed premises are now set out in individual operating plans.

### Findings

- All published policy statements except one 'welcome' family-friendly premises and encourage licence applications seeking to accommodate children.
- Most policy statements indicate a range of conditions for operators seeking to accommodate children in order to protect children from harm. These mainly cover issues of health and safety, provision of suitable facilities, children's menus, staff training etc.
- A minority of statements indicate a terminal hour for younger children to be present on licensed premises, and some restrict children's access to licensed premises for the primary purpose of consuming a meal.
- Nearly all policy statements include a standard condition that children should not be exposed to incidents of violence or disorder, and several express concerns in relation to gambling activities and adult entertainment, but very few recognise exposure to alcohol consumption as a possible risk factor for children.

### Discussion

It is not the responsibility of a licensing board to promote or develop the licensed trade. It therefore seems questionable whether it is the place of a licensing board to encourage children's access to licensed premises as a matter of policy. Only Stirling Licensing Board adopts a neutral position on this point stating that "[w]here premises elect to allow children and young persons onto the premises, they need to ensure that they are protected from harm and are catered for appropriately." It may be more appropriate for licensing boards to confine their role to deciding whether children should be permitted onto licensed premises and under what conditions.

Whilst many conditions listed in policy statements are evidently concerned with ensuring a child's physical safety in a licensed premises, there appears to be much less awareness of the influence that being in a licensed premises may have on children's knowledge and attitudes towards alcohol. As documented in many research studies,<sup>13</sup> even very young children have expectations and understandings of the social uses of alcohol. Children's attitudes towards alcohol are shaped by the drinking behaviour of those they see around them. What they observe and experience in relation to alcohol consumption will influence their likelihood to drink and their drinking practices. This being the case, it is important that measures are put in place to ensure that children admitted to on-licensed premises are not exposed to harmful drinking practices.

Dundee City recognises the need to prevent young people's exposure to harmful influences, including "excessive alcohol consumption". Dumfries and Galloway suggest that licence holders should consider adopting a policy "whereby a limit is placed on the amount of alcoholic drinks served to those adults in charge of children or young persons."

13 Velleman, R (2009) Children, young people and alcohol: how they learn and how to prevent excessive use, Joseph Rowntree <http://www.jrf.org.uk/publications/young-people-alcohol-excessive-prevention>

Arguably the scope of this measure should be widened to place licensed premises admitting children under an obligation to ensure that no drunken patrons are allowed onto the premises, and that no adult on the premises (not just adults in charge of children) is served to the point of intoxication.

Consideration may also need to be given to policies regarding early morning hours. Some licensing boards indicate that they may be willing to grant early opening for premises serving food and tourists. However, it is questionable whether it can ever be in the best interests of children and young people to be in a licensed premises for breakfast and observe people drinking alcohol at 8am, 9am and 10am.

#### Policy statement examples

**Licensing boards expressing concern about granting access to a licensed premises where the supply of alcohol is the primary purpose of the premises:** Angus, Glasgow City.

**Licensing boards restricting children's access to restaurants, or to premises for the primary purpose of consuming food:** Dundee, East Ayrshire, West Dunbartonshire, Scottish Borders.

**Licensing boards indicating a terminal hour for children to be in a licensed premises:** Glasgow – 9pm (bar areas), Inverclyde – 8pm (extended to 11pm in case of restaurants or if attending function), Highland – 10pm (for children under 16 in any room with bar counter), Moray – 8pm (indicated for younger children), Stirling – 8pm, Dundee – 10pm (except for pre-booked/ticketed event).

**Licensing boards specifying that children should not sit at a bar counter:** Highland, Stirling, East Lothian.

## 7. Occasional licences

An occasional licence allows the temporary sale of alcohol in a place that is normally unlicensed. Voluntary organisations and members clubs are limited in the number of occasional licences they can be granted in a twelve-month period.

#### Findings

- Some policy statements simply repeat the basic rules covering the process of issuing an occasional licence.
- Some provide guidance as to the kinds of occasions that will be considered for the grant of an occasional licence, such as birthdays, weddings and fundraising events, and a few indicate that a training qualification will be required in certain circumstances.
- Only a handful of policy statements provide statistics on the number of occasional licences granted and only one provides statistics over consecutive years.
- No policy statement includes information on the types of occasions that occasional licences were granted for.

### Discussion

Occasional licences add to availability of alcohol in an area and can impact on the licensing objectives. However, as is the case with premises licences and licensed hours, very little information is provided about the number of occasional licences granted.

Community members may have views on the type of events that should be licensed in their area, as well as the total number of occasional licences granted. A recent report generated a lot of publicity and debate when it showed that primary schools in England and Wales applied to serve alcohol on more than 8,000 occasions.<sup>14</sup> Informed discussion on the uses of occasional licences in Scotland and the number that are granted, and consequently whether licensing board policies covering occasional licences are appropriate for achieving the licensing objectives, requires statistics on occasional licences to be made available.

## 8. Operating conditions to promote the licensing objectives

Legislation specifies a number of mandatory operating conditions that apply to all licensed premises, and licensing boards can impose their own additional local conditions.

### Findings

- Many policy statements indicate a range of factors licensed premises should take into account in the promotion of each of the licensing objectives, and provide example measures that can be implemented.
- Many measures appear relevant to the purpose of licensing, such as age verification schemes to prevent underage alcohol purchasing. However, in some instances the connection to the sale of alcohol is not clear.

### Discussion

Statutory guidance advises that policy statements avoid duplication with other regulatory regimes. Health and safety law for example applies to all businesses and is not particular to licensed premises. However, some conditions listed in policy statements under the licensing objectives headings, such as regular testing of appliances and systems appear to be general health and safety measures, which do not fall within the remit of a licensing board. Licensing objectives, although written in general terms, are not freestanding. Securing public safety is not securing public safety in general, but specifically in relation to the sale of alcohol.

In terms of promoting the licensing objective of protecting and improving public health, almost all policy statements suggest licensed premises make information available regarding recommended drinking guidelines, using drink mats and posters, and warnings of the effects of 'excessive' alcohol consumption and where to get help. The degree of compliance with this suggested operating condition is not clear however.

Measures included in a policy statement that are rarely, if ever, implemented could give the impression of action when none is being taken. It would therefore seem worthwhile for licensing boards to periodically evaluate levels of compliance or uptake of recommended operating conditions and consider stronger enforcement where necessary or appropriate.

