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To: Councillor Boulton, Convener; and Councillors Cameron, Councillor Donnelly, the Depute Provost, Lesley Dunbar, Grant, Greig, John, McLellan and Townson.

Town House,
ABERDEEN 01 November 2018

LICENSING BOARD

The Members of the **LICENSING BOARD** are requested to meet in **Committee Room 5 - Town House** on **THURSDAY, 8 NOVEMBER 2018 at 2.00 pm.**

FRASER BELL
CHIEF OFFICER - GOVERNANCE

BUSINESS

- 1 Licensing Policy Statement (Pages 3 - 54)

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ABERDEEN CITY LICENSING BOARD

COMMITTEE	Licensing Board
DATE	8 November 2018
TITLE OF REPORT	Statement of Licensing Policy

1. PURPOSE OF REPORT

To provide the Board with details of all consultation responses to the draft Statement of Licensing Policy.

2. RECOMMENDATION(S)

It is recommended that the Board:

- a) Consider the responses to the draft Statement of Licensing Policy and instruct any necessary amendments; and
- b) Request officers to prepare the final Statement of Licensing Policy and place the same on the agenda of the Board Meeting of 13 November for formal approval.

3. BACKGROUND/MAIN ISSUES

The draft Statement of Licensing Policy was published on 6 September and advertised on social media, in the press and trade publications. The consultation was designed to allow respondents to provide comment on each section of the Statement as well as a final catch-all question asking for any further comments.

The online responses have been collated and attached as Appendix 1 to this report, whilst the remainder of responses received by other means are attached at Appendix 2.

4. REPORT AUTHOR DETAILS

Sandy Munro, Solicitor
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Responses to draft Policy Statement

Police Scotland

Preventing Crime and Disorder

1 The draft makes no explicit reference to our proposal that 'on sales' premises have *as a condition of their licence* a 'Duty of Care' Policy and additional 'Vulnerability through Intoxication' training for all staff. We hope that the Board will adopt our recommendation however if not minded to impose this as strongly as a condition, then there should be clarity that it is an *expectation*, i.e. more than just guidance.

Suggested wording:

"The licence holder must have in place a duty of care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication. The purpose of this policy is to reduce vulnerability through intoxication, however attained.

All staff must have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication. This should include use of material such as the 'Who are You' video (whoareyou.nz) or similar.

All related training should be recorded and such records available for inspection by Police and Licensing Standards Officers."

2 The draft make reference to local conditions that may be added but does not specify any local conditions, i.e. CCTV, Radiolink, Door Stewards, conditions relating to Adult Entertainment and we recommend these are retained. We are aware that with the introduction of SEV licensing, such conditions will become defunct.

3 We would wish to see all references to CCTV hyperlinked to the Chief Constable's specification (as is necessary when CCTV is imposed by virtue of the mandatory late opening conditions) and the Board to expressly advise that when and where used, any CCTV system should comply with the afore-mentioned specification.

4 Under the section 'What the Board will expect of Licence Holders' we recommend that the word 'sufficient' is inserted before 'SIA registered door supervisors'.

5 We suggest it would be helpful to indicate which premises should have in place a dispersal policy i.e. all premises open after a certain hour (e.g. 0100 hours) and any exceptions to that (e.g. hotels).

Securing Public Safety

- 1** We would welcome the Board, when making reference to alternatives to glass, to also recognise and promote the safety benefits of toughened or safety glass, which within the modern market, bears very little difference to traditional glass and therefore does not impact negatively on the customers' experience.
- 2** Similar to point 5 above, it would be helpful if the Board indicated which premises it expects to have crowd management policies in place.

Supplementary Policy - Licensed hours

- 1** We note the proposed changes to the latest terminal hour for both outwith and within the city centre, as defined. If adopted, we would wish to see the Board include a rationale or positional statement, particularly with regard to what is, in effect, the removal of the term 'significant entertainment'. Our assessment of this proposal is that the Board is no longer considering that premises offering a specific type of entertainment should be entitled to longer hours and that the net effect of this proposal is parity amongst almost all 'on sales' premises, which perhaps reflects recent trends and provides a diversity of offering, without advantage. We assume that the terminal hour for casinos remains unchanged.
- 2** Should the proposed terminal hours be adopted as policy, we anticipate there may be an increase in the number of premises which seek a later terminal but do not fit the criteria that triggers the mandatory late opening regulations for premises open after 0100. We recommend that the Board addresses this by imposing similar conditions such as Door Stewards, CCTV, Radiolink, PLH and first aider on duty and a Vulnerability/Duty of Care policy (in the event that doesn't become a universal local condition) on all premises granted hours after 0100.
- 3** We trust any consideration for hours beyond the proposed terminal hours will be subject of further consultation process.

Occasional Licences and Extended hours

- 1** In relation to applications for Occasional Licences and in terms of the Licensing (Procedures)(Scotland) Regulations 2007, Section 18(3), we have for many years responded to such applications within 7 days of notification. We ask that consideration being given to the Chief Constable being allowed a longer period, preferably 21 days in line with Licensing Standards Officers and this position being included in the new SLP.
- 2** We note the intention to publish in January of each year, a list of qualifying events. We request that for the forthcoming festive period (Christmas 2018/New Year 2019) that dates for any general extension are published as soon as decided, which would greatly assist with current resource planning.

Overprovision - on sales premises

We have responded separately.

Other comments

1 We have noted a rise in events such as 'Ultra White Collar Boxing' and other mixed martial events within licensed premises. Some premises have held such events by virtue of having indicated that indoor/outdoor sports takes place on the premises at Section 5(c) of their Operating Plan. We are of the view that such activities carry additional risks and request that the Board considers including in the Policy that premises which intend to hold such events should have this specifically stated in the Plan and there should be specific risk assessments carried out for each individual event.

Kincorth & Leggat Community Council

We are happy to advise that we feel that all items have been covered.

Aberdeen Inspired

We refer to our original consultation response which provides background to Aberdeen Inspired and who we represent within Aberdeen.

By way of initial comment we commend the Board for seeking to be progressive and support Aberdeen, the wider tourism strategy and the licensed businesses that operate in a socially responsible manner throughout the City.

Supplementary Policy – Licensed Hours

A relaxation from the restrictive 14 hours continuous trading to 15 hours continuous trading for on-sales premises is a very welcome step. Coupled with the removal of the arbitrary need to demonstrate substantive entertainment to qualify for later hours, gives the sector the opportunity to innovate and embrace new trends. Many people are going out later and wish to drink less but drink better.

The Board's proposed approach makes clear that they will aim to assess the mode of operation and their ability to uphold the licensing objectives when considering what the appropriate hours for premises should be as opposed to an artificial label that is assigned to the premises.

Supplementary Policy – Occasional Licences and Extended Hours

Occasional licences

Drawing comparisons with other Scottish cities, for example Edinburgh, retaining a flexibility in relation to the use of occasional licences is important. Many of the Capital's events like the Festival and Festive celebrations rely on operators being able to obtain occasional licences to animate non-licensed spaces for a fixed term but often the spaces will be used year after year in this way. Striking a sensible balance which guards against abuse of occasional licences could be achieved if Board officers had the ability to refer an application or applications to a Hearing. The applicant could be cited to the first available Board meeting to explain the nature of the application should there be a concern about long term or consecutive use.

Without a clear indication from the Board as to what constitutes a "child-focused event" the terms of the policy could lead to significant confusion. If narrowly interpreted i.e. if any event which allows families or U18s will face a presumption against grant, this would cause us real concern. As a country, a City and a society, we aspire to adopt a more European approach to alcohol consumption. Banning it completely from family events risks alienating younger people and creates a mystique around alcohol. It would be preferable if the Board stated that it expected any application for events targeted at (or largely catering for) families to be accompanied by a detailed alcohol management plan which will be assessed as part of the application consultation process.

