

Page No.	Para No.	Addition/Amendment	RESPONSE
General Comments	Where appropriate	<ol style="list-style-type: none"> <li>1. The Forum strongly believes that it would have been preferable if the policy had been completely re-drafted rather than the existing one re-worded. It should also provide a more balanced reflection on all licensed premises, i.e. on and off sales.</li> <li>2. Whenever there is a mention of child or children it should follow thereafter that the rights or welfare of the child is the primary concern.</li> <li>3. Can smart links to each of the documents listed in the appendix be inserted throughout for ease of reference and to encourage readers to access these.</li> <li>4. Once the document has been finalised, can it be issued in hard copy to license holders, including off-sales, and also issued electronically with a reminder that the Licensing Standards Officers can provide support in accessing associated documents.</li> <li>5. The Forum asks that the Board give consideration to including within the Policy a reference to the operating plans for premises whose licence includes entertainment, in order to ensure that due consideration is given within such plans to guarantee that alcohol is not used as a main focus of the promotion of that entertainment as part of any publicity material.</li> </ol>	<ol style="list-style-type: none"> <li>1. Noted.</li> <li>2. Not included. Unsure of meaning behind proposal. Does the Local Licensing Forum (LLF) mean that a phrase should be added to the Policy Statement regarding the rights or welfare of the children on every occasion the words child or children are mentioned? There are repeated references to the licensing objective Protecting Children from Harm and at 2.17 the Board notes the terms of the UN Convention on Rights of the Child. At 2.6 reference is made to harm regarding children’s health and this will be of paramount consideration when determining applications. 28.1 determining applications to accommodate children and families risk of harm to children paramount.</li> <li>3. A list of smart links was added at Appendix 7 of the Policy. If the LLF is able to explain exactly where the smart links are to be inserted (and their references) consideration can be given to</li> </ol>

			<p>adding these.</p> <p>4. This is rejected as it is not a requirement of the Act and will incur unnecessary cost.</p> <p>5. Reference has been made in relation to late opening premises and terminal hours indicating that the consumption of alcohol is ancillary to the entertainment. It has restricted these premises classes as having entertainment that warrants a later terminal hour eg removal of snooker from the list of significant entertainment. It also states what it deems not to be significant entertainment at 20.7.</p>
2	3  3 & 4	<p>The Forum recommends that the Policy make stronger reference to the purpose of the 5 objectives, as per 2007 guidance<sup>1</sup>:          ‘These represent the principles on which the new licensing system is based, and provide Licensing Boards with a solid foundation on which to build their own local policies. These objectives are not ranked in order of importance. Each has equal weighting and all must be paramount considerations when Licensing Boards are carrying out their responsibilities.’ ‘As well as complementing the wider policies of the Scottish Executive these objectives aim to improve the environment for social drinking to one which is safe and welcoming for all.’</p>	<p>The reference is to paragraph 3 in the preamble. The Board did not consider it to be necessary to add anything further here. However, if further explanation is given as to why the LLF consider this especially necessary further consideration may be given.</p>

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

		<p>The Forum recommends the addition of the below wording, to be inserted after ‘In preparing the policy, the Board will have due regard to the guidance issued by the Scottish Government in April 2007...’                  “Guidance has been produced in accordance with section 142 of the Licensing (Scotland) Act 2005.’ Departure from the Guidance may give rise to an appeal or judicial review, and the reasons given could be relevant if the courts are asked to consider the lawfulness and merits of any decision taken.’</p>	<p>It is considered sufficient to have “due regard” following the terms of the Act.</p>
4	1.2	<p>The Forum takes the view that this, as currently phrased, the bias is towards the economy, and contribution of licensed establishments to this. There should be more balanced and reflect the 10 year vision agreed by community planning partners and outlined in the 2013 Single Outcome Agreement, so include, for example: ‘...its continuing economic success is benefiting all its citizens and advancing equality in City’... the City centre is a ‘vibrant hub of commercial and cultural activity with easy and safe access for Aberdeen’s communities and tourists.’</p> <p>As part of developing this vision, changing the City’s culture toward alcohol was identified as a key priority across Community Planning partners and recognised to portray a negative (and unsafe) image for visitors and businesses in the City, hence one of the strategic priority for health &amp; wellbeing is ‘people in Aberdeen who consume alcohol drink responsibly and within sensible weekly drinking guidelines’.</p>	<p>Included.</p> <p>See paragraph 2.16.</p>
4	1.3	<p>The Forum wishes to know how the Board intends to now assess and consult on a policy of overprovision (see separate submission from NHS Grampian) and take into account provision of both off and on sales as per 2007guidance (p.15-18) which inverts the approach to assessing overprovision with reference to town or city centre. In assessing</p>	<p>The Board took into account the responses received from its consultations. Based on the evidence received, primarily from the police and the Health Board, it decided as follows</p>