<sup>14</sup> <http://www.theguardian.com/society/2014/mar/08/ban-alcohol-primary-school-events-swanswell>



## Conclusions

The introduction of statements of licensing policy in the 2005 Act, together with the licensing objectives, was intended to give the licensing system more direction and purpose. A complaint about the previous licensing regime was that it was overly-bureaucratic and lacked a clear and consistent philosophy.<sup>15</sup> The new requirement for licensing boards to formulate a statement of licensing policy was considered to represent a sea change in the way the licensing system would operate. Instead of being reactive and application-driven, licensing would be guided by policy and aimed at achieving the licensing objectives. However, four years after the 2005 Act came into full force, and seven years since the first policy statements were produced, indications are that there is still some way to go for this ambition to be fully realised.

In some areas, policy statements for 2013 to 2016 show notable progression and development from those published in 2010. Six or seven demonstrate to varying degrees the potential for policy statements to support a more strategic approach to promoting the licensing objectives. These statements attempt to place licensing policy in context, provide explanations for policy positions, refer to supporting evidence, and acknowledge and reflect the views of consultees in the formulation of policy. Increased levels of engagement between different licensing stakeholders have also been observed in a number of places during the policy preparation process. Overall, however, it is a mixed picture.

Analysis of policy statements suggests there is a continued emphasis on the administration of the system, rather than what it is there to achieve. Statements contain a lot of information on licensing processes and procedures, but in many cases say remarkably little about policy. Important policies on overprovision and licensed hours are presented with limited or very often no explanation of the reasons for the policy approach, or the evidence underpinning it. Many policy statements are devoid of contextual information on how the licensing system operates in an area and the nature and scale of alcohol problems, making it difficult to see how the policy positions adopted are relevant for a specific locality and appropriate for achieving the licensing objectives. Standard, formulaic phrases are used to affirm that consultation views have been taken into account, but only in a minority of statements is it evident that stakeholder engagement has been meaningful. In many of the published 2013 to 2016 statements, there is a basic lack of transparency about why a licensing board acts in the way it does.

In terms of policy content, licensing boards appear reluctant to act where they have the power to act in controlling overall numbers of licensed premises, preferring to suggest operating conditions for licensed premises, even in spheres where they have no remit such as general health and safety. Although some licensing boards find that the legislation and the evidence enables them to decide that part or all of their area is overprovided, other licensing boards attest to almost insurmountable practical and legal difficulties in assessing and determining overprovision. Whether these differing positions on overprovision reflect uncertainty in the interpretation and application of the law or guidance, or are attributable to other reasons is not known. One published policy statement expresses scepticism about the link between overall numbers of licensed premises and alcohol-related problems, which raises a question about this particular licensing board's openness to the possibility of finding overprovision in its area. The compatibility of such a publicly expressed view with a licensing board's legal duty to assess and consider overprovision is debatable.

<sup>15</sup> Nicholson Committee report pp 42-43.

Some policy statements display policy development, with policy positions evaluated and amended, as well as a willingness to engage in different methods of consultation to extend public participation. However, in around half a dozen licensing board areas, policy statements produced for 2007, 2010, 2013 are practically identical. As publishing a statement of licensing policy is still a relatively new task for licensing boards, it is understandable for there to be a period of 'bedding-in' as licensing teams become more accustomed to the process of preparing, consulting on and using a policy statement. Nevertheless, it is reasonable to expect licensing boards to demonstrate a commitment to regularly reviewing and developing their policy-making processes, and seeking to improve the quality of published policy statements. Analysis of statements of licensing policy for 2013 to 2016 suggests that there is scope for action in a number of areas.

## Recommended actions

It is the responsibility of a licensing board to prepare and publish a statement of licensing policy, and to ensure that the measures included within it seek to promote the licensing objectives. However, in order to fulfil this task properly, licensing boards need adequate support from local authorities and the Scottish Government. Continued improvement in the standards and quality of licensing policy statements is dependent on commitment and action from all three.

## Transparency, accountability, involvement

One of the main findings from the policy statement review is that there is a lack of transparency in how policies are formulated and how they apply to specific local circumstances. To increase transparency, action should be considered in the following areas:

- Presentation of information

Licensing boards should aim to produce clear and concise policy statements that are accessible to a wide audience. Scottish Ministers should consider revising statutory guidance to direct that policy statements concentrate on policy matters, instead of procedural information. Local authorities should provide additional support to licensing boards to produce easy-read or summary versions of their policy statements.

- Use of evidence

All policy statements should demonstrate the evidence on which policy positions are based. Local knowledge should be specified. Explaining the reasons for a licensing board's approach and linking the evidence to the policy position adopted, makes the policy statement more accessible and understandable, and is required for proper scrutiny and accountability.

- Publication of licensing data

Publication of detailed licensing data is necessary to understand how licensing decisions impact on alcohol problems in a local area. Licensing boards should work towards publishing a detailed set of licensing statistics to enable effective monitoring and review of the licensing system, and production of a policy statement that is relevant to local circumstances. Local authorities should provide the necessary technical and administrative support to licensing teams to record, collate and report on a comprehensive licensing data set.

- Consultation

Licensing boards should encourage active participation in the policy consultation process. Consideration should be given to ways of increasing stakeholder engagement, by writing a more accessible statement and/or using different consultation methods. Consultation responses should be made public. Licensing boards should commit to providing feedback on how and where consultation views have been taken into account.

## Policies to promote the licensing objectives

Greater openness and transparency in how policies are formulated is needed before an assessment can be made of whether policy measures adopted are appropriate and sufficient to achieve the licensing objectives. However, one issue that clearly emerges from the policy statement review is the uncertainty in interpreting and using evidence in determining overprovision. This requires clarification if the legislative provisions are to be implemented properly.

- Overprovision

Scottish government should review statutory guidance and clarify the standard of evidence that applies to overprovision policy and decision-making and advise on the interpretation and use of that evidence.

## Appendix 1

The due date for publication of policy statements for 2013 to 2016 was 30 November 2013. All statements published by the end of April 2014 were included in Alcohol Focus Scotland's review and analysis.