Extended hours

We have sought to clarify with the Board's legal advisors the terms of the draft Policy which, at first reading, were not clear. We understand that for a bona fide event the Board will not look to enforce the "15 hour rule". This will be welcomed by the trade and we are very supportive of this step.

However, given our difficult understanding the terms of the draft statement, some additional clarity would be useful.

Also, examples of what the Board means by the statement that - licence holders are expected to "anticipate and incorporate reoccurring events into the Premises Licence" would assist the Trade.

Old Aberdeen Community Council

Sorry for a last minute response to this consultation; we had intended to not comment, but a resident pointed out an issue that requires our input. It is unfortunate that the document does not identify the key changes proposed; instead leaving it to the reader to try and determine what is a significant change and what is existing policy.

We wish to comment as follows:

The current licencing policy 2013-2016, Appendix 4, page 45 indicates a latest permitted operating time of 0000hrs outside of the city centre.

The draft policy statement dated November 2018 on page 13 proposes that, outwith the city centre, alcohol may be served up to 0000hrs Monday to Thursday but may continue to 0100 on Fridays and Saturdays.

The Old Aberdeen Community Council would like to object to this proposal for the following reasons;

- Outwith the city centre, older pubs are typically mingled with the residential properties.
- The development of 'beer gardens', both as an area to smoke and a means of adding additional capacity, has burgeoned even in our chilly city and these outdoor areas create levels of noise that just did not occur prior to the smoking ban.
- Residents living nearby to a public house effectively expect a racket in the evenings, but then expect it to fall silent after midnight, permitting rest. A further hour of noise is not an attractive thought.

We therefore strongly urge the Committee not to progress this option of extending 'Last Terminal Hours' outwith the city centre.

We also note that a Supplementary Guidance on outdoor areas is proposed. We would support this move, as they have mostly been created in a very ad-hoc way and probably are not adequately addressed as part of the premises safe capacity. Perhaps the SG should also provide guidance on smoking facilities where this is only possible on the public footpath.

(A further, perhaps minor, issue is that the map of licenced premises is in error in that all the location 'icons' are some 100m to the east of their correct location. I have tried this on two separate computers so this is a problem at your end).

PB Devco

Aberdeen City's draft licensing policy should be praised for taking into consideration the views of the licensed trade at various points throughout their consultation process. Similarly much thought has clearly gone into developing the tourism and leisure aspects of Aberdeen with the removal of significant entertainment as a factor which allows entrepreneurialism and commerce to develop within the licensing industry.

Furthermore, the policy has removed jargon and allowed the information to become understood by the masses. Nevertheless some of the points that Licence Holders are expected to uphold and some of the guidance expected them is vague and Licence Holders will require further clarification to allow them to fully understand their obligations and therefore comment comprehensively on the draft policy. Much of the policy is based upon "appropriate conditions" so it is hoped that these conditions will be based on a case by case approach whereby Licensed premises that make a positive contribution to the night time economy and can evidence an investment in safety and security measures, ongoing staff training and social responsibility promoting the licensing objectives should be awarded.

With the introduction of the City Centre Masterplan Aberdeen will transform significantly within the five-year lifespan of this policy. Is only having a 15-hour continuous stifling the diversification of our City? Licensed premises now no longer divided into different classifications such as bar, pub or nightclub so should these hybrid premises be able to accommodate certain types of clientele in the mornings, afternoons and early evenings before transforming into a late night venue rather than being penalised as they have already been open for 15 hours? We should be encouraging a dynamic, vibrant and evolving licensed trade on an international level whereby businesses that offer a fantastic product in a safe environment thrive.

Lastly, the Licensing Board's commitment to incorporating recurring events for extended hours should also be commended and the recent correspondence to licensed premises to seek the opinions of the trade is also welcomed.

Janet Hood on behalf of TGC Leisure

I have been asked to make a response on behalf of TGC Leisure Ltd nightclub owners and operators in the City of Aberdeen. My clients are concerned that the proposal to permit all on sales licensed premises situated in the area defined as the city centre to open till 0300 will increase public drunkenness, create public nuisance, increase crime and disorder in

the city, harm public safety and potentially damage health.

My clients concerns are based on all five of the five licensing objectives.

Preventing Crime and Disorder

Preventing Public Nuisance

Protecting and Improving Public Health

Securing Public Safety

Protecting Children and Young Persons from Harm

The proposal for change contained in the draft revised policy which causes my client concern is as follows :

On-Sale Premises

The Board considers it appropriate to distinguish hours within the city centre from outlying areas. The city centre area is that shown delineated on the undernoted map.

The hours stated below are the earliest acceptable opening hour and latest acceptable terminal hour, and not the maximum permissible hours. The Board considers 15 hours continuous trading to be reasonable within any 24-hour period and so the opening or terminal hour should be adjusted accordingly to comply with this requirement.

Outwith City Centre Earliest Opening Hour Latest Terminal Hour

Sunday to Thursday 1000 0000

Friday & Saturday 1000 0100

City Centre Earliest Opening Hour Latest Terminal Hour

Sunday to Thursday 1000 0200

Friday & Saturday 1000 0300

Report of non inclusive Survey

It is understood that this proposal was based on a report which the writer has not been able to access and this response is based on information provided to the writer by a member of the Aberdeen Local Licensing Forum.

The author of the report is believed to be Nicola Johnston, Aberdeen Inspired's Evening and Night time Economy manager. My clients assert that the report was based on an extensive survey.

However my client has not been so surveyed which seems to be a major failure in the report. My clients also assert they know of no-one currently operating late night premises who has been included in the survey and would welcome an opportunity to consider the survey, to consider who or what type of business was surveyed and to be made aware of the sectoral responses. A report of this nature is surely flawed if the businesses it is most likely to affect have not been considered by the author.

It is believed that Police Scotland have concerns about the proposal in terms of the Prevention of Crime and Disorder objective

My clients concerns are as follows:

In order to achieve a current 0300a.m. licence my clients and others involved in the provision of late night entertainment have made major investments in

1. property - decor and equipment;

2. entertainment and facilities provided - big name DJs and live bands; dancers exhibitions and performances; comedians, magicians; arts and literature readings and other provision of live entertainment - it is not possible to iterate all on offer;

3. staff and stewards training- over and above that required by law - the aim being to

ensure a high level of public safety and good hospitality offering to encourage patrons return to Aberdeen for more than one reason; and

4. Sound management of premises; engagement of appropriately trained first aid personnel, and experienced managerial staff to ensure all of the above.

Current practice

My clients have already been concerned that the Licensing Board has been granting premises licences 0300 a.m. terminal hour considering only entertainment provided and accepting basic provision of music often by way of a phone based system to permit premises licence holders to open late while not insisting on the other matters which are vital to ensure a safe and welcoming late night offering in Aberdeen which can operate without causing issues for neighbours, residents, the police or other businesses in the City.

Late night operators are well versed in dealing with potential issues with patrons; preventing drug taking; preventing drunkenness; preventing violence; ensuring behaviour of stewards and staff meets standards over and above the acceptable; provision of safe home policies and the general requirement to ensure the well being of their patrons.

Although on one view it could be said that increasing the terminal hour for all premises might offer more choice to the late night public my clients are concerned that there will be serious harm to the licensing objectives:

Late night operators work to ensure their businesses are run with little or no impact on neighbours - this involves skilful queue management; dealing with access by persons under the age of 18 and drunk persons and working and assisting in their safe passage home; ensuring safety of staff and other persons providing entertainment in their premises; safe home; prevention of terrorism; promotion of ask Angela and other Police Scotland safety initiatives.

Safety and other matters

Current late night operators providing appropriate entertainment engage the majority of SIA licensed door stewards operating in the area - by permitting ad hoc late night opening the board will create a situation where there will be a serious shortage of properly trained door stewards which will impact to the serious detriment of public safety.