		<p>overprovision, the Board is asked to acknowledge the change in trend in alcohol purchase, with 68% of purchases now from off sales; and rise since early 90’s in consumption among adults as well as young people (see submission from NHS Grampian).</p>	<p>(1) with regard to premises that sold alcohol exclusively for consumption off premises the Board identified a locality which took into account almost the whole of the city with the exception of two areas namely (a) the Anguston locality and (b) the Kirkhill locality (both localities as identified by the Board). (2) With regard to premises providing sales of alcohol for on sale consumption, the Board recognised two localities (i) the Belmont Street locality and (ii) the Langstane Place/Windmill Brae/ Bridge Place locality as recommended by the police. The types of premises are restricted to those operating as entertainment, public house or the so-called hybrid premises venues. Paragraph 9 of the Policy provides details.</p>
5	<p>2.1 2.2 and 2.8</p>	<p>The Forum asks that this be updated to reflect who the Board consulted on with the current draft policy.</p> <p>The Forum asks that the Policy refer to 2013 Single Outcome Agreement vision and specific outcome on alcohol, now in a very different format (see above).</p>	<p>The list of consultees is stated at Appendix 8.</p> <p>Included. Paragraph 2.16</p>
6	<p>2.4 with subsequent paragraphs to be renumbered</p>	<p>The Forum asks that reference be made to the Adult Support and Protection (Scotland) Act 2007 and that the following wording be added: “Article 3 of the UN Convention on the Rights of the Child, as ratified by</p>	<p>The Board has noted this in Paragraph 2.17 but has not included the wording suggested. A quick link has been provided to the relevant legislation.</p>

		<p>the UK government, requires that in all actions concerning children {defined in the UNCRC as being anyone under age of 18 years}, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. The Board will have regard to this in determining applications.”</p> <p>‘The UNCRC helps us all to articulate what makes for a safe, healthy, happy childhood and a good start in life. It underpins the approach to children’s rights in Scotland, providing us with a framework for ensuring we consider children’s rights whenever decisions are made’.</p> <p>{<a href="http://www.scotland.gov.uk/Topics/People/Young-People/families/rights/uncrc">http://www.scotland.gov.uk/Topics/People/Young-People/families/rights/uncrc</a>}</p>	<p>The Board has at its core the licensing objective Protecting Children from Harm to which there are numerous references in the Policy.</p>
8	2.16	<p>Amend to reflect wording in 2013 SOA, as referred to above:</p> <p>Health &amp; Wellbeing Outcome: ‘people in Aberdeen who consume alcohol drink responsibility and within sensible weekly drinking guidelines;</p> <p>Safer Communities: ‘people feel safe throughout Aberdeen’s communities’ and ‘Safer Roads’</p>	<p>Included.</p> <p>Not included. This may be revisited. It would be helpful if the LLF provided the exact wording of their proposal?</p>
10	5.1	<p>After “the relevant Health Board” a generic e-mail address for the Health Board should be added.</p>	<p>This was proposed but rejected by Members on the basis that there was no adequate reason given for this to be added exclusively for the Health Board.</p>
11	6.5	<p>Request that there is a regular review of Police advice on the requirements around CCTV. For clarification, the Forum would also like to know whether the guidance attached at appendices 5/6 is mandatory or just for information.</p>	<p>The CCTV provisions are twofold: (1) where it involves CCTV in off sales premises there is a local condition attached to each premises that CCTV</p>

			<p>system that complies with the specifications is installed and maintained. (2) CCTV system is required in late opening premises at the discretion of the Chief Constable. Discussions between the Police and the Board can continue regarding the provisions which were recently modified at the request of the police.</p>
13	9.8	<p>The Forum would like to see the two current areas of overprovision (the Justice Mill Area and the Belmont Street Area) expanded and further areas added.</p> <p>Paragraph 9.8 amended as follows:</p> <p>“The effect of the identification and adoption by the Board of this over-provision statement is that:</p> <ul style="list-style-type: none"> <li>• there is a presumption in the city centre area (as defined in Appendix 3) against the grant of an on-sales premises licence, except for restaurants (as defined in Appendix 4), and</li> <li>• there is a presumption throughout the whole extent of the Board’s geographical area against the grant of an off-sales licence for all premises.</li> </ul> <p>84% of the city’s 18 years and over population is already within 500 metres of an off-sales premises and 96.5% is within 1,000 metres, both reasonable walking distances..</p> <p>However, the Board will consider each case on its merits and the presumption may be overturned where cause is shown.”</p>	<p>As mentioned above, the Board considered the evidence presented to it and made its decision regarding the two existing overprovision localities and added another in respect of off sales premises.</p>