Licensing policy statement	Published by end April 2014	Overprovision statement included	
Aberdeenshire Central & South	No	No	
Aberdeenshire North	No	No	
Aberdeen City	Yes	Yes	<a href="http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=56156&amp;SID=1146">http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=56156&amp;SID=1146</a>
Angus	Yes	Yes	<a href="http://www.angus.gov.uk/atoz/laliquorforms2005/statementoflicensingpolicy2005.pdf">http://www.angus.gov.uk/atoz/laliquorforms2005/statementoflicensingpolicy2005.pdf</a>
Argyll & Bute	No	No	
Clackmannanshire	Yes	Yes	<a href="http://www.clacksweb.org.uk/document/2782.pdf">http://www.clacksweb.org.uk/document/2782.pdf</a>
Dumfries & Galloway - Nithsdale	Yes	Yes	<a href="http://www.dumgal.gov.uk/CHttpHandler.ashx?id=331&amp;p=0">http://www.dumgal.gov.uk/CHttpHandler.ashx?id=331&amp;p=0</a>
Dumfries & Galloway - Stewartry	Yes	Yes	As above
Dumfries & Galloway - Wigtown	Yes	Yes	As above
Dumfries & Galloway - Annandale & Eskdale	Yes	Yes	As above
Dundee	Yes	No	Not found on Dundee City website
East Ayrshire	Yes	Yes	<a href="http://www.east-ayrshire.gov.uk/Resources/PDF/Draft-Statement-of-Policy-2013-16.pdf">http://www.east-ayrshire.gov.uk/Resources/PDF/Draft-Statement-of-Policy-2013-16.pdf</a>
East Dunbartonshire	No	No	
East Lothian	Yes	Yes	<a href="http://www.eastlothian.gov.uk/downloads/file/7462/east_lothian_licensing_board_statement_of_licensing_policy_2013_to_2013">http://www.eastlothian.gov.uk/downloads/file/7462/east_lothian_licensing_board_statement_of_licensing_policy_2013_to_2013</a>
East Renfrewshire	No	No	
Edinburgh	Yes	Yes	<a href="http://www.edinburgh.gov.uk/downloads/file/3083/licensing_board_policy_november_2013">http://www.edinburgh.gov.uk/downloads/file/3083/licensing_board_policy_november_2013</a>
Falkirk	No	No	
Fife	Yes	No	<a href="http://www.fifedirect.org.uk/publications/index.cfm?fuseaction=publication.pop&amp;pubid=C6CAA39F-C346-7D54-A1210AEC18C73830">http://www.fifedirect.org.uk/publications/index.cfm?fuseaction=publication.pop&amp;pubid=C6CAA39F-C346-7D54-A1210AEC18C73830</a>
Glasgow	Yes	Yes	<a href="http://www.glasgow.gov.uk/CHttpHandler.ashx?id=17578&amp;p=0">http://www.glasgow.gov.uk/CHttpHandler.ashx?id=17578&amp;p=0</a>
Highland	Yes	Yes	<a href="http://www.highland.gov.uk/downloads/file/3743/highland_licensing_board_policy_statement_2013-16">http://www.highland.gov.uk/downloads/file/3743/highland_licensing_board_policy_statement_2013-16</a>
Inverclyde	Yes	Yes	<a href="http://www.inverclyde.gov.uk/law-and-licensing/licensing-alcohol/licensing-board-policy-statement">http://www.inverclyde.gov.uk/law-and-licensing/licensing-alcohol/licensing-board-policy-statement</a>
Midlothian	Yes	No	<a href="http://www.midlothian.gov.uk/downloads/file/3862/licensing_board_policy_2013__2016_draft">http://www.midlothian.gov.uk/downloads/file/3862/licensing_board_policy_2013__2016_draft</a>

Licensing policy statement	Published by end April 2014	Overprovision statement included	
Moray	Yes	Yes	<a href="http://www.moray.gov.uk/downloads/file90211.pdf">http://www.moray.gov.uk/downloads/file90211.pdf</a>
North Ayrshire	Yes	Yes	<a href="http://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/licensing-board.aspx">http://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/licensing-board.aspx</a>
North Lanarkshire	Yes	Yes	<a href="http://www.northlanarkshire.gov.uk/CHttpHandler.ashx?id=4867&amp;p=0">http://www.northlanarkshire.gov.uk/CHttpHandler.ashx?id=4867&amp;p=0</a>
Orkney	Yes	Yes	<a href="http://www.orkney.gov.uk/Files/Law-and-Licensing/Licensing-Board/Policies/OIALBAcoholLicensingPolicyStatement2013.pdf">http://www.orkney.gov.uk/Files/Law-and-Licensing/Licensing-Board/Policies/OIALBAcoholLicensingPolicyStatement2013.pdf</a>
Perth	No	No	
Renfrewshire	Yes	No	<a href="http://www.renfrewshire.gov.uk/wps/wcm/connect/51420af7-f371-4cd4-a14a-21d848c67319/cs-ae-RevisedStatementofLicensingPolicy2013-2016.pdf?MOD=AJPERES">http://www.renfrewshire.gov.uk/wps/wcm/connect/51420af7-f371-4cd4-a14a-21d848c67319/cs-ae-RevisedStatementofLicensingPolicy2013-2016.pdf?MOD=AJPERES</a>
Scottish Borders	Yes	Yes	<a href="http://www.scotborders.gov.uk/downloads/file/7206/scottish_borders_licensing_board-policy_statement">http://www.scotborders.gov.uk/downloads/file/7206/scottish_borders_licensing_board-policy_statement</a>
Shetland	Yes	Yes	<a href="http://www.shetland.gov.uk/about_introduction/documents/StatementofLicensingPolicyNov2013-Nov2016.pdf">http://www.shetland.gov.uk/about_introduction/documents/StatementofLicensingPolicyNov2013-Nov2016.pdf</a>
South Ayrshire	Yes	Yes	<a href="http://www.south-ayrshire.gov.uk/licensing/policy.aspx">http://www.south-ayrshire.gov.uk/licensing/policy.aspx</a>
South Lanarkshire -Rutherglen/Cambuslang	No	No	
South Lanarkshire - East Kilbride	No	No	
South Lanarkshire - Hamilton	No	No	
South Lanarkshire - Clydesdale	No	No	
Stirling	Yes	No	<a href="http://www.stirling.gov.uk/_documents/temporary-uploads/economy,-planning-_and_-regulation/licensingpolicyfinal.pdf">http://www.stirling.gov.uk/_documents/temporary-uploads/economy,-planning-_and_-regulation/licensingpolicyfinal.pdf</a>
West Dunbartonshire	Yes	Yes	<a href="http://www.west-dunbarton.gov.uk/media/3181389/licensing_policy_statement_november_2013_2016.pdf">http://www.west-dunbarton.gov.uk/media/3181389/licensing_policy_statement_november_2013_2016.pdf</a>
West Lothian	Yes	No	<a href="http://www.westlothian.gov.uk/media/downloadaddoc/1799499/1842140/boardpolicy">http://www.westlothian.gov.uk/media/downloadaddoc/1799499/1842140/boardpolicy</a>
Western isles	Yes	Yes	<a href="http://www.cne-siar.gov.uk/licensing/documents/Licensing%20Policy.pdf">http://www.cne-siar.gov.uk/licensing/documents/Licensing%20Policy.pdf</a>

## Appendix 2

### Consultation process

**Consultations to which Alcohol Focus Scotland submitted a response:** Glasgow City, Edinburgh, Orkney, West Dunbartonshire, Aberdeenshire (Central & South/North), Scottish Borders, East Dunbartonshire, East Lothian, Moray, Perth, Dumfries and Galloway.

