

ABERDEEN CITY COUNCIL

ABERDEEN LOCAL LICENSING FORUM

List of Draft Recommendations to the Licensing Board as contribution to the review of the Statement of Licensing Policy

- (1) The layout of the new Statement of Licensing Policy should include references to the relevant Licensing Objectives.
- (2) The Licensing Objectives should be set out earlier in the document with a title such as Promoting Licensing Objectives rather than just Licensing Objectives.
- (3) The Statement of Licensing Policy should specifically refer (in the links to other policies and strategies) to the following documents – the Aberdeen Alcohol Strategy, the publication “Licensing for Public Health” published in June, 2009 and considered by the Licensing Board on 15/12/09, the Community Safety Partnership Action Plan, the Single Outcome Agreement and input from Social Care and Wellbeing about Child Protection. In addition there should be reference to the City Council’s Transportation Strategy and the Single Equalities Scheme. The latter would avoid separate references to disability and race for example.
- (4) It is misleading to have Section 13 entitled Enforcement and Licensing Standards Officers. It would be more appropriate to have a separate section on the role of Licensing Standards Officers which is more extensive than enforcement.
- (5) A useful addition would be a Contacts section as other cities appear to have this either as part of the revised Statement of Licensing Policy or as a stand alone document.
- (6) There should be a glossary of terms or a briefing paper explaining the different remits and functions of the Board, the Committee and the Forum.
- (7) The publicity about the new Statement of Licensing Policy would be an opportunity to have a public education/awareness campaign.
- (8) Procedures for making representations and objections and the distinction between them plus a complaints procedure would also be of value to members of the public. For example it would be useful to know what triggers a review of a licence.
- (9) A section on Monitoring and Evaluation of the effectiveness of the policy itself and the Board’s contributions to other relevant strategies would be a useful addition.
- (10) Sections 10.4 and 25.7 refer to Door Supervisors and a convenient point should be identified to expand on their role and to discuss them in the context of risk assessment in relation to the safety of employees and patrons and the number required related to occupancy capacity or opening times.
- (11) Section 11 refers to review of premises licences and it would be useful to state what triggers a review and what are the relevant grounds for review.
- (12) Section 2.6 would be the appropriate point to mention the Aberdeen Alcohol Strategy and the Alcohol and Drugs Partnership (the JADAT replacement) in addition to the Community Safety Partnership.

- (13) Section 2.8 could be expanded or qualified by stating when issues/concerns are brought to the Board's attention which are supported by evidence, the Board will make recommendations/offer advice to other bodies charged with overseeing those other regulatory regimes and invite them to take action or respond to the Board explaining why this would not be appropriate.
- (14) In the light of the new planning regime and 2005 Licensing Act it is considered inappropriate to state at Section 2.10 "it is appropriate that planning permission is obtained first".
- (15) Section 6.3 could be re-worded to confirm that model conditions have been adopted (subject to amendment) and to state that they have the equivalent of statutory status. The conditions themselves should be attached to the Statement of Licensing Policy.
- (16) In Section 8.1 the reference to the Board assessing the likelihood of an application having an adverse impact on the Licensing Objectives should be more positive. The test should be to consider if the application would promote the Licensing Objectives. For example, from the application it may be apparent that they have the intention (or a track record with other premises) to meet the criteria of Best Bar None or to join Unight.
- (17) In Section 9.6 "evidenced" complaints could be expanded to explain what these are and that this relates to any application and is not related just to overprovision which is the heading of Section 9. It would also be useful to clarify if the Board could proactively trigger a review of a licence based on views from members of the public or whether "evidence" in fact means police information/intelligence, relevant data from NHS Grampian or the Ambulance Service.
- (18) In Section 22.5 a recommended template for risk assessments should be proposed.
- (19) Section 25.3 should indicate what relevant representations would be? Although under the 2005 Act there is no requirement for renewal of licences every three years, it would seem appropriate to have an assurance about monitoring/review of compliance with licence conditions and the Operating Plan.
- (20) The heading of Section 20.10 should be changed from Hours of Trading as Section 20.10 sets out issues to consider in relation to patrons leaving premises and refers to availability of food and transport not just hours of trading. Dispersal requires a comprehensive approach and recommendation (23) below suggests a process including a Working Group.
- (21) The Forum recommends that the Board adopt similar statements to the following taken from the City of Edinburgh's Statement of Licensing Policy –
"Where an ATM is made available for use on licensed premises, the Board will consider the imposition of a condition that the ATM should not be located in any part of the premises where alcohol is available for purchase and consumption so that a customer wishing to use the ATM must cease drinking in order to do so."
- (22) The Forum recommends that the Board considers its position on requirements for the provision of food and non-alcoholic drinks if a legal action against Dundee Licensing Board is concluded in their favour. An extract from the Dundee City Licensing Board Statement of Licensing Policy may be of assistance to the Board and is attached as Appendix 1.
- (23) The Forum recommends that the Board establish a Working Group with a representative of the Board, the Licensing Committee, the trade, Unite the security industry and taxi and bus providers to devise a comprehensive solution to the problem of crowd dispersal in the city centre especially in the early hours of the morning at the weekends.
- (24) The Forum recommends that the Board includes conditions on pavement cafés and its own position on Irresponsible Promotions and Price Variations in the new