If the number of late night opening premises increase without there being a requirement to provide suitable entertainment it is likely that there will be an increase in late night consumption of alcohol and more public crime and disorder, less public safety and an exponential increase in public nuisance when patrons of these premises and legitimate late night premises empty onto the streets at the same time with no ability for the police or other agencies to deal with the numbers of people living all at the same time.

This will put pressure on taxis and private hire cars, late night buses and may lead to harm to the public health objective as patrons seek to walk home to outlying areas of the city and worse still to outlying towns and villages. There is very little provision of late night transport in Aberdeen.

All of these matters have been frequently and regularly raised by Police Scotland and comprise recognised hazards.

Benefits of different closing times

It is accepted that differential closing times permit better evening and late night management and prevent clashes of cultures and customers. It is highly likely that if this policy is brought into force patrons of drinking establishments will drift from premises to premises trying to ensure the last drink. Given the pressure on the trade it is highly likely that many less experienced operators will permit already drunken persons access to premises and more worryingly to alcohol. The streets will be less safe. There will be more public drunkenness, there will be more violence as clashes occur where patrons are served too much alcohol or are refused entry to premises. At present there is a hiatus between pub closing time and late night entertainment closing time. Patrons solely out for a drink tend to go home at pub closing time and this means that stewards, late night premises operators and their staff and of course the police know where to target their resources to try to ensure the safety of late night customers and others.

Pressure on late night premises - especially those unfamiliar with late night operations - will encourage lowering of prices to compete for business. This will result in less experienced operators actions seriously harming the health objective, likely harm the requirement to secure public safety and and like have a severe and negative impact on prevention of crime, disorder, public nuisance objectives.

The front loading / pre loading will increase as patrons will tend to drink more at home in unsupervised environment and thus come out to the town later again increasing harm to the above objectives.

Lack of experienced stewards will possible encourage underaged persons to “try their luck” in non entertainment premises thus leading to harm to the heath objective and the prevention of harm to children and young persons objective.

The fear is that patrons of premises offering no entertainment will tend to drink more as they will have no entertainment to offer alternative activities. This will harm the health objective directly and increase likelihood of harm to the other objectives. Extending hours of premises with no entertainment may indeed have a knock on negative effect on domestic violence as patrons will leave later, have had more to drink and thus be more likely to negatively affect family and others. Most violent crime is carried out by persons who have drink taken and is more likely to occur the more people drink.

The same concern apply to mass increase in number of extended hours grants or occasional licences for late night events except where operators have experience.

The current policy on late hours trading is as follows:

"Premises in the City that provide significant entertainment (to the satisfaction of the Board) may apply and be granted hours until 02.00 Sunday – Thursday and 03.00 on Fridays and Saturdays .The Board regards significant entertainment to be entertainment which is of such a nature to be the principal attraction for patrons to attend the premises and where alcohol is served to patrons only as an ancillary accompaniment to their attendance and /or participation in the entertainment provided.– The Board considers in these cases that the entertainment is the principal reason for patrons attending the licensed premises and that the consumption of alcohol would therefore be ancillary to such entertainment.in order to be consistent with the licensing objectives. This would apply to premises such as nightclubs (with dance floor areas/facilities included in their operating plan and detailed in their layout plan) where recorded or live music for dancing is provided. Other examples of where significant entertainment may apply are discos, DJs, adult entertainment, and live music for concerts, cabaret and theatrical plays. Some examples where the Board does not consider there to be significant entertainment are pool, darts, dominoes, leisure facilities and background music. The Board are entitled to distinguish between premises of different descriptions offering different facilities or activities. e.g. Section 27(9) of the 2005 Act allows the Board to impose conditions in relation to the sale of alcohol on a premises to which a licence relates or any other activity carried on in such premises. In light of the evidence before the Board on the levels of alcohol consumption in the city and the levels of alcohol related crime the Board wish to promote in terms of the objectives the types of premises which can operate where the service and sale of alcohol is not the primary objective thus contributing to the positive night time economy in the City but not adding to the health or crime related harms associated with are premises which focus wholly or mainly on alcohol consumption.

The Board has taken heed of the advice of the Police and the Health Board and no

longer considers snooker as an entertainment that warrants a later terminal hour (2am or 3am). This change to the Policy is not to apply retrospectively and will not therefore affect current licensed premises where the principal activity is snooker”

My clients believe the policy if properly managed by the board is fair, offers experienced late night operators a chance to benefit from their substantial investment as above iterated and will help ensure a safe and welcoming late night offering in the City of Aberdeen.

Danger to Aberdeen business

My clients are concerned that if the proposal goes ahead there will be more closures of late night entertainment premises to add to this list - The Garage, Babylon, Ministry, Priory, Snafu, Tiger Tiger, 1 Diamond Street, Origin, The Albyn- all of whom have succumbed to the pressure on late night offering. Some of these closures will have been affected by the downturn in the local economy however my clients assert that another main reason is the pressure from other premises which are opening late without having to meet the stringent requirements usually set in place for late opening premises.

My clients hope the Aberdeen City Board will consider this response and retain the existing policy.

TLT LLP

The TLT LLP Licensing team in Scotland represent a broad range of licence holders in both the on and off sales sector ranging from multiple operators to sole traders. Our solicitors regularly attend licensing board meetings across Scotland including the Aberdeen City Licensing Board ("the Board"). By drawing on this experience we hope that our input on the Board's Policy will be of assistance to Members.

Please note that the views expressed herein do not necessarily reflect the views of our clients.

By way of initial comment it is our submission that the Board's Policy plays a vital role in generating a healthy and vibrant night time economy. A progressive and responsible late night economy is increasingly important to the life of the City, as evidenced by the on-going struggles within the retail sector. Experience based venues are now driving footfall rather than traditional shops. Tourism also demands a sophisticated and varied hospitality offer.

Supplementary Policy – Licensed Hours

TLT welcomes the Board's new approach to licensed hours for on sales hours, i.e. 15 hours continuous trading within a window of (generally) not before 10am or after 3am. This move away from strict definitions of "types" of premises is on all fours with the aims of the 2005 Act and also reflects the recent trends in the hospitality industry. These trends are as a result of customer demand

For example there are a great many so-called pubs and bars that serve food that is a higher quality than traditional restaurants. What the general population consider to be entertainment goes beyond the traditional dance halls of yester-year. Modern hospitality is offering consumers a host of experience based entertainment which includes traditional forms such as live music and DJ's but also includes film, spoken word, interactive exhibitions, and visual displays - not to mention late night cocktail lounges.

The Board's proposed approach makes clear that they will aim to assess the mode of operation and their ability to uphold the licensing objectives when considering what the appropriate hours for premises should, be as opposed to an artificial label that is assigned to the premises. We commend that approach

Supplementary Policy – Occasional Licences and Extended Hours

Occasional licences

Whilst it is appreciated that the statutory process does allow occasional licences to be abused, it is important to note that without the flexible system of occasional licences a number of unique and high profile events could not go ahead in Aberdeen and therefore the City would struggle to compete with other international cities in offering both its citizens and visitors the chance to experience many varied and exciting events in a range of buildings or areas that are normally unlicensed.

If there is an issue with an application then it should be cited to the first available Board meeting so that the applicant (and their agent) has an opportunity to address the Board directly as to the merits of the application.

With respect, the suggestion that occasional licences would not normally be granted for "child-focused events" is one of real concern. There is a lack of clarity as to what this means and why – in terms of the statutory framework – an occasional licence should not be granted for events that welcome children. There are a number of examples where (subject to appropriate management provisions) an occasional licence could be granted, without any issues in terms of the licensing objectives. For example, the sale of local craft gin bottles for consumption off the premises at a school fete. With Challenge 25 in place it is difficult to identify the mischief that would be caused by

the grant of such an application. Also the long term desire in Scotland and the UK as a whole, has been to move towards a more "European approach" to alcohol and banning it completely from family events seems counterproductive by restricting the opportunity to educate the next generation on responsible consumption. Rather than a ban, we would suggest the Board demands an alcohol management plan is lodged with the application.