**Licensing boards that responded to Alcohol Focus Scotland's request for further information on consultation processes:** Angus, Dumfries and Galloway, Edinburgh, Orkney, Glasgow City.

Through submission to consultation exercises and additional information provided by five licensing boards, Alcohol Focus Scotland gained insight into a total of thirteen out of a possible 36 policy consultations.

- 3 of the 13 boards circulated the old or existing policy statement inviting open comment.
- 5 of the 13 boards circulated new draft policies for comment.
- 5 of the 13 boards circulated questionnaires on specific aspects of licensing policy.

Of the five licensing boards that provided additional information on their consultation processes, two had adopted a multi-phased approach: Dumfries & Galloway and Glasgow City. Dumfries & Galloway distributed an initial questionnaire seeking views on overprovision, taking into account a detailed report submitted by the local Alcohol Licensing Information Group, and on proposals to improve the previous licensing policy. Based on the responses they received to the initial questionnaire, twenty-five proposals were developed for further consultation along with more detailed consideration of areas identified as being potentially overprovided for. The distribution of the consultation was done via letters to key stakeholders, advertising in local newspapers and on posters distributed in the local area and via the council website. People could respond using online or hard-copy questionnaires. This approach resulted in the highest level of public response observed among those boards that submitted additional information about their consultation process with 66 responses to the first phase and 18 responses to the second phase.

Glasgow Licensing Board also adopted a phased approach with a 'pre-consultation' exercise comprising the distribution of a questionnaire on specific parts of the policy, face-to-face evidence sessions with individuals and organisations that responded to the pre-consultation, followed by a final consultation on a draft policy based on the evidence and information gathered during the first two phases. The licensing board also undertook site visits to all proposed overprovision localities. This overall approach also resulted in a relatively high response rate in comparison with other parts of Scotland. The evidence sessions were held with 12 individuals or organisations and the final consultation attracted 42 responses.

The remaining three boards that submitted additional information on their consultation achieved response rates as follows:

- Angus Licensing Board: 7 responses
- Edinburgh Licensing Board: 23 responses
- Orkney Licensing Board: 13 responses

In addition to requesting further information about the consultation process from licensing clerks, Alcohol Focus Scotland also conducted telephone interviews with key licensing stakeholders in two case study areas: Edinburgh and the Scottish Borders. The interviews explored participants' experience of the licensing policy process in 2012/13. In both areas an improvement in the policy development process since 2010 was noted by interviewees with particular reference to wider engagement and consultation with stakeholders, and the availability of more robust evidence to inform the policy. However, the impact on policy and decision-making of the perceived improvement in process varied between the two areas.<sup>16</sup> In Edinburgh, stakeholders involved in the preparation of both the 2010 and 2013 policy statements reported that the consultation process for the 2013 policy statement had been wider, with some good responses submitted. However, some key stakeholders believed that the licensing board had not acted on the information received and expressed disappointment and frustration that health and police evidence provided was not given serious consideration.

<sup>16</sup> Mahon L & J Nicholls, Using licensing to protect public health: From evidence to practice, June 2014. [www.alcoholresearchuk.org](http://www.alcoholresearchuk.org)

## Appendix 3

### Licensed Hours

Summary of standard operating hours for pubs

Licensing board	Standard opening hour	Early opening (where specified)	Standard closing hours
Aberdeen City	10am		12 midnight outwith city centre. 2am within city centre, 3am Fri/Sat.
Aberdeenshire North	Policy not published		
Aberdeenshire Central and South	Policy not published		
Angus	11am		Midnight Sun-Thurs, 1am Fri-Sat. Entertainment venues/Nightclubs: midnight Sun-Thurs; 2am Fri-Sat
Argyll and Bute	Policy not published		
Clackmannanshire	11am		Midnight Sun-Thurs, 1am Fri-Sat. Entertainment venues: 1am Sun-Thurs; 2am Fri-Sat
Comhairle nan Eilean/ Western Isles	11am, 12.30 on Sunday, 7.30am for Stornoway airport		11pm Sun-Weds, 1am Thurs, 1.45am Fri, 1am Sat
Dumfries and Galloway - Annandale and Eskdale	11am		11pm Sun-Weds, 12midnight Thurs-Sat/1am with function room.
Dumfries and Galloway - Stewartry	10.30am		Midnight, 1am for functions.
Dumfries and Galloway - Nithsdale	11am		1am, 2am with entertainment.
Dumfries and Galloway - Wigtown	11am		11.30pm Sun-Weds, Midnight Thurs-Sat. Premises with entertainment 12.30 Sun-Weds, 1am Thurs-Sat.
Dundee City	13 hours continuous opening		12 midnight Sun-Thurs, 1am Fri-Sat, 2am if provide entertainment.
East Ayrshire	11am	10am	12 midnight Sun-Weds, 1am Thurs-Sat.
East Dunbartonshire	Policy not published		
East Lothian	11am		11pm Mon-Weds, 1am Thurs-Sat, 12 midnight Sun
East Renfrewshire	Policy not published		
Edinburgh	9am, Sunday 11am		1am. Premises offering food or entertainment 3am.
Falkirk	Policy not published		
Fife	10am		Midnight Sun-Thurs, 1am Fri-Sat.
Glasgow	11am		Midnight Mon-Sun, 1am for premises with function suite/entertainment
Highland	11am	9am	1am
Inverclyde	11am, 12.15 on Sunday		Midnight Mon-Weds, 1am Thurs, 1.30am Fri-Sat, midnight Sun



Licensing board	Standard opening hour	Early opening (where specified)	Standard closing hours
Midlothian	11am		1am.
Moray	11am		Considers applications for up to 15 hours opening in any 24 hour period
North Ayrshire	11am	10am	Midnight Sun-Weds, 1am Thurs-Sat.
North Lanarkshire	11am		Midnight Sun-Thurs, 1am Fri-Sat.
Orkney	10am	9am	Midnight Sun- Weds, 1am Thurs-Sat.
Perth and Kinross	Policy not published		
Renfrewshire	11am		Midnight Sun-Thurs, 1am Fri-Sat.
Scottish Borders	11am		Midnight Sun-Thurs, 1am Fri-Sat.
Shetland	11am		1am
South Ayrshire	10am		Considers applications for up to 14½ continuous hours.
South Lanarkshire - Rutherglen/ Cambuslang	Policy not published		
South Lanarkshire - East Kilbride	Policy not published		
South Lanarkshire - Hamilton	Policy not published		
South Lanarkshire - Clydesdale	Policy not published		
Stirling	11am		Midnight Sun-Thurs, 1am Fri-Sat
West Dunbartonshire	11am	10am	Midnight Sun-Thurs, 1am Fri-Sat.
West Lothian	11am		Midnight Sun-Weds, 1am Thurs-Sat.