Statement of Licensing Policy. Attached to this paper (as Appendix 2) is a copy of the supplementary Policy Statement approved by the City of Dundee Licensing Board on these matters which may be of assistance.

- (25) The Forum recommends that the Board expands the Statement of Licensing Policy to include at least some of the following control measures included in the Dumfries & Galloway Statement of Licensing Policy –
- (a) encouraging licence holders to play an active part in preventing drink driving by displaying anti-drink driving materials, supplying reasonably priced soft drinks, promoting designated drivers schemes and offering free soft drinks to designated drivers;
 - (b) securing public safety by encouraging the provision of toughened or plastic drinking vessels, proof of regular testing of procedures, for example, crowd management and evacuation procedures and preparation and introduction of a policy around accessible transport for lone women and other vulnerable groups; and
 - (c) risk assessments for each type of event to be held in licensed premises as detailed in Operating Plans should be comprehensive and the Board and officers assisting the Board in scrutinising Plans should be encourage to check public safety will be secured bearing in mind the customer profile for the events, for example, age, disability, gender, race/ethnicity and also consideration of the use of special effects such as lasers, pyrotechnics, smoke machines, hazers and strobe lights. In addition the structural stability of dance floors should be assessed and evidence obtained of the maintenance and testing regime for fire safety equipment including fire drills.
- (26) The Forum recommends that the Board ensures the new Statement of Licensing Policy addresses a number of “audiences” including the citizens of Aberdeen who want assurance that the Licensing Objectives are given due prominence in the Board’s deliberations and decision-making. The following statement of intent taken from the Licensing Statement for Dumfries and Galloway is worthy of consideration and adaptation to reflect the multi-agency approach in Aberdeen:-
- (a) while acknowledging that smoking is not a licensing matter, the Dumfries and Galloway Statement of Licensing Policy sets out the responsibilities of licence holders in relation to sweeping up cigarette ends and other smoking related waste left by customers taking a smoking break immediately outside licensed premises and thereafter returning to the premises. The Statement mentions the Board may impose conditions requiring licence holders to provide litter bins in the vicinity of premises. The Forum is of the view that as wide an area as feasible should be included in this regime with LSOs, road sweepers and community Wardens, etc. being in a position to report the next day on any breaches or concerns about accumulation of litter, etc. The Forum recommends that smoking areas be supervised on the same basis as queues to enter licensed premises are supervised;
 - (b) concerns had been expressed in Dumfries and Galloway regarding the safety of young women who may be attracted to groups of men smoking outside licensed premises. The Statement of Licensing Policy states “If these concerns appear to be justified, the Board will assist in addressing harm to young people through partnership with the licensed trade, the police and agencies involved in child protection and representation.”;
 - (c) the multi-agency approach with the full support of the licensed trade is recommended as the way forward in respect of Protecting and Improving Public Health with specific reference to workplace alcohol policies, links to

other public health programmes such as drugs, sexual activity, gambling addiction, road safety and personal safety.

CONCLUSION

In addition to the above list the Forum may wish to endorse recommendations or observations submitted by individual members of the Forum and to support relevant actions in the Safer Aberdeen Forum's Action Plan. Cheryl Smith, Safer Aberdeen Programme Manager, with the City Council, has submitted a copy of the Action Plan for the Local Licensing Forum's information.