		The Forum appreciates that designation of the whole of the city as an area of over-provision in respect of off-sales may not be feasible, but would request the Board to include as much as possible of its geographical area based on the evidence presented.	
16	12.6	The proposed change is as follows: “The Board will enforce <i>robustly</i> ...by acting <i>timeously</i> on receipt of such a report.”  Clarification also sought on what is meant by “appropriately acting”.	“Appropriately acting” is a more neutral term and allows the Board greater flexibility when considering such reports. Each case is decided on its own merits.
16-17	13	Does this refer to management of premises-both off and on sales?	Yes except were there is reference to specific type eg late opening premises.
18	15.2	The Forum asks if experience of working in the licenced trade can be a desirable criteria in applying for a licence, appreciating that there is a need for compliance with the Act.	The criteria are laid down in the Act. No extra qualifications are sought.
18	16.3	Where it says “Significant numbers of children” the words “young people” should also be added, and the reference to “other premises” changed to “other places”.	Included.
20	17	The Forum recommends that each new application for an off sales licence must include evidence of need.	This is not a requirement of the Act.
21	19	The Forum is unclear why outside seating areas are excluded from CCTV and asks the Board to review its position in this area.	CCTV reference is included in 19.2
20	20.1	The addition of the following: “the Board will facilitate a reduction in licencing/opening hours by licence holders that are either permanent or temporary as long as licence holders make the Board aware of these changes.” The Board may insert this in another article if it thinks it more appropriate to do so.	This does not appear to be necessary. Should a licence holder wish to reduce their hours on a permanent basis there is a procedure to follow in terms of the Act.

LOCAL LICENSING FORUM MEETING 12 FEBRUARY 2014

RESPONSE TO LOCAL LICENSING FORUM’S COMMENTS TO LICENSING BOARD’S STATEMENT OF LICENSING POLICY

21	20.3	The Forum recommends that 14 hours is the maximum a premises should be allowed to be open in one session (without closing), although the Board should still consider any applications for an extension to this. The word “maximum” should be inserted where appropriate.	“Maximum” was included.
21	20.3	The time 10am should be substituted with 11am.	The Board did not wish to change this opening time.
25	23	The Forum supports the additional wording inserted at para. 23.5.	OK
26	24.3	The Board is asked to look at whether CCTV radio link should be introduced for all premises as best practice.	This will require further consideration.
27	27.1	<p>The Forum requests</p> <ul style="list-style-type: none"> <li>• that the following line be removed ‘Board wishes to see premises thriving in the City’ on the basis that this is contradictory to next line as does not pre-empt introduction to the other 4 licensing objectives.</li> <li>• that the Board support the Health &amp; Wellbeing outcome in 2013 SOA, i.e. ‘people in Aberdeen who consume alcohol drink responsibly and within sensible weekly drinking guidelines and negative outcomes are reduced’ – refer also to submission from NHS Grampian, Public Health. The Forum suggests that we now need to take cognisance of the rise in consumption and off sales.</li> <li>• that ‘public health &amp; wellbeing’ be changed to protecting and improving the public’s health.</li> <li>• that reference also be made to local authorities’ power to promote or improve wellbeing as part of the Local Government in Scotland Act 2003.</li> </ul>	<p>Done.</p> <p>See paragraph 2.16</p> <p>Not included. Explanation required for including this in this Policy. The term</p>