Extended hours

TLT are supportive of the Board's recognition that if a premises is catering for a *bona fide* event then the Board may allow applications that go beyond the "15 hour" rule (for core hours). However, it would be useful to have some additional clarity as to what is meant by the suggestion that licence holders are expected to "anticipate and incorporate reoccurring events into the Premises Licence". For example, if a premises wants to cater for the Super Bowl (which happens every year albeit on different dates), would the Board expect a major variation that allowed such trading by way of the seasonal variations box on the Operating Plan of the Premises Licence? Examples would be useful as to what may, and many not, be deemed to be foreseeable.

Children and Young Persons Access to On Sales Licensed Premises

We ask that the Board, when considering "food led" on-sales licensed premises that are connected to a family friendly feature, experience or event space note in the Policy that some flexibility, both in relation to allowing children to access these premises unaccompanied and indeed allowing them to access whilst accompanied to a later terminal hour may be appropriate. By way of example, a purpose-built multiplex with bowling alleys and a cinema or a mall, surrounded by pizza/burger/Sushi restaurants should, in our respectful opinion, be considered differently because alcohol will be ancillary and the footfall may be dominated by groups of older children and young people without adults in their company.

We trust that our input here is of some assistance to the Licensing Board and as noted at the outset we would happy to appear at an oral evidence session.

Old Aberdeen Heritage Society

The Society's comments are as follows:-

Overall Comments

We are concerned that several important sections and/or clarifications in the current Licensing Policy have been omitted from the draft which has been put out for consultation.

The Introduction of the current Policy states (para 1.4) with reference to the five policy objectives:-

"The objectives provide a basis for refusal of an application for the grant of a premises licence or of an occasional licence"

It is important that it is stressed than an application can be refused on this basis, and not just have conditions attached. We would ask that this sentence be re-inserted.

The next section of the current policy ~ “Consultation and Links to Other Policies, Strategies and Legislation” contains an important paragraph, (para 2.9, page 7) which we believe should most certainly be included in the new Policy, so that all involved, from members of the public to prospective applicants for licences, and indeed, all others, are absolutely clear how licensing functions relate to those of planning. The best way to ensure this is for it to be laid out clearly in the Licensing Policy.

We would draw attention in particular to the main body of para 2.9 of the current Policy in this respect:-

“In particular, the Board’s licensing functions will be discharged separately from Aberdeen City Council’s functions as the local planning authority. The Board recognises that planning and licensing regimes are separate and that the processing of licensing applications should be an exercise distinct from the processing of planning applications.

The Board as the licensing authority will not be bound by decisions made by Aberdeen City Council as the local planning authority.

The paragraph, or at least the last sentence, should be included in the new Policy, so that everyone is aware that the Board is not obliged to grant a licence even though the Planning Committee has granted planning permission.

The section on p.9 of the current Policy (paras 5.1 to 5.3) entitled “Notification of Applications, Objections and Representations” is surely important information which should be included in the new Policy.

We believe that it is important to include in the new Policy, as in the present one, a copy of the Byelaws on drinking in public places, as it is of considerable relevance.

The section in the current Policy entitled “Smoking and Nuisance” (p.19 paras 18.1 to 18.4) contains important considerations on preventing nuisance or disturbance to residents living nearby from smoking. The new Policy only seems to address the issue with regard to designated smoking areas, but there ought to be a commitment by the Board in their Policy, to consider whether it is appropriate to grant a licence where there is no designated smoking area, and smokers will congregate outside, possibly on a narrow pavement, in a narrow street, and particularly in a residential area where this can cause nuisance to neighbours.

Paragraph 20.9 (p.23) of the current Policy makes some extremely important points, particularly on the impact that patrons may have on the surrounding area after leaving their premises. It draws attention in particular to the noise which can cause “disturbance of nearby residents’ rest, relaxation and sleep”. This last phrase needs spelling out in the new Policy. It is vital that the consequences of such disturbance for people’s health and quiet enjoyment of their homes is highlighted.

We note that there seems to be no mention in the draft Policy of flyposting, a recognised problem associated with licensed premises. Flyposting can be a persistent nuisance. It is our view that this should be included in the new Policy.

As a general comment on the Draft Policy, we would ask that the maps be made a lot clearer. They are virtually illegible.

Particular Comments on sections of the Draft Policy

“Preventing Public Nuisance”

Line 1 — The word “adverse” should be re-inserted, to read “the potential to have a significant adverse impact on communities”.

Smoking Areas — there should be consideration here of the impact of cases where there are no designated smoking areas, and smokers will congregate on the street, and whether it is acceptable to grant a licence in those circumstances close to homes or noise-sensitive premises.

Noise from Patrons entering and exiting premises This is a vitally important consideration, and serious consideration should also be given to the

impact of groups of patrons congregating outside for some time after leaving, and causing noise and disturbance.

“Noise sensitive premises” should also include academic teaching establishments, places for study, and libraries.

Under “What the Board will Expect” is included:- “Adequate supervision of patrons entering/exiting the premises”.

It is our view that the Board should consider that there are locations where such supervision simply can not be adequate. In residential areas, or near noise-sensitive premises, especially, this is critical, as the licence-holder has no authority whatsoever over the behaviour of patrons once they leave the premises.

Supplementary Policy — Licensed Hours

The Society wishes to register a strong objection to the proposal to allow licensed premises outwith the City Centre to stay open until lam, on Fridays and Saturdays. (as opposed to the midnight limit at present).

By definition, areas outwith the City Centre are likely to be residential, and any proposal to allow later opening hours would have an adverse impact on nearby homes, bringing noise and disturbance to the surrounding streets into the early hours. There is no justification for this. If people want to drink into the early hours, they can patronise a pub in the City Centre.

We would urge the licensing Board not to adopt this change to the Policy, and to retain the limit on opening hours outwith the City Centre as midnight, and no later, on any day of the week.

Supplementary Policy — External Drinking Areas

In para 4, it might be helpful to mention specifically among the problems that could arise in these areas, the problem associated with smoking, with vibration from generators for outdoor

equipment, and with light pollution from outside lighting having an adverse impact on neighbours.

We would ask that the Licensing Board take the Society's views, as detailed in this letter, fully into account in considering the Draft Policy.

ABERDEEN CITY LICENSING BOARD
STATEMENT OF LICENSING POLICY
November 2018

Contents

Page

Introduction

Licensing Objectives

Preventing Crime and Disorder

Securing Public Safety

Preventing Public Nuisance

Protecting and Improving Public Health

Protecting Children and Young Persons from Harm

Supplementary Policies

Licensed Hours

Occasional Licences and Extended Hours

External Drinking Areas

On-Sales Overprovision

Off-Sales Overprovision

Scheme of Delegation

Hearing Procedures

General Licensing Matters

Introduction

Introductory paragraph/foreword from Convenor

Preventing Crime & Disorder

The Board is committed to improving the quality of life for the people of the city by adopting and enforcing policies designed to increase community safety and reduce the threats of crime and disorder.

In terms of this licensing objective the Board considers there to be a number of factors including, but not limited to:

- Underage drinking
- Drunkenness
- Illegal substances
- Violent behaviour
- Anti-social behaviour
- Vulnerability

In order to combat the risks inherent with the sale of alcohol the Board will seek to operate a partnership approach with licence holders, applicants and partner agencies.

What the Board Will Do:

- Apply appropriate conditions to licences to mitigate the risk of potential crime or disorder.
- Ensure all policies are up to date and fit for purpose.
- Work closely with all stakeholders to ensure all relevant information is kept up to date and accessible.
- Endorse initiatives designed to prevent crime and disorder.
- Consider the review of licences where a breach of the licensing objective cannot be rectified by other means.