City of Dundee Statement of Licensing Policy**Provision of Food and Non-Alcoholic Refreshments in Entertainment Licensed Premises**

““On 20th October, 2005, the Licensing Board approved the policy whereby entertainment licensed premises would be allowed to open for an additional hour from 2.30am until 3.30am on Saturdays and Sundays for the provision of food and non-alcoholic refreshments only. This followed a report containing recommendations from the Evening Economy Working Group which were aimed at tackling the increasing incidents of persons gathering outside late hours catering establishments once entertainment licence premises closed at 2.30am. Any premises wishing to take advantage of this extra hour could either provide the food by means of an arrangement with late hours caterers in the area whereby food could be delivered to the entertainment licensed premises and consumed by patrons therein or alternatively, the entertainment licensed premises could provide the food themselves.

To date, regular extensions to 3.30am have been granted on the above understanding but have not yet been implemented since a number of late hours catering establishments have appealed to the Sheriff against the decision of the Licensing Committee to curtail their opening hours to 2.30am unless such establishments were willing to enter into an agreement to provide food to entertainment licensed premises as narrated above. It is anticipated that, after some delay, these appeals will shortly be heard by the Sheriff. In the event that the policy is supported by the courts, and given the fact that it has not yet been tested in practice, this policy will continue under the new Board.” The Dundee Board has also a provision in relation to a minimum entry charge for premises providing entertainment. “A minimum charge for entry to premises, applicable to persons of 18 years of age and over, must be charged. This charge shall be fixed by the Licensing Board at its meeting in June of each year for the year beginning 1st July and ending 30th June. This minimum charge must not be off-set in any way. For the avoidance of doubt, off-setting the minimum charge includes, but is not limited to, (a) the issue of complimentary tickets or vouchers, and (b) the advance purchase of tickets granting entry on more than one evening.”

The Dundee Board Statement makes reference to Best Bar None. The Board thought it appropriate to indicate that through its policy there is support for the continuation of the Best Bar None scheme, but for the avoidance of doubt, does not require licence holders to participate in it but commends participation as good practice.”

SUPPLEMENTARY STATEMENT OF LICENSING POLICY (NO.1)**IRRESPONSIBLE PROMOTIONS AND PRICE VARIATIONS**

"Drinks promotion" means in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises [2005 Act, Schedule 3, Paragraph 8(5)].

Promotions can occur in relation to both on and off sales.

A drinks promotion which involves a variation in pricing will be effected by the requirements of Schedule 3, Paragraph 7 - "Pricing of alcohol"

Schedule 3, Paragraph 8(2) (subject to the requirements of Paragraph 8(3)) states that a drinks promotion is irresponsible if it falls within the descriptions listed in Schedule 3, Paragraph 8(2).

Paragraphs 7, 8(1), 8(2) & 8(3) are reproduced in full at the end of this Supplementary Statement.

An irresponsible drinks promotion must not be carried on in or in connection with any premises [Schedule 3, Paragraph 8(1)].

Currently, there is no definitive guidance as to what constitutes an "irresponsible drinks promotion". Examples of drinks promotions can, however, be considered individually against the legislative criteria to assess if the promotion is irresponsible in terms of the Act.

The following list is of promotions which have or are occurring locally and which the Board feels are in breach of the legislation. The list is not exhaustive, so not being on the list does not mean that a promotion is necessarily in compliance with the Act.

Following the list of irresponsible drinks promotions is a list of activities that, in the opinion of the Board, would be in breach of the pricing of alcohol requirements of Schedule 3 paragraph 7.

A. Irresponsible drinks promotions

1. **All inclusive offers.** For example, a party night promotion, where the purchase of a ticket or payment of an admission charge entitles the purchaser to access to a free bar. This promotion involves the supply of unlimited alcohol for a fixed charge and therefore Schedule 3, Paragraph 8(2)(d) applies.
2. **Watch the match and if your team wins get a free pint of beer.** For example, a promotion that requires a customer to be in the premises at the beginning of a televised sports event and at the end of the contest dependent on the result the person may be given a free pint of beer. This promotion is offering alcohol to be consumed on the premises as a reward for being in the premises and therefore Schedule 3, Paragraph 8(2)(h) applies.
3. **Double up.** For example, a premises offers customers the chance to double up by offering a double measure for an extra 50p (in addition to the price for a single measure). This promotion offers an extra measure of a alcohol at a reduced price on the purchase of a measure of alcohol and therefore Schedule 3, Paragraph 8(2)(c) applies.
4. **Student nights.** For example, a night club advertises/distributes flyers giving details of the venue, entry fee and stating that the first drink is free. The free drink is offered as a reward for entering the premises therefore Schedule 3, Paragraph 8(2)(h) applies.
5. **Drinks vouchers.** For example, a night club advertises/distributes flyers giving details of the venue, entry fee and stating that five £1 drink vouchers will be given to the customer on entry. The vouchers can be handed over the bar in exchange for a drink. This constitute giving alcohol as a reward for entering the premises therefore Schedule 3, Paragraph 8(2)(h) applies.