## Appendix 4

### Overprovision policies

Licensing board	Overprovision Yes/No	Extent	Type of overprovision identified	Premises licences in force, March 2013 <sup>17</sup>	New premises licences granted 2012/13	Premises licences refused 2012/13
Aberdeen City	Yes	Widescale	On-sales premises within 2 localities in the city: Belmont Street and Langstane Place/Windmill Brae/Bridge Place. Off-sales within the whole city, except 2 localities.	638	27	0
Aberdeenshire North	Policy not published			632	24	0
Aberdeenshire Central and South	Policy not published					
Angus	No			324	13	0
Argyll and Bute	Policy not published			597	20	0
Clackmannanshire	No			134	0	0
Comhairle nan Eilean/Western Isles	Yes	Limited	Vertical drinking establishments in Stornoway town centre	100	0	0
Dumfries and Galloway - Annandale and Eskdale	No			635	13	0
Dumfries and Galloway - Stewartry	No					
Dumfries and Galloway - Nithsdale	No					
Dumfries and Galloway - Wigtown	Yes	Limited	Off-sales premises within central Stranraer			
Dundee City	Policy not published			423	10	1
East Ayrshire	No			320	2	0
East Dunbartonshire	Policy not published			184	4	0
East Lothian	Yes	Widescale	Licensed premises across the whole area.	292	0	0
East Renfrewshire	Policy not published			164	0	0
Edinburgh	Yes	Limited	Licensed premises in the Grassmarket, Cowgate areas and streets leading into these main thoroughfares.	1725	67	1
Falkirk	Policy not published			365	7	0

<sup>17</sup> Liquor licensing statistics Scotland 2012/2013, Scottish Government statistical bulletin. <http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/PubLiquor>

Licensing board	Overprovision Yes/No	Extent	Type of overprovision identified	Premises licences in force, March 2013	New premises licences granted 2012/13	Premises licences refused 2012/13
Fife	Policy not published			1043	8	0
Glasgow	Yes	Fairly limited	Licensed premises in 8 (out of 133) intermediate datazone localities: Calton, Gallowgate and Bridgeton; Carntyne West Haghill; Govan and Linthouse; Ibrox; Laurieston and Tradeston; Parkhead West and Barrowfield; Shettleston North; Whiteinch.	1745	21	6
Highland	Yes	Widescale	Overprovision of larger-capacity off-sales across whole area (more than 40m sq capacity)	1212	18	0
Inverclyde	Yes	Limited	Licensed premises in Greenock town centre	205	3	0
Midlothian	Policy not published			197	0	0
Moray	No			313	3	0
North Ayrshire	Yes	Widescale	Licensed premises across the whole area.	401	8	2
North Lanarkshire	No			705	13	0
Orkney	No			112	0	0
Perth and Kinross	Policy not published			584	3	0
Renfrewshire	Policy not published			416	17	2
Scottish Borders	No			468	0	0
Shetland	No			140	1	0
South Ayrshire	No			429	12	0
South Lanarkshire - Rutherglen/Cambuslang	Policy not published			700	13	0
South Lanarkshire - East Kilbride	Policy not published					
South Lanarkshire - Hamilton	Policy not published					
South Lanarkshire - Clydesdale	Policy not published					
Stirling	No			399	12	0
West Dunbartonshire	Yes	Widescale	Licensed premises in 17 out of 18 sub-localities.	241	2	0
West Lothian	Policy not published			394	11	0



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## JOINT MEETING – LOCAL LICENSING FORUM AND LICENSING BOARD

ABERDEEN, 3 July 2014. Minute of Meeting of the JOINT MEETING - LOCAL LICENSING FORUM AND LICENSING BOARD. Present:- Alexander Kelman, Convener; Councillors Boulton, Carle, Lawrence and Townson; and Ruary Campbell, Ken Eddie, Tara-Erin Gilchrist, Inspector Jim Hume, Shamini Omnes (as substitute for Linda Smith), Emily Queen and Diane Sande. Officers in attendance:- Eric Anderson, Lynn May and Stephanie Dunsmuir.

### WELCOME AND INTRODUCTIONS

1. The Convener welcomed everyone to the annual joint meeting of the Licensing Board and the Local Licensing Forum. He advised that as the Convener of the Licensing Board had chaired the previous year's meeting, it was the turn of the Local Licensing Forum Convener to chair today's meeting.

### MINUTE OF PREVIOUS MEETING

2. The Joint Meeting had before it the minute of its previous meeting of 27 June 2013.

In relation to article 5(2) - Equalities Act 2010, it was noted that the text should read 'the Board has replaced three policies (**race**, disability and gender)' and not 'the Board has replaced three policies (**rule**, disability and gender) as set out in the minute.

#### The Joint Meeting resolved:-

subject to the amendment of article 5(2) as outlined above, to approve the minute as a correct record.

### MATTERS ARISING

3. The Convener referred to article 8 of the minute of the previous meeting (Door Supervisors' Working Group) and asked if there was any update. Eric Anderson advised that the Working Group had held several meetings, but there had been difficulty getting the necessary information from the licensed trade in relation to the number of door supervisors employed at each premises. He added that imposing a condition in relation to the number of door supervisors would also have involved review hearings for the particular premises involved. The Working Group had therefore considered that the issue had been investigated as far as possible. Councillor Boulton added that the licensed trade had given the impression that they felt it was an operational matter for them to take forward, and that they recognised that if a problem arose as a result of a lack of door supervisors, may have a detrimental impact on their licence. Inspector Hume agreed, and advised that national advice had been sought, however there was no onus on the Licensing Board to dictate the number of

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supervisors employed. The Security Industry Authority (SIA) was looking nationally to develop a policy in relation to risk assessment for premises. The Police were in contact with the National Licensing Policy Unit to see how they could assist, and Inspector Hume advised that this this could be reported back to either the Licensing Board or the Local Licensing Forum in due course.