What the Board Will Expect of Licence Holders

- Effective and responsible management of premises.
- Up to date training and supervision of staff.
- Provision of effective CCTV in and around premises.
- Provision of external lighting and security measures.

- Employment of SIA registered door supervisors when appropriate.
- Use of radiolink or other such scheme.
- Adherence to the Board's Drugs Policy.
- Enforcement of Challenge 25.
- Adoption of best practice guidance where available.
- Evidence of a relevant dispersal policy where appropriate.
- Co-operation with police and Licensing Standards Officers.

What the Board Will Expect of Partner Agencies

- Provision of all relevant up to date information as the Board requires.
- Involvement in mediation/intervention procedures to rectify any problem areas.
- Involvement in Premises Licence Review as a last resort.

Securing Public Safety

The Board is committed to ensuring the safety of persons within licensed premises as well as those in the surrounding areas.

When considering this licensing objective, a number of factors should be considered including, but not limited to:

- Capacity – this will be assessed by the Council’s Building Standards department to establish a maximum safe capacity figure in terms of the regulations. Please note the safe maximum operating figure may be smaller than the technical figure.
- Maintenance of premises.
- Fire safety.
- Suitability of glassware or alternatives to glass.
- Disabled access and facilities.
- Nature of activities to be carried out on the premises.
- Vulnerability of patrons.

Again, the Board will look to operate a partnership approach with all stakeholders in order to ensure that public safety is not compromised by the operation of licensed premises.

What the Board Will Do:

- Promote education and awareness of potential risks.
- Apply additional licence conditions where appropriate for the purposes of this licensing objective.
- Facilitate effective communication between all relevant parties.
- Disseminate relevant information from partner agencies as widely as possible.
- Review licences as a last resort.

What the Board Will Expect of Licence Holders/Applicants:

- High standards of maintenance of premises.
- Membership of schemes to secure public safety such as radiolink and pubwatch.
- Glassware frequently cleared.

- Accurate disability access statements. Although these are only required for new applications the Board would encourage all existing premises to consider the preparation of an appropriate statement for publication.
- Clear and accurate signage in and around premises.
- Fully completed risk assessments where appropriate, for both premises and proposed activities to be carried out.
- Policies on crowd management and dispersal, both in the ordinary course of operation and in an emergency.
- Regular maintenance and testing of security and operating systems.
- Designation of a “safe space” within the premises in which vulnerable persons can be provided with assistance.

What the Board Will Expect of Partner Agencies:

- Co-operative approach.
- Effective communication and the sharing of up to date relevant information.
- Involvement in a licence review as a last resort.

Preventing Public Nuisance

The Board believes that licensed premises have the potential to have a significant impact on communities. It wishes to maintain and protect the amenity of the surrounding neighbourhoods whilst recognising the valuable cultural and social aspects of such premises.

Whilst licensing powers are not the main statutory mechanism for dealing with public nuisance in general the Board will interpret public nuisance in a wider sense where it relates to the operation of licensed premises, and in particular issues such as noise and litter.

Again, a number of factors should be considered including, but not limited to:

- Location of premises. In particular the proximity to residential or noise sensitive premises such as medical facilities, sheltered housing, schools, places of worship, nurseries and suchlike.
- Hours of operation. Closely related to the location of the premises, the hours of operation should reflect what is appropriate for the surrounding neighbourhood.
- Nature of activities. Any activities carried on in the licensed premises should not be detrimental to the ambience of the locality.
- Outdoor areas. The Board will include a Supplementary Policy on this issue, but applicants will require to ensure that the inclusion of an outdoor licensed area in any premises is appropriate and will not contravene the licensing objective of preventing public nuisance.
- Smoking areas. These should be designed to minimise public nuisance and regularly monitored to cut down on noise and litter.
- Noise from patrons entering and exiting the premises.

What the Board Will Do:

- Consider the proximity of proposed licensed premises to noise sensitive premises when considering applications.
- Ensure that licensed hours and activities are appropriate for the type of premises and locality.
- Improve communication between the trade, partners and local communities.
- Impose additional licence conditions where appropriate to prevent public nuisance.
- Highlight best practice where available and increase awareness and education on potential areas of risk.

What the Board Will Expect of Licence Holders/Applicants:

- Take a proactive approach to public nuisance with a risk-based approach.
- Be mindful of the location of the premises, hours of operation and activities.

- Comply with all conditions of the premises licence.
- Ensure appropriate control measures are in place and staff training is up to date and relevant.
- Consider public nuisance when establishing the design and layout of the premises.
- Adequate supervision of any outdoor area, smoking area and patrons entering/exiting the premises.
- Sharing of best practice via trade groups.
- Participation in communication to resolve any issues that may arise.

What the Board Will Expect of Partners:

- Enforcement of other statutory powers where appropriate.
- Sharing of relevant information.
- Participation in dialogue to resolve potential issues.

Protecting and Improving Public Health

The Board recognise that excessive consumption of alcohol can cause or exacerbate a number of health problems. All applicants will be expected to demonstrate measures to be taken to protect public health, and all licence holders will be expected to maintain those standards and take all necessary steps to prevent excessive consumption.

Whilst licensing is an important tool in the protection of public health it will not be sufficient in isolation and accordingly the Board will be interested in hearing from and working alongside relevant partners and interested parties where appropriate.

Factors to be considered in connection with this particular licensing objective include, but are not limited to:

- Access to alcohol by vulnerable persons
- Excessive consumption
- Irresponsible promotion of alcohol
- Education of unit strength of alcohol

What the Board Will Do:

- Utilise local conditions on licences where appropriate.
- Liaise with public health organisation, the local licensing forum and other relevant parties.
- Monitor the number and capacity of premises, public health data and overprovision policies.
- Contribute to raising awareness of the licensing system.

What the Board Will Expect of Licence Holders/Applicants

- Proactive layout of off-sales premises to discourage impulse buying.
- Adequate staff training, including refusals policy and incident recording.
- Availability of low/non-alcoholic products and soft drinks.
- Licensed hours reflective of operating hours.
- Awareness of irresponsible promotions.

What the Board Will Expect of Partner Agencies:

- Effective communication of relevant trends and information.

- Provision of accurate statistics to assist with Board policy and decision making.
- Participation in efforts to increase public awareness of initiatives to protect and improve public health.

Protecting Children and Young Persons from Harm

The Board recognises that the question of access to licensed premises by children and young persons is not one that can be answered with a one size fits all type of approach. The suitability of premises will depend on a number of factors including layout of the premises, activities or services available, and typical customer demographic.

Applicants and licence holders should also be aware that access for children and young persons will bring with it additional responsibilities and may result in additional conditions being attached to the licence.

What the Board Will Do:

- Assess all applications for suitability of access for children and young persons.
- Impose additional conditions where necessary to protect children and young persons from harm.
- Limit the hours during which children and young persons have access if appropriate.
- Limit activities which may take place on the licensed premises during hours in which children and young persons have access if appropriate.

What the Board Will Expect of Licence Holders/Applicants

- Consider the ambience of premises and what is appropriate in terms of children and young persons' access.
- Ensure facilities are appropriate to the areas of the premises to which children and young persons are to be afforded access.
- Vigilance against underage drinking and proxy purchasing.
- Strict enforcement of Challenge 25.
- Comprehensive and up to date staff training.
- Restrict access for children and young persons to appropriate hours and parts of the premises.

What the Board Will Expect of Partner Agencies:

- Communication of relevant information.
- Sharing of best practice or initiatives designed to improve standards.
- Participation in mediation in the event of issues or licence review hearings as a last resort.

Supplementary Policy – Licensed Hours

Whilst all applications will be dealt with on their own merits the Board considers it necessary for the promotion of the licensing objectives to set parameters with respect to licensed hours. Any application seeking hours outwith those detailed below will be expected to satisfy the Board that there are legitimate grounds for departing from policy and demonstrate that the granting of such hours would not be contrary to the licensing objectives.