6. **Drinks as prizes / rewards.** For example, a quiz night or competition where alcohol is offered for consumption on the premises as a prize for winning or a reward for taking part. Schedule 3, Paragraph 8(2)(h) applies.
7. **Reward card.** For example, on application by a customer a points card is issued by a premises. Every time a purchase is made by the card holder in the premises the card is credited with points. The points are given a cash value and can be claimed against the price of alcoholic drinks. This constitutes giving alcohol as a reward for frequenting the premises therefore Schedule 3, Paragraph 8(2)(h) applies.
8. **Free bottle of wine.** For example, a restaurant offers a set meal for two with a free bottle of wine for £50 (excluding Saturdays). This constitutes giving alcohol as a reward for frequenting the premises therefore Schedule 3, Paragraph 8(2)(h) applies.

B. Pricing of Alcohol

1. **Offering the same drinks at different prices in the same premises.** For example, prices in the lounge bar of a pub being different than the prices in the public bar. This would constitute a variation in pricing and would not comply with the requirements of Schedule 3, Paragraph 7.
2. **Out of code discount .** For example, offering cans of beer with a best before date that has expired while selling cans of the same brand that are within date code at a different price. This would constitute a variation in pricing and would not comply with the requirements of Schedule 3, Paragraph 7.
3. **Discount vouchers .** For example, a promotion where vouchers or tokens which are sold or given to potential customers where by they are entitled to a reduction in the price of certain drinks while other customers still require to pay the full price. This constitutes a variation in pricing and would not comply with the requirements of Schedule 3, Paragraph 7.
4. **Discount to certain customers.** For example, a promotion that offers a discount to students or OAPs while other customers pay the full price for the same drinks. This constitutes a variation in pricing and would not comply with the requirements of Schedule 3, Paragraph 7.
5. **Student nights.** For example, a night club advertises/distributes flyers giving details of the venue & entry fee and stating that on a Friday or Saturday night, drinks are £1 all night*. The asterisk gives the qualification for the promotion which is * *with student card*. The price of drinks is varied for students but not other customers therefore this constitutes a variation in pricing and would not comply with the requirements of Schedule 3, Paragraph 7.
6. **Drinks vouchers.** For example, a night club advertises/distributes flyers giving details of the venue, entry fee and stating that five £1 drink vouchers will be giving to the customer on entry. If the voucher merely entitles the customer to a discounted drink i.e. the customer uses a voucher and is only charged a £1 then unless that drink is that price for all customers then this constitutes a variation in pricing and would not comply with the requirements of Schedule 3, Paragraph 7.
7. **Cheaper drinks throughout the week.** For example, a pub has a drinks promotion where the cost of all drinks is reduced from 12.30pm on a Sunday until Friday at 8pm. Drinks are increased to " full" price from 8pm on a Friday until closing time on Saturday night. This constitutes a further variation in drinks pricing. A variation in pricing cannot occur except at the beginning of a licensing period so drinks cannot change price at 8pm if the pub is open prior to this time selling alcohol and the variation must last a minimum of 72 hours so the variation whereby the prices increase on the Friday and Saturday does not provide the minimum 72 hours time period. This variation in pricing would not comply with the requirements of Schedule 3, Paragraph 7

Pricing of alcohol

7 Where the price at which any alcohol sold on the premises is varied—
 (a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
 (b) no further variation of the price at which that or any other alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

Irresponsible drinks promotions

8 (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
 (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it—
 (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
 (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
 (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
 (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
 (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
 (f) is based on the strength of any alcohol,
 (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly,
 or
 (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
 (3) Paragraphs (b) to (d) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.