Finally, Inspector Hume advised that the Police had recently given a presentation to both the licensed trade and the Local Licensing Forum on how Police Scotland was operating with licensed premises, and suggested that the Licensing Board might also find the presentation to be of interest, as it gave clarity on how the Police took decisions.

**The Joint Meeting resolved:-**

- (i) to note the update in relation to the Door Stewards' Working Group, and the fact that the issue had been taken as far as it could be at present; and
- (ii) to note the Police suggestion to give a presentation to the Licensing Board, at a date to be arranged.

**STATEMENT OF LICENSING POLICY 2013-2016**

**GENERAL OBSERVATIONS**

4. The Convener began by welcoming the finalised Statement of Licensing Policy, particularly the sections on over-provision and off-sales, as he noted that few Licensing Boards had included this in their policies. He added that the Forum had felt that the Policy could have been more aspirational, and not simply tied to legislation. The Forum had recognised the time pressures involved in preparing the new Policy but had felt that much of the Policy had been lifted from the last document, as opposed to taking a fresh look at how it could operate. The Convener suggested that the Board and the Forum work together over the next couple of years on the next version of the Policy, particularly as there would be new legislation coming forward. Finally, the Convener advised that the Forum had noted some inaccuracies and layout errors.

Councillor Townson expressed a view that the Policy could potentially be more aspirational, particularly in relation to off-sales. Councillor Boulton added that the Policy was in a 'bedding-in' period and that was important to strike the right balance with the licensed trade. She hoped that the Policy came across as constructive, and noted that it would evolve through legislation and input from the Local Licensing Forum. Councillor Boulton suggested that the inclusion of an aspirational statement could be considered by the Board and officers.

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The Convener agreed with the importance of working with the licensed trade, and added that he was delighted that the Forum had recently appointed Ruary Campbell of UNIGHT as its Vice Convener. He added that it was still difficult to establish links with supermarkets.

**The Joint Meeting resolved:-**

to note the comments made in respect of the Statement of Licensing Policy.

**OBSERVATIONS ON USE OF THE POLICY IN PRACTICE**

5. The Convener asked the Board if they had any comments on how the Policy operated in practice. Councillor Boulton commented that there were occasions when applications which appeared on the surface to elicit straightforward decisions proved to be more complicated upon consideration. She advised that the Board frequently referred to the Policy as their starting point for many decisions. Further training was to be given to members of the Licensing Board later in the year.

Councillor Boulton referred to the objections made to applications by the Police and the NHS, and suggested that the Board would find it particularly helpful if the submissions contained more area-specific information – for example, the number of incidents in that area, or the number of admissions to Accident and Emergency which were alcohol related. The Convener added that although the submissions could include more local information, evidence showed that people would often travel several miles to purchase alcohol, for example, at a supermarket, so this would also need to be taken into consideration. Shamini Omnes advised that the NHS was starting to work with local communities to discuss where alcohol purchases were being made. Councillor Carle agreed that it was helpful to receive localised data which would back up the Policy and link to the Licensing Objectives.

Ruary Campbell suggested that the data should already have been used to determine where there was over-provision. It was explained that occasions might arise where additional data could be relevant.

Inspector Hume highlighted recent decisions of the Board, where two premises in the same street had applied for a licence and one had been granted, while the other had not due to over-provision. He advised that the Police had the capacity to break down the number of crimes in a particular area which were alcohol related, however there was a risk that perhaps only one or two premises were affecting the statistics in that area, rather than off-sales. He also asked how 'locality' would be defined – for example, if the locality was defined as the city centre, it would in his view be very unlikely for anyone to be granted a licence based on statistics. Where there were incidents, the alcohol might not have been sourced in that area, and Inspector Hume

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highlighted the issue of ‘pre-loading’, where people would consume alcohol at home prior to going out for the evening. He added that the Licensing Board would require to give clear direction on the information they required for any particular area. It was suggested that a session could be arranged to discuss the type of information the Board would find useful.

It was also agreed that the input of Community Councils was very useful to obtaining more information about the impact of decisions on local areas. The Convener suggested that input could also come from local GP practices.

The Convener referred to section 1.4 of the Statement of Licensing Policy and suggested that the wording “...The pursuit of these five objectives is a principal feature of the Board’s policy. The objectives provide a basis for refusal of an application for the grant of a premises licence or of an occasional licence....” could be amended as follows:-

“The pursuit of these five objectives is a principal feature of the Board’s policy. The objectives provide a basis **for assessment for determination** of an application for the grant of a premises licence or of an occasional licence...”

Councillor Boulton noted what the Convener had said and indicated that she could discuss this with Mr Anderson outwith the meeting.

Councillor Townson referred to alcohol displays in supermarkets, and added that in certain other cities, the displays were closed off to the public. He asked if the Police had undertaken any discussions with supermarkets around their displays. Inspector Hume advised that the Police would have input to supermarket designs from a security perspective, but the manner in which alcohol was displayed seemed to be more an issue for the Licensing Board when they consider the licence application. He added that if there was a specific problem at particular premises, the Police would work with that premises. It was noted that one suggestion was for the purchasing of alcohol in a separately closed off area in supermarkets, however such a scheme would need to be implemented through a change in legislation. Mr Anderson added that this had been one of the matters under consideration by the Government, but had not been carried forward into the new Bill. The Convener advised that the Alcohol and Drugs Partnership would support this approach, as alcohol should not be seen as an ordinary grocery item, and paying for it separately might change the public’s perception of this.

**The Joint Meeting resolved:-**

- (i) to note the request that the Police and the NHS provide more area-specific information for the Licensing Board, and to note that a session could be arranged to enable the Board to provide guidance to partners on the type of information it would find useful; and



**JOINT MEETING – LOCAL LICENSING FORUM AND LICENSING BOARD  
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- (ii) to note the suggestion in relation to changing the wording of 1.4 of the Statement of Licensing Policy (as set out above) and to note that Councillor Boulton and the Clerk to the Licensing Board would discuss this outwith the meeting.

**CHALLENGES**

6. The Joint Meeting noted the challenges faced by the Board with the introduction of the new Policy which had already been discussed. Councillor Boulton highlighted the challenges for the Board in applying the Policy and asked that the Forum allow time for the Policy to bed in, noting that it was a new document and that it worked in a different way to the previous Policy. She added that it was important for there to be trust between the Board, the licensed trade and the consultees.