Off-Sale Premises

Maximum trading hours for off-sale premises are set by statute. The Board have no power to grant off-sales hours prior to 1000 or after 2200 hours. It should be noted that these are the maximum permitted hours and the Board may restrict these hours if it can be shown to be necessary for the promotion of the licensing objectives.

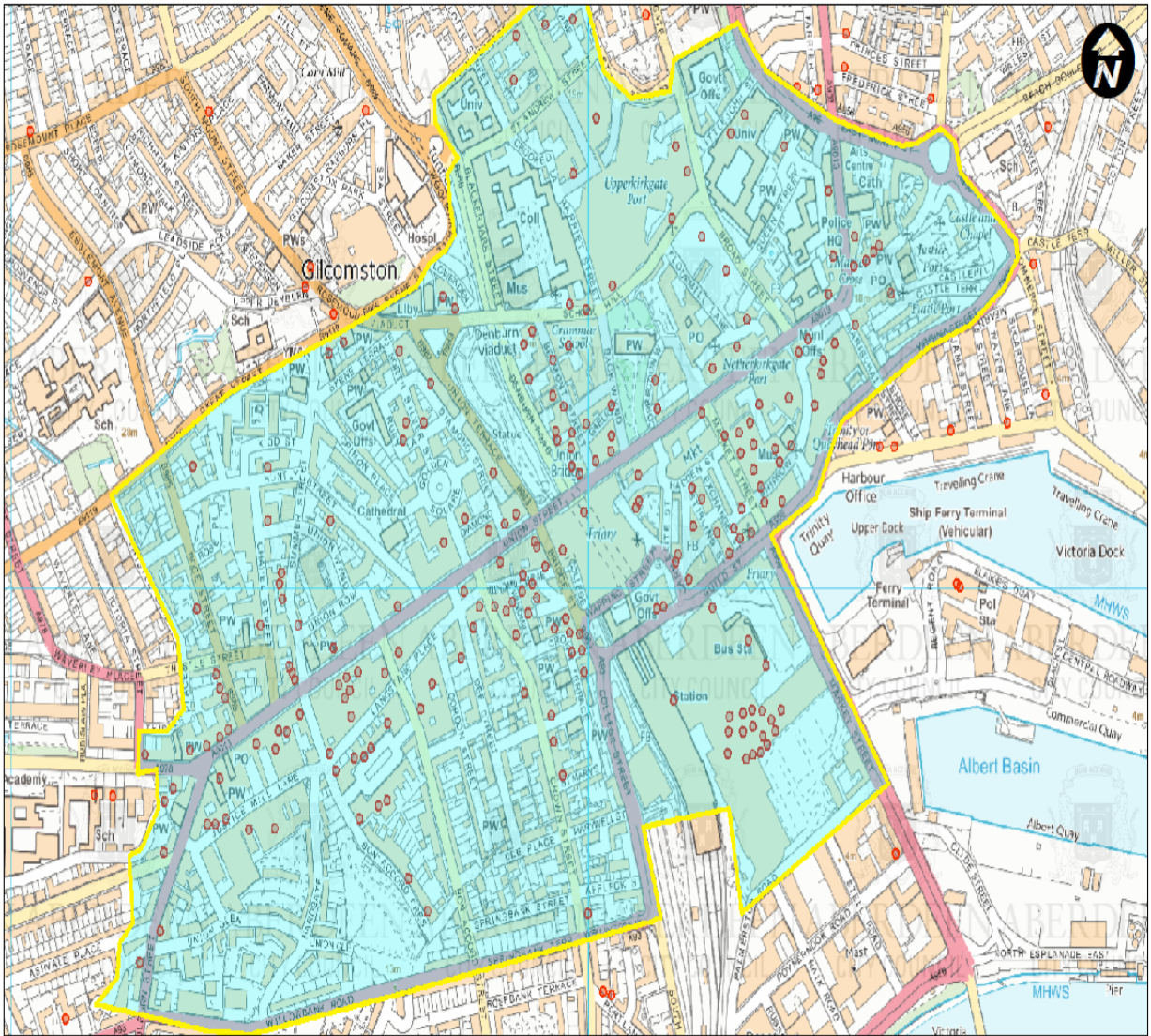
	<u>Earliest Opening Hour</u>	<u>Latest Terminal Hour</u>
All off-sales premises	1000	2200

On-Sale Premises

The Board considers it appropriate to distinguish hours within the city centre from outlying areas. The city centre area is that shown delineated on the undernoted map.

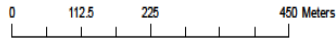
The hours stated below are the earliest acceptable opening hour and latest acceptable terminal hour, and not the maximum permissible hours. The Board considers 15 hours continuous trading to be reasonable within any 24-hour period and so the opening or terminal hour should be adjusted accordingly to comply with this requirement.

<u>Outwith City Centre</u>	<u>Earliest Opening Hour</u>	<u>Latest Terminal Hour</u>
Sunday to Thursday	1000	0000
Friday & Saturday	1000	0100
<u>City Centre</u>	<u>Earliest Opening Hour</u>	<u>Latest Terminal Hour</u>
Sunday to Thursday	1000	0200
Friday & Saturday	1000	0300



Current City Centre Area

1:5,000



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Supplementary Policy – Occasional Licences and Extended Hours

Occasional Licences

In terms of the legislation only a Premises Licence holder, Personal Licence holder or a Voluntary Organisation can apply for an Occasional Licence. The Board consider Occasional Licences should only be used for one-off events and should not be used to circumvent standard licensing procedures.

Accordingly, the Board will not normally grant the following, unless there are exceptional circumstances:

- A series of Occasional Licences for the same premises where an application for a Premises Licence would be more appropriate.
- Occasional Licences for premises holding a Provisional Premises Licence where there are outstanding issues preventing an application for Confirmation from being lodged.
- Occasional Licences for child-focussed events.

Any application for an Occasional Licence must comply with the Board's Supplementary Policy on licensed hours. Additional conditions may be added to an Occasional Licence to uphold the licensing objectives covering matters including staff training, access for children and young persons, and alternatives to glassware.

Applications for Occasional Licences must be submitted at least 4 weeks in advance of the event to allow sufficient time for the applications to be processed. The Board consider that it would be difficult to justify a shorter processing period under s57(4) for any events except for funeral functions.

Extended Hours Applications

The holder of a Premises Licence may apply for an extension of regular licensed hours in connection with:

- A special event or occasion to be catered for on the premises, or
- A special event of local or national significance.

The Board expect licence holders to anticipate and incorporate recurring events into the Premises Licence and only to apply for Extended Hours for one-off events that could not have reasonably been anticipated.

Any application must be submitted by the licence holder and not the Designated Premises Manager unless he or she has written authorisation from the licence holder to do so. Applications must be made at least 4 weeks in advance of the event.

General Extensions

The Board will consider annually whether any scheduled events would justify a general direction under s67 and will publish a list of qualifying events and the degree of the extension in January each year to enable the trade and other stakeholders to plan accordingly.

Such extensions will only be available to premises whose standard hours conform to the 15 hour maximum trading specified in the Supplementary Policy on Licensed Hours.

Supplementary Policy – External Drinking Areas

The Board recognises that the incorporation of outdoor areas within the licensed footprint of premises can enhance the operation of such premises but considers that it also attracts additional responsibilities on the part of the licence holder to uphold the licensing objectives.

Before an application to licence an outdoor area will be considered the area in question must benefit from the necessary planning permission and, if required, a pavement permit from the Roads Department of Aberdeen City Council.

All outdoor areas must be delineated on the layout plan forming part of the premises licence and outdoor drinking should be included as an activity within the body of the licence. The Board will expect premises who currently utilise unlicensed outdoor areas to incorporate such areas within the premises licence by way of variation.

Applicants and licence holders must demonstrate that the areas will not contravene the licensing objectives, in particular with regard to noise, litter and antisocial behaviour. The areas must be regularly monitored, and glassware removed.

