

# ABERDEEN CITY ALCOHOL LICENSING POLICY STATEMENT 2023 REVISION

## REFLECTIONS AND RECOMMENDATIONS FROM ABERDEEN CITY LICENSING FORUM.

APRIL 2023

### Introduction & New Guidance

The stated purpose of the task of reviews of alcohol licensing policy statements is to: “allow the Licensing Board to take stock following an election, take the views of others into consideration, gather evidence and set policy statements that reflect their views and aspirations whilst being mindful of the need to promote the five licensing objectives and to be consistent with the provisions of the 2005 Act”.

Implicit in these considerations, particularly around considering *evidence in relation to promoting the five licensing objectives*, is the requirement to be mindful of (and responsive to), any significant changes in the patterns of alcohol purchasing and consumption including the balance of off-trade versus on-trade and the evolution of the night-time economy. Three notable trends in terms of alcohol purchasing and resultant harms have been influencing this landscape since the Covid pandemic and it is relatively straightforward to appreciate how these aspects might be interlinked:

- (i) Continuing rising proportion of off-trade sales, with attendant rises in the types of harm associated with home drinking and appreciating that what is reported will be a small proportion of the true harms (e.g. domestic violence and secondary traumatic impacts on children and families)
- (ii) Increasing social polarisation of mortality and harms (rising most in the less advantaged)
- (iii) Increasing alcohol mortality in Scotland

The following summary notes outline some suggestions which the Licensing Forum considers that the City Licensing Board ought to be cognisant of in their approach to reviewing their statement of licensing policy. These notes draw significantly on recently published guidance to Licensing Boards from the Scottish Government<sup>1</sup>. In addition to enabling better provision to protect the licensing objectives in response to the above trends, there is an appreciation throughout the guidance that there needs to be a component of flexibility to tailor actions to local circumstances and to adapt to changes in local circumstances. A statement of licensing policy therefore is clearly intended to be a dynamic document with the capacity to remain relevant to changing local circumstances.

### I Changes in alcohol purchasing & licensing objectives

To be mindful of the consideration that the vast majority of alcohol purchased in Scotland at the present time is purchased through off-trade facilities / outlets (~75%) and that these routes for obtaining alcohol need to be just as subject to the safeguards inherent in the five licensing objectives as are on-trade premises. Examples of how this might work in relation to each objective:

---

<sup>1</sup> [Licensing \(Scotland\) Act 2005 section 142: guidance for Licensing Boards](#) (13<sup>th</sup> January 2023).

1. Preventing crime and disorder:
  - Alcohol harms from consumption at home are likely to occur at home, so police may be asked for summaries of DV incidents tagged for specific areas and time periods (contributing to a picture of alcohol harms for an area). Police do add these tags though the extent of completeness (as with health recording) is likely to be variable.
  - A & E specialist alcohol teams might ask about alcohol purchasing location(s) when patients present with related harms. This could be added to short ABI-style interviews or simply AUDIT-C<sup>2</sup> Q3 query that can be used during an A & E admission with potential alcohol related injury or during 'booking in' or discharge interview at a custody suite if intoxication had been evident on admission.
2. Securing public safety:
  - Reporting of any threats / challenges to public safety that might occur in the vicinity of off-license premises should be documented
3. Preventing public nuisance:
  - Issues of public nuisance / excess noise / antisocial behaviour should be recorded and documented in terms of location;
  - Noise nuisance / public disturbances in the vicinity of off-trade premises should be treated and investigated in the same way as for on-trade premises.
4. Protecting children and young persons from harm:

While we know it to be the case that young persons are for the most part now drinking less alcohol than older age groups, it is important to remember that young people are especially vulnerable to injury / exploitation regarding alcohol and younger initiation of drinking increases the risk of problem alcohol consumption later in life. For these reasons, the Licensing Board should exercise particular scrutiny over:

  - Access restrictions to under 18s and challenge 25 training for staff across on and off-trade
  - Purchasing alcohol online should require a 'verified age' by uploading an official document or purchased via credit card with text or pin confirmation (technical feasibility uncertain). Alternatively, any schedule should detail the means by which young persons will be protected both at point of sale and delivery.
  - Take into account the particular 'suggestibility' of young persons in relation to sophisticated advertising and marketing as the alcohol industry 'responds' to declines in youth alcohol consumption: this would include the visibility of sports and events sponsorship across both amateur and professional spheres.
5. Protecting and improving public health:

Needs to include considerations around the chronic health impacts of alcohol which should be informed by local health intelligence maps of hospital admissions for chronic conditions directly attributable to alcohol such as alcohol related liver disease

## II Interpreting 'Overprovision' as excess of harm

With regard to 'overprovision', the updated SG guidance stipulates that: "There is no simple numerical formula for pinpointing the threshold between provision and overprovision. Determining overprovision involves the application of reason and judgement in the interests of the community". Tailoring the implementation of the policy at community level is therefore within the scope of the guidance, meaning it is legitimate and expected to take account of the broader contexts in which

---

<sup>2</sup> [Alcohol use disorders identification test consumption \(AUDIT C\)](#)

harms are greater, social disadvantage being a notable example and where we know that high densities of off-licence shops in particular are to be found.

The long running attribution challenges associated with allocating harms to particular premises or to a concept of 'excess alcohol supply' in a particular locality is especially problematic in the era of multiple purchase opportunities for alcohol. If an area or locality is associated with unacceptable levels of harm (e.g. as evidenced by any of the information gathered above to monitor compliance with objectives 1 to 5), then clearly there may be a case for concluding there is already a sufficient supply and further licence applications need to be curtailed or subjected to a higher level of scrutiny in order to properly safeguard / promote the public health objective.

**Action / Recommendation:** Where an area or locality already has an unacceptable and demonstrable burden of health harms (as is more likely in areas of social disadvantage), there is a case for restricting further availability.

### III Special Considerations in relation to children and young persons

While existing provision in the current SOLP were felt to be good, there were suggestions that the all-round safeguarding for young persons might benefit from considering the following:

- In any policy related matters individuals aged 18-24 years old should also be regarded as 'young people' (linked to [Police Scotland's view](#)), and as such they should be seen as a group requiring additional considerations for being kept safe by license holders, who will be supplying them with alcohol
- Licensing approvals should ideally take account of how close premises are to where children and young people, live, work and play so that premises supplying alcohol should not be permitted within a reasonable vicinity.
- Training for becoming a licensee should ideally include:
  - Child Protection Training (especially where license holders serve children or children could be present in establishments with alcohol. So this relates to both on- and off-sales).
  - Training on spotting signs of exploitation, coercion (which might link to people buying alcohol for younger people or any persons in a premises in a vulnerable situation) etc.

**Action / Recommendation:** Adoption of any (or all) of the above three considerations would enhance the level of reassurance from prospective license applicants around their stated intentions to comply with and promote the 4<sup>th</sup> licensing objective of protecting children and young persons from harm.

### IV Risk Assessments against licensing objectives

Clearly the most transparent means to demonstrate compliance with the five licensing objectives is to document a systematic risk assessment against each of them. The Statement of Licensing Policy should ideally append and exemplar hypothetical risk assessment based on a number of recent comprehensive submissions. Ideally, the application process should require applicants to make a response around how they will promote each licensing objective. This should be the case for applications for areas where the existing level of harm is deemed 'already significant'. The existence of such a threshold is an extension of the above concept where levels of harm are said to be unacceptable and if there was a workable definition of 'already significant harm'. The full evidence paper behind this submission will look to expand on the feasibility of such a concept.

**Action / Recommendation:** One of the most transparent ways to document and demonstrate that each licensing objective has been systematically considered is to simply note a one sentence / one phrase assessment of the level of risk under that particular objective and if appropriate to the risk

level, any mitigation measures that have been applied. This exercise is not intended to be onerous, but should hopefully streamline and simplify the process: e.g. If risk is not significant, then no mitigation would be required.

#### V Revision of Licensing Policy

Given the ever evolving landscape around alcohol legislation, guidance and evidence of harms as well as population impact, the idea that a policy once published is then valid for a 4-5 year term seems to be out of step with reality and the desire for local alcohol licensing policies to be responsive. We would therefore recommend that Statements of Licensing Policy are tabled as a standing item in the annual joint meeting of the Licensing Forum and Board.

**Action / Recommendation:** Statements of Licensing Policy are tabled as a standing item in the annual joint meeting of the Licensing Forum and Board.

#### VI Departing from Guidance

Among the numerous provisions of the Scottish Governments renewed guidance for licensing boards referred to above, was the facility to depart from guidance if this was justified by the scenario in question. There is considerable emphasis / provision within the guidance to tailor implementation to local circumstances (clauses 2.1, 2.5 and 2.9 – see extracts in Appendix) and inherent here also, by implication / extension is retaining the capacity to further adapt to local circumstances, should these change over time.