**GENERAL REASONS FOR ANY DECISIONS BEING MADE CONTRARY TO POLICY**

7. The Convener referred to recent Licensing Board meetings and suggested that it seemed that high volume, low cost sales were the main problem and as a result, high cost, low volume sales would be granted a licence against the policy of over-provision. Mr Anderson advised that there may be occasions when the Board decided that the Policy could be relaxed, or that a licence could be granted with conditions, and that the Board had to assess the evidence before it on a case by case basis. Each application had to be judged on its own merits, against the backdrop of the Policy. Councillor Carle highlighted some positive aspects of the new Policy, noting that agents appearing before the Board more often had to address how the application would promote the Licensing Objectives. The Board had also been imposing more conditions when granting or varying licences.

**EVALUATION OF IMPACT ON POLICY**

8. The Convener referred to the letter sent by the Forum to the Board in April 2013 which suggested how the Policy could be measured and evaluated. He asked how the Board would evaluate the Policy in 2016 against the Licensing Objectives to know if it had been successful. He advised that he and the Clerk to the Licensing Forum had attended a meeting with a representative from Alcohol Focus Scotland where it had become apparent that the Aberdeen policy and the Local Licensing Forum were seen as being good examples in comparison to some of the other Scottish areas. He added that the Forum had recently considered how to measure the impact of the statistics reported to each meeting, as well as the type of information that the Forum should be receiving on a regular basis, and advised that the Forum was to hold a workshop

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session later in the year to discuss this in more detail. Given the earlier discussions, he added that members of the Board were welcome to attend that workshop.

Councillor Boulton noted that simply measuring the number of refusals would not necessarily show the impact of the Policy, and added that the context of a decision may not be adequately reflected by simply looking at statistics, or the conditions imposed. She suggested that the Policy could be measured through other means, such as the retention of the Purple Flag, the relationship between partners, an improved relationship with the media, and the public perception in relation to alcohol. She referred to the previous City Voice questionnaire and suggested this could be run again in future. It was suggested that a measure of the Policy's success could be as straightforward as any adjustments made as a result of the Policy. Councillor Boulton added that input from Community Councils could also contribute to measuring the effect of the Policy.

The Convener referred to the Scottish Government request for statistical information from ADP on "legal highs", and advised that this was set out in a red, amber and green format. He suggested that this might be useful to illustrate statistical information against the five Licensing Objectives. He added that it would be useful to have a snapshot of the current status against the Objectives and then this could be compared against where things were at the end of the Policy's lifespan. He stated that he felt that ADP and the Licensing Forum could support the Board through provision of information and performance data, and suggested that this could be discussed at the workshop to be arranged for later in the year.

**The Joint Meeting resolved:-**

- (i) to note the suggestions around how performance could be measured and evaluated; and
- (ii) to note that the Local Licensing Forum was to hold a workshop session on this topic later in the year and that the date would be conveyed to the Licensing Board.

**AOCB**

**9. UNIGHT**

Ruary Campbell advised that while the media occasionally reported on decisions of the Licensing Board, it was difficult to obtain media interest on positive issues such as the Purple Flag and the work being done by ADP in relation to educational material, and suggested that this could be something for the Board and Forum to look at in future.

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He also asked for an update on the refresher certificates. Mr Anderson advised that all the procedures were in place, and it was now up to licence holders to submit their paperwork for processing. He added that it provided a significant workload for the service and asked that if there were any comments on the process, that these be raised with the team. The general message was that licence holders should communicate with officers and not leave the organisation of their training until nearer the statutory deadlines.

Mr Campbell added that the training had not been updated in the last five years, and suggested that this could be looked at in future. He also added that there were potential issues with the role of premises manager, and that there was no criteria which stipulated any special qualification for premises managers. He had been advised that although some premises had submitted their paperwork, they had yet to receive their certificates.

Mr Anderson advised that although there might be delays in the certificates being received due to the volume of paperwork to be processed, the important factor was for the training to have been undertaken prior to the deadline, so as long as this had been done, licence holders should not be concerned if they did not receive their certificate before the deadline had passed.

Councillor Boulton advised that any special qualification for premises managers would have to be progressed via national legislation. She added that the Licensing Standards Officers could also highlight any concerns to the Board. Inspector Hume noted that there had been issues with the level of management at some premises, and suggested that the Police presentation could be given to a wider audience, through UNIGHT.

### **BEST BAR NONE**

Emily Queen took the opportunity to remind the Joint Meeting of the Best Bar None scheme, highlighting that it showed willingness on the part of premises to work towards best practice. She suggested that the Board could be mindful of this where applications were received from premises who had membership of either UNIGHT or Best Bar None.

### **AIR WEAPONS AND LICENSING BILL**

Eric Anderson updated the Joint Meeting on the above Bill which was proposed to take effect from 2015. He highlighted particular changes to the legislation, including:-

- the creation of a new offence for supplying alcohol to children and young people for consumption in a public place

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- the amendment of Licensing Objective: Protecting Children From Harm to include 'young people'
- a change to the duration of the Statement of Licensing Policy to better align with the term of the Licensing Board
- changes to the "fit and proper person" test
- the removal of the automatic requirement for a hearing
- spent convictions would no longer be disregarded
- it would be the duty of the Licensing Board to prepare an annual financial report
- the removal of the five year restriction in relation to refresher training

Mr Anderson advised that officers would look at the impact of the Bill and identify if any further response was required.

### MEMBERSHIP OF LICENSING FORUM

Councillor Lawrence asked about the off-sales representation on the Local Licensing Forum and suggested that it would be useful if more members of the Forum represented the off sales trade. The Convener advised that it had proved difficult in the past to engage with off-sales retailers.

### ACTIVITIES FOR YOUNG PEOPLE

Ken Eddie suggested that the Council could look to open up venues such as the Beach Ballroom for young people who might not want to go to a liquor licensed premises. The Convener suggested that this proposal would probably be better directed to youth workers, and Councillor Lawrence advised that with the recent changes to community centres, although there were many youth workers who were keen to set up activities for young people, at the moment, the staff and volunteer levels were such that this was proving to be difficult. The Convener thanked Mr Eddie for the contribution and observed that there was evidence that diversionary activities were a contributing factor to avoiding the intake of alcohol.

Finally, the Convener thanked all members for their attendance, and advised that the Clerk to the Licensing Forum would liaise with the Clerk to the Licensing Board about the date of the next annual meeting.