The Board will routinely attach additional conditions where an outdoor area is licensed including but not restricted to:

- Outdoor area to be clearly demarcated onsite.
- Use of the area to cease at 2200 hours.
- No amplified music or entertainment to take place in the outdoor area.

The terminal hour may be further restricted, and drinks may be required to be decanted into alternatives to glassware if appropriate.

Overprovision – On-Sales Premises

To follow.

Overprovision: Off-Sales (Already approved by Board)

In cognisance of the nature of the evidence received during previous overprovision consultations as well as the specific challenges raised by attempts to attribute meaningful evidence to smaller localised areas, the Board established the whole Board area as one locality for the purposes of off-sales overprovision only. The Board then sought evidenced views on overprovision within that locality and is grateful to all respondents who took the time to submit a viewpoint.

The Board noted the evidence provided by NHS Grampian and Alcohol Focus Scotland primarily relating to the licensing objective of Protecting and Improving Public Health. The Board recognises that there are health issues caused by the consumption of alcohol and note that the majority of alcohol is reportedly sold from off-sales premises. Additionally, the Board is concerned that hospital admissions for alcohol related causes are above the Scottish average. However, it also recognised that the evidence provided by both NHS Grampian and Alcohol Focus Scotland indicated that most people tended to travel larger distances by vehicle to purchase alcohol, and that the rise of home deliveries had also to be taken into consideration. Both agencies accepted that there was no simple method of establishing a numerical formula to assist with the calculation of any saturation point.

The Board also considered the evidence of crime statistics provided by Police Scotland. These related primarily to the licensing objectives of Preventing Crime and Disorder, Securing Public Safety and Preventing Public Nuisance. The Board found it particularly pertinent that Police Scotland believed that whilst evidence of crimes in which alcohol consumption was a significant factor could be provided, it was not able to provide a body of evidence linking crimes specifically to off-sales premises. Police Scotland also suggested it could not support the idea that were there half the number of premises there would be half the number of crimes. Again, it highlighted that there was not a simple numerical answer to this problem. The Board also noted that Police Scotland suggested that the issue may be one of alcohol consumption as opposed to the regulated sale from off-sale premises.

As well as the evidence provided by respondents to the consultation the Board also considered that it had been operating without an overprovision policy for the recent period, and that this did not appear to have resulted in any identifiable increase in the number or capacity of premises, nor indeed harm associated from the operation of those premises.

In summary, the Board recognises that there are issues of harm that correlate with the operation of off-sales premises. However, the Board considers a declaration of overprovision to be a serious undertaking that should only be taken when adequately supported by the available evidence. On balance the Board is currently of the opinion that whilst there is evidence of the correlation mentioned above that evidence falls short of establishing the causal link that is required by the regulatory framework to

justify overprovision. Accordingly, the Board has determined that currently there is not overprovision of off-sales premises within the locality.

The Board will continue to assess all applications on their merits and will expect all applicants to demonstrate compliance with the licensing objectives and all relevant parts of the Board's Statement of Licensing Policy. The Board will also work with partner agencies to keep the policy under review and ensure that it remains fit for purpose.

SCHEME OF DELEGATION (Already approved by Board)

This Scheme of Delegation details the powers of the Licensing Board for Aberdeen City in terms of the Licensing (Scotland) Act 2005. This Scheme of Delegation was approved by the Board on 10 October 2017.

The Board recognises that any application should only be determined by the Board where necessary and any straightforward matters should be considered by the Clerk or any member of the Clerk's staff having authority to do so, to save resources and to create as little inconvenience to applicants as possible.

The Board therefore agrees that only those applications and matters which by statute are required to be considered by the Board will be submitted to them for determination and other applications will be determined by the Clerk (or Depute Clerk or persons appointed to assist them) in accordance with the following Scheme of Delegation.

1. MATTERS RESERVED TO THE LICENSING BOARD			
	Nature of Function/ Application	Relevant Provision in Licensing (Scotland) Act 2005	Function
1.1.	Determination of Licensing Board Policy	s.6 and Sch.1 para 10(2)(a)	Determining the Board's policy for the purposes of a Licensing Policy Statement or any Supplementary Licensing Policy Statement;
1.2.	Determination of Overprovision of Licensed Premises	s.7 and Sch.1 para 10(2)(b)	Determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality;
1.3.	Premises Licence Application	s.23 and Sch.1 para 10(2)(c)	Determining a premises licence application;
1.4.	Premises Licence Major Variation Application	s.30 and Sch.1 para 10(2)(d)	Determining a premises licence variation application where the variation sought is not a minor variation;
1.5.	Premises Licence Transfer Application (Conviction)	s.33, s.34 and Sch.1 para 10(2)(e)	Determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant or foreign offence;

1.6.	Provisional Premises Licence Confirmation (Refusal)	s.46 and Sch.1 para 10(2)(i)	Refusing an application for confirmation of a provisional premises licence;
1.7.	Temporary Premises Licence	s.47	Determining a temporary premises licence application;
1.8.	Personal Licence (Conviction)	s.74 and Sch.1 para 10(2)(f)	Determining a personal licence application, or a personal licence renewal application where the applicant has been convicted of a relevant or foreign offence;
1.9.	Conducting a Hearing	s.39, s83(7) s.84 and Sch.1 para 10(2)(g)	Conducting a hearing under the Act, including taking any of the following steps: At a review hearing in respect of a premises licence where necessary in terms of the licensing objectives flowing from the sale of alcohol: Issuing a written warning to the premises licence holder; Revoking or suspending the premises licence; or Making a variation of the premises licence; or Making an order revoking, suspending or endorsing a personal licence.
1.10	Closure Order	s.97 and Sch.1 para 10(2)(h)	Making a Closure Order;

2. MATTERS DELEGATED TO SUB-COMMITTEE

	Nature of Function/ Application	Relevant Provision in Licensing (Scotland) Act 2005	Function
2.1	Occasional Licence (Objection/ Contrary to Policy)	s.59 and Sch.1 para 10(1)	Determining whether or not the Licensing Board will hold a hearing to determine an application for an occasional licence where an objection,

			representation or a notice recommending refusal from the Chief Constable or Licensing Standards Officer or where the application is contrary to the terms of the Board's Policy;
2.2	Occasional Licence (Objection)	s.59 and Sch.1 para 10(1)	Where a decision has been taken by the Convenor/Sub-Committee not to hold a hearing in terms of section 59(4) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of section 59(5);
2.3	Extended Hours Application (Objection/Contrary to Policy)	s.70 and Sch.1 para 10(1)	Determining whether or not the Board will hold a hearing to determine an application for extended hours where an objection, representation or a notice recommending refusal from the Chief Constable or Licensing Standards Officer or where the application is contrary to the terms of the Board's Policy;
2.4	Extended Hours Application (Objection)	s.70 and Sch.1 para 10(1)	Where a decision has been taken by the Convenor/Sub-Committee not to hold a hearing in terms of section 70 (2) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of section 70(3);

3. MATTERS DELEGATED TO THE CONVENOR			
	Nature of Function/ Application	Relevant Provision in Licensing (Scotland) Act 2005	Function
3.1	Notice of Convictions	s44(7A), s83(7A)	Determining whether to hold a licence review hearing or to take no further action upon receipt of a notice from the Chief Constable which does not contain a recommendation to vary, suspend, revoke or endorse the licence in question
3.2	Occasional Licence or Extended Hours ("Fast Track")	ss.57(4) and 69(4) and Sch.1 para 10(1)	Determining whether an application for an occasional licence or occasional extension requires to be dealt with quickly.
3.3	Personal Licence (Licence Previously Surrendered – Hearing)	s.74(7)	Where the applicant has surrendered a personal licence within the period of 3 years prior to an application for a further personal licence being made by that person to decide whether the reasons for surrender of the previous personal licence warrant consideration of the application by the relevant Board;
3.4	Power to Relieve Procedural Errors	s.135 and Sch.1 para 10(1)	To relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if the failure is due to a mistake, oversight or other excusable cause, and it is considered appropriate in all of the circumstances to relieve the failure.
3.5	Rejection of Frivolous or	s.22(4), s.36(6), s.58(3)	Determining whether to reject a notice of objection or representation or request for