			<p>“Health and Wellbeing” is taken from the SOA and so the appropriateness of changing the term is questioned.</p> <p>Not included. Explanation required for including this in this Policy.</p>
29	27.6	<p>UNCRC includes ‘Every child has the right to the best possible health’ and the Forum asks that this is reflected here.</p>	<p>The Board notes the terms of the UNCRC at Paragraph 2.17 and the licensing objective Protecting Children from Harm is fundamental to the licensing process.</p>
30	28.1	<p>Please amend as follows:</p> <p><b>“28 LICENSING OBJECTIVE - PROTECTING CHILDREN AND VULNERABLE GROUPS FROM HARM the licensing objective is ‘protecting children from harm’ Other ‘at risk’ groups are protected by the Adult Support and Protection (Scotland) Act, 2007 (see above)</b></p> <p>“Adults at risk” are adults who—</p> <p>(a) are unable to safeguard their own well-being, property, rights or other interests,</p> <p>(b) are at risk of harm, and</p> <p>(c) because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected.</p> <p>(2) An adult is at risk of harm for the purposes of subsection (1) if—</p> <p>(a) another person’s conduct is causing (or is likely to cause) the adult to be harmed,</p>	<p>Rejected. The statutory objective is protecting children from harm. This objective cannot be altered unless by statutory amendment.</p>

		<p>or                      (b) the adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.</p> <p>28.1 The Board wishes to see family friendly premises thriving in the city. It welcomes applications from those who wish to operate licensed premises which accommodate children <b>and families.</b>”</p>	<p>Added.</p>
30	28.2	<p>Please amend as follows:</p> <p>“28.2 Where applicants wish to operate such premises, the Board expects them to appreciate that this places additional responsibilities upon them, at the same time <b>as</b> recognising that parents and other adults accompanying children <b>or vulnerable adults</b> also have responsibilities.”</p>	<p>This Paragraph relates to the Licensing Objective Protecting Children from Harm. The objective does not include vulnerable adults.</p> <p>The word “as” has been included.</p>
30	28.3	<p>Please amend as follows:</p> <p>“28.3 In determining any such application, <b>the Board requires the applicant to demonstrate how they have taken the best interests of children and vulnerable adults into account and assessed and mitigated the risks to them.</b>”</p>	<p>This Paragraph relates to the Licensing Objective Protecting Children from Harm. The objective does not include vulnerable adults.</p>
30	28.4	<p>Please amend as follows:</p> <p>“28.4 <b>Although</b>, children <b>and vulnerable adults</b> may be adequately protected from harm by the action taken to protect adults, they</p>	<p>This Paragraph relates to the Licensing Objective Protecting Children from Harm. The objective does</p>

		<p>may also need particular measures to be taken. When <b><i>demonstrating how they have done this</i></b>, the applicant must consider those factors which may particularly impact on children <b><i>and vulnerable adults</i></b>.</p> <p>These include but are not exhaustive:</p> <ul style="list-style-type: none"> <li>• the provision of entertainment or services of an adult or sexual nature are provided.</li> <li>• <b><i>employment of</i></b> members of staff who have convictions for serving alcohol to children, <b><i>or convictions against children or vulnerable groups, in premises where families are encouraged</i></b>.</li> <li>• where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided there.</li> </ul> <p>28.4 <b><i>The following examples of control measures are given to assist applicants.</i></b></p> <ul style="list-style-type: none"> <li>• effective and responsible premises management</li> <li>• adoption of best practice guidance</li> <li>• limitations on the hours when children may be present, in all or parts of the premises</li> <li>• limitations or exclusions by age when certain activities are taking place</li> <li>• imposition of requirements for children to be accompanied by an adult</li> <li>• acceptance of accredited proof of age cards with photographs, or passports</li> <li>• measures to ensure children do not purchase, acquire or consume alcohol</li> <li>• measures to ensure children are not exposed to incidences</li> </ul>	<p>not include vulnerable adults.</p>
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		of violence or disorder.”	
30	28.5	<p>Please amend as follows:</p> <p>“28.5 The Board requires applicants who submit operating plans which include provision for children to ensure that they are not given access to premises when activities such as adult entertainment <i>or gambling</i> are taking place.”</p>	Added.
30	29 (new paragraph to be inserted)	<p>The Forum recommends the following additional paragraph:</p> <p>“29 PROTECTING CHILDREN FROM HARM IN RELATION TO OFF-SALES Off sales premises, especially supermarkets, need to show a due diligence to children’s exposure to alcoholic products. Off sales premises need to ensure that they are not contributing too greatly to the normalisation of alcohol and its consumption in the home. With this in mind, the Board requires the applicant to demonstrate how they have taken the best interests of children and vulnerable adults into account and assessed and mitigated the risks to them.”</p>	<p>Rejected. The reference to vulnerable adults does not assist when dealing with an objective which relates only to children.</p> <p>It is suggested that such a proposal would be more appropriately introduced by way of an amendment to the legislation.</p>