- **ALEXANDER KELMAN, Convener**

## ABERDEEN LOCAL LICENSING FORUM

### PROGRESS STATEMENT – SEPTEMBER 2014

Remit of Local Licensing Forums as set out in the Licensing (Scotland) Act 2005 – keeping under review the operation of the Act in the Forum’s area and in particular the exercise by the Licensing Board of their functions including giving advice and making recommendations to the Board in relation to those matters where the Forum considers it appropriate. The Act does not enable a Forum to review or give advice or make recommendations in relation to the exercise by a Board of their function in relation to a particular case. “Case” is taken to mean an application before a Board and in the interests of natural justice is also taken to mean individual licensed premises. The preferred route for consideration of complaints about the running of licensed premises is to write directly to the Clerk or Depute Clerk to the Licensing Board.

The Licensing (Scotland) Act 2005 requires Licensing Boards in exercising any of their functions to have regard to any advice given or recommendations made to them by a Local Licensing Forum and where the Board decides not to follow the advice or recommendation to give the Forum reasons for that decision, the Board must provide copies of relevant statistical information to the Forum as it may reasonably require for the purposes of its general functions.

Licensing Standards Officers have a general function of providing to interested persons information and guidance concerning the operation of the Act, supervising compliance with the Act and the conditions of their licences by holders of Premises Licences and Occasional Licences and mediate between communities and the trade or between any two parties where there is a need to resolve a local problem and develop a local solution. LSOs do not act as “policemen” with regard to licensing but they will liaise with the police and other relevant officials such as Environmental Health Officers in pursuit of the objectives of the Act.

Item	Meeting Reference	Decision/Action	Update	Responsible Lead	Licensing Objective
1.		<p><b><u>Community Engagement</u></b> Find out from communities what are their areas of concern.</p>	<p>The following was agreed in September 2013 -</p> <ol style="list-style-type: none"> <li>1. Ken Eddie to ask the Civic Forum to discuss ways in which it can offer intelligence</li> </ol>		Securing Public Safety

Item	Meeting Reference	Decision/Action	Update	Responsible Lead	Licensing Objective
			<p>to the Local Licensing Forum on alcohol in the community, with the assistance of a summary document from the Public Health Coordinator, to be supplied by Linda Smith.</p> <p>2. Community Council Liaison Officer asked if community councils can be asked to add to agendas as a standing item – Alcohol in the Community. Sandy Kelman and Linda Smith met with CCLO in October.</p> <p><b>Community Council Liaison Officer will be in attendance at the November LLF meeting.</b></p>		
<b>Items relating to all Licensing Objectives</b>					
4.		<p><b><u>Statistical Information</u></b></p> <p>To receive reports from the Licensing Board containing relevant statistical information.</p>	<p>The Forum and Board will continue to liaise at joint meetings.</p>		All objectives
5.	11 December 2013	<p><b><u>Statement of Licensing Policy</u></b></p> <p>To request a commentary from the Clerk to the Board on all of the Forum recommendations on the Statement of</p>	<p>At its meeting on 23 April 2014, the Forum noted the response from the Clerk and the finalised Statement of Licensing Policy and agreed to raise the issue of moving beyond the</p>	<p>All Clerk for Joint Meeting agenda</p>	All objectives

Item	Meeting Reference	Decision/Action	Update	Responsible Lead	Licensing Objective
6.	19 June 2013	<p>Licensing Policy, indicating if they were accepted or not, and if not, why not.</p> <p><b>Evaluation</b></p> <p>Having looked at the NHS Report evaluating implementation of the Licensing (Scotland) Act 2005, it was agreed to –</p> <ul style="list-style-type: none"> <li>• Receive occasional presentations from members</li> <li>• Look at the production of a leaflet on the work of the Forum</li> <li>• Place agendas on the display boards outside the Town House</li> <li>• Keep the website updated and look to hold more information there.</li> </ul>	<p>bounds of restricted policy (for example, responsibilities to children were not simply confined to the Licensing Objective: Protecting Children from Harm) at the joint meeting with the Licensing Board on 3 July.</p> <p><b>This was discussed at the joint meeting on 3 July. It was hoped that an aspirational statement could be included in the Statement of Licensing Policy.</b></p> <p>Agendas are now displayed outside the Town House to encourage attendance by members of the public.</p> <p><b>At its meeting on 23 April 2014, the Forum noted the draft Forum webpage and suggested that there could also be further engagement with the Civic Forum, and the ACVO bulletin could be used to circulate information.</b></p> <p><b>It was suggested that once the content of the webpage was more detailed, a meeting could be arranged for a future date between</b></p>		All objectives

Item	Meeting Reference	Decision/Action	Update	Responsible Lead	Licensing Objective
			<p>the Convener, the Clerk, Tara-Erin Gilchrist and Karen Riddoch, the Community Council Liaison Officer to discuss how best to establish a link between the Forum and Community Councils.</p> <p>The Community Council Liaison Officer will be in attendance at the LLF meeting in November.</p>		
7.	11 September 2013	<p><b><u>Training Programme</u></b></p> <p>The Forum agreed to the production of a training programme, and that this include in the first instance information sessions on (1) the relevant legislation; (2) personal licences (3) the Alcohol and Drugs Partnership and (4) admissions to Accident and Emergency. It was also agreed that, as there was no training budget, the programme would rely on members and co-optees themselves to provide, and that former member Gerrard Rattray be asked to provide some training on personal licences in the first instance.</p>	<p>Training to be delivered by Tara-Erin Gilchrist and Emily Queen in November.</p>	<p>All Partners</p> <p>George Wyatt to speak to Gerrard Rattray</p>	All objectives
8.	23 April 2014	<p><b><u>Role of Forum / Statistical Information</u></b></p> <p>The Forum considered how the statistical information presented to it</p>	<p>Sandy Kelman, Dave Bliss and Steph Dunsmuir to meet separately outwith the meeting to discuss how to take</p>	<p>Sandy Kelman / Dave Bliss / Steph Dunsmuir</p>	All objectives



Item	Meeting Reference	Decision/Action	Update	Responsible Lead	Licensing Objective
		<p>could be monitored so it could be used to challenge the Licensing Board on its decisions where necessary. Dave Bliss agreed to lead a workshop session (possibly in September) to discuss in more detail. Sandy Kelman, Dave Bliss and Steph Dunsmuir to meet separately outwith the meeting to discuss how to take the matter forward.</p>	<p>the workshop suggestion forward. Sandy would contact Alcohol Focus Scotland to ask them to be involved in the meeting.</p> <p><b>A meeting was held with Linda Bowie and an update will be provided at the LLF September meeting. An update will also be provided on the workshop session at the meeting.</b></p>		

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