	Vexatious Objections		a premises licence review received by the Board where they consider it to be frivolous or vexatious;
3.6	Premises Licence Review Proposal	s.37 and Sch.1 para 10(1)	Determining whether to make a premises licence review proposal;

4. MATTERS DELEGATED TO THE CLERK OR DEPUTE CLERKS TO THE LICENSING BOARD OR ANY PERSONS APPOINTED TO ASSIST THEM			
	Nature of Function/ Application	Relevant Provision in Licensing (Scotland) Act 2005	Function
4.1	Premises Licence Minor Variation Application	s.29 and Sch.1 para 10(1)	Determining any premises licence variation application where the variation sought is a minor variation, including for the avoidance of doubt a change of Designated Premises Manager;
4.2	Premises Licence Application or Variation Application Hearing Attendance	Sch.1 para 10(1)	Determining whether to request an Applicant to attend a hearing for a premises licence application or a variation application where there are no representations or objections and the application is not contrary to the Board's Policy;
4.3	Premises Licence Transfer Application (No Conviction)	s.33, s.34 and Sch.1 para 10(1)	Determining any application for the transfer of a premises licence where the applicant has not been convicted of a relevant or foreign offence;
4.4	Provisional Premises Licence Confirmation	s.46 and Sch.1 para 10(1)	Determining any application for confirmation of a provisional premises licence – where no variation (other than a minor variation) has been made to the operating plan or layout plan for the

			premises to which the licence relates since the provisional licence was issued or since a variation of the provisional premises licence was granted;
4.5	Obtaining Further Information for the Purposes of a Review Hearing	s.38(5) and (6), and Sch.1 para 10(1)	To exercise the powers under section 38(5) and (6) for the purposes of a review hearing to obtain further information, request any person to attend to provide information and/or request production of any document at a review hearing;
4.6	Premises Licence (Licence Production)	s.49(3) and Sch.1 para 10(1)	To require a premises licence holder to produce the premises licence;
4.7	Occasional Licence (No Objection)	s.59 and Sch.1 para 10(1)	Determining an application for an occasional licence – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards officer recommending refusal;
4.8	Occasional Licence Conditions	s.60 and Sch.1 para 10(1)	To impose conditions under section 60 in respect of an occasional licence as necessary or expedient for the purpose of any licensing objective;
4.9	Extended Hours Application (No Objection)	s.70 and Sch.1 para 10(1)	Determining an application for extended hours where no objections or representations have been received nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal;

4.10	Personal Licence (No Conviction)	s.74 and Sch.1 para 10(1)	Determining a personal licence application, or a personal licence renewal application where the applicant has not been convicted of a relevant or foreign offence;
4.11	Personal Licence (Licence Previously Surrendered)	s.77(6)	To grant personal licences where the applicant has previously surrendered their personal licence under section 77(6) or their licence has been revoked under s.87(3);
4.12	Revocation of Personal Licence	s.87(3) and Sch.1 para 10(1)	The revocation of a personal licence where the licence holder has not complied with the requirements of Section 87(1) of the Act;

5. Other Matters

Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Licensing (Scotland) Act 2005 shall be determined by the Clerk (or any person appointed to assist the Clerk) as appropriate unless the nature of such matter is considered to be appropriate to be determined by the Licensing Board at a meeting arranged by the Clerk in consultation with the Convenor of the Licensing Board.

6. Exercise of Delegated Power

The Clerk, Depute Clerk and any other member of staff appointed to assist them may elect not to use their delegated powers in a particular case, in which case the matter will be referred to the Licensing Board.

7. Legislation

These delegations are subject to any necessary alterations arising from amendments to Legislation, Regulations, Codes of Practice or Government Circulars. In the event of a conflict between the terms of this Scheme of Delegation and the relevant legislation, the Scheme of Delegation shall be deemed amended to accord with the provisions of the said relevant legislation.

Supplementary Policy – Hearing Procedures

Where an application requires to be determined by a hearing at a meeting of the Licensing Board all parties will be provided with 14 days' notice in writing of the time and location of the hearing. The Board will endeavour to make any reasonable adjustments to cater for any additional requirements of any party to a hearing if made aware of those requirements in advance.

Where the hearing is in respect of an application the following procedure will be followed:

1. The applicant will be invited to address the Board in support of the application and make reference to any representation or objection received.
2. The person(s) making any representation or objection will be invited to address the Board in support of the representation or objection.
3. The applicant will be invited to respond to any points raised by the person(s) making the representation or objection.
4. Members will be invited to address questions to all parties.
5. The person(s) making the representation or objection will be invited to sum up. No new evidence may be introduced at this stage.
6. The applicant will be invited to sum up. No new evidence may be introduced at this stage.
7. The Board may elect to seek legal advice in private if required but must return to the public forum before any decision is made.
8. The Board will come to a decision.

Where the hearing is in respect of a review application as a result of a complaint the following procedure will be followed:

1. The complainer will be invited to address the Board in support of the complaint.
2. The Licensing Standards Officer will be invited to address the Board in support of the report required in terms of s38(4) of the Licensing (Scotland) Act 2005.
3. The licence holder will be invited to address the Board in response to the complaint.
4. The complainer will be invited to respond to any points raised by the licence holder.
5. Members will be invited to address questions to all parties.
6. The licence holder will be invited to sum up. No new evidence may be introduced at this stage.

7. The complainant will be invited to sum up. No new evidence may be introduced at this stage.
8. The Board may elect to seek legal advice in private but must return to the public forum before any decision is made.
9. The Board will come to a decision.

Supplementary Policy – General Licensing

Alcohol Deliveries

The Board are aware that a number of premises are keen to offer a delivery service for alcohol, particularly those that offer delivery of food. It is the view of the Board that responsibility lies with the licence holder to ensure that the delivery person has adequate training to safeguard the licensing objectives, and in particular has procedures in place to ensure that no deliveries are made to underage customers.

Additional conditions may be attached to premises licences in such cases, and deliveries of alcohol will generally only be permitted as part of a delivery of food, unless from a dedicated off-sales premises.

Agent of Change

The Agent of Change principle in planning terms clearly places the responsibility for mitigating any detrimental impact of noise on neighbours with those responsible for any change in the position. For example, where a new residential or commercial property is to be developed within the vicinity of an existing licensed music venue, the responsibility for mitigating any adverse impact should sit with the developer, as the “agent of change”. Conversely, if a new music venue is proposed, or an existing venue is to be varied, that responsibility would be with the licence holder.

The Board considers it appropriate to have regard to the agent of change principle in licensing terms when determining the weight to be given to various arguments.

Licences Ceasing to Have Effect

Section 28(5)(b) provides that a licence will cease to have effect where the licensed premises ceases to be used for the sale of alcohol. In order to avoid any misunderstandings, the Board expect any licence holder to notify the licensing department in writing if the premises is going to be closed for any length of time with an explanation of the reason for closure and an expectation of when the premises intends to reopen. If a premises has been closed for 6 months the licence will be referred to the next Board Meeting for review.

Personal Licences

The Board considers that it is imperative that any training certificate enclosed with an application for a Personal Licence is up to date. As Personal Licence holders require to refresh training every 5 years the Board thinks it is reasonable to require any

training certificate submitted with an application for a Personal Licence to be no more than 5 years old. Where a Personal Licence has been surrendered or revoked and a subsequent application is made the Board will accept a training certificate over 5 years old only if it is accompanied by an up to date refresher training certificate.

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