**Action / Recommendation:** The facility to depart from guidance to licensing boards in order to tailor decisions to local circumstances should be reasonably considered, providing there is no risk of any of the licensing objectives being undermined or compromised.

#### VII Licensing Board and Licensing Forum

Since a fully functional relationship between the Forum and the Licensing Board facilitates a shared understanding of their complementary roles, their communication and interaction would not be expected to be restricted to an annual joint meeting. We would therefore propose that the Licensing Forum Convenor or Vice Convenor are in attendance at each Licensing Board meeting in an observational capacity and that there is provision for ad hoc meetings of the respective Convenors at the request of either party.

#### VIII Consultation with Communities

The Licensing Board should make every effort to maintain relationships of trust with their local community and to this end there should at least one annual meeting where community representatives are pro-actively invited and encouraged to attend. This could be co-ordinated in the first instance by the Licensing Forum.

#### IX Licensed Hours

While maximum trading hours are set by statute, applications need not see the full opening hour provision as a target to be worked towards. In some instances, the correct response to a risk assessment of the sort detailed in III above might be to restrict hours of trading, thereby reducing likely durations of drinking and /or clustering of post- licence period events. The facility to reduce permitted licensing hours either for a temporary period or a permanent basis might be a recommended outcome / condition of a licensing review process, where such a process has been initiated by the enforcement authority.

## X Advertising and Marketing

Since alcohol product promotions in off-sales environments are known to be effective in increasing sales and impulse purchasing, one means of reducing the risks of unintentional purchasing in those for example, who are in recovery from alcohol dependency, would be to segregate as far as possible the areas demarcated for alcohol. While this is already the case for supermarkets and larger retailers in Scotland, there should ideally be a degree of separation also in smaller premises, in order to maintain and promote the objective around the public's health and reduce the visibility of alcohol-containing beverages to children and young people. When reviewing license applications, due regard to a reasonable separation between alcohol and non-alcoholic products should be seen to be implemented (within the constraints allowed by the size of the premises).

## XI Summary Recommendation for submission to SOLP

Licensing boards need to be cognisant of the changing landscape of alcohol harms and the fact harms, behaviours and risks continue to change over time. The key to the success of any statement of licensing policy will therefore be its capacity to adapt and accommodate fresh challenges as and when they arise. Five key core components of maintaining this response fluidity will be, as detailed above:

1. Systematic documented risk assessments for each new license application and major change application (facilitated by a structured pro-forma). As noted above, this need not be seen as overly onerous process and is intended to streamline the application process.
2. A broad interpretation of 'over-provision' to reflect that unacceptable levels of harm must demonstrate on a balance of probabilities, that the supply of alcohol already risks undermining the licensing objectives (in particular that of protecting public health) justifying a greater level of scrutiny for any further applications. Existing 'over-provision' in terms of hours of availability could also be deemed as a reasonable justification for not granting supplementary hours.
3. Additional safeguards need to be developed and introduced to reduce the risks (to minors) from online and remote purchasing methods, such as two stage age-verification or credit card compulsory SMS text checking<sup>3</sup>. Alcohol deliveries should not be permitted outside of normal licensing hours (even if an order was placed before statutory licensing hours).
4. The Statement of Licensing Policy should come under an annual 'fit for purpose' review at the combined Board and Forum meeting and the Forum will pro-actively ensure that the evidence needed to evaluate this is proactively obtained and documented. Ideally community and wider stakeholder feedback would also be sought during this mini-review process.
5. Due regard should be taken of Government guidance around advertising and marketing and the clear separation of alcohol sale display areas to designated areas should be encouraged to dissuade impulsive purchasing and adverse impacts on those engaged in a recovery process. Outside planning permissions and advertising billboards (in cooperation with local planning), also need to be mindful of locations where additional risks to vulnerable groups or persons might be an issue.

## Appendix 1 Extracts from New Guidance<sup>4</sup>:

1.5 Scottish Ministers recognise the independence of the Licensing Boards but also consider it is important for Licensing Boards to share and learn from each other's experiences.

---

<sup>3</sup> Not sure about technical feasibility of this: idea being that credit card ownership requires person to be over 18 and an SMS follow up would constitute card-holder confirmation.

<sup>4</sup> [Licensing \(Scotland\) Act 2005 section 142: guidance for Licensing Boards](#) (13<sup>th</sup> January 2023).

*[Note: case for pan-Grampian oversight – currently informally worked through – between police and NHSG: worth formalising].*

**1.8** Going forward, the intention is to have more frequent updates to the Guidance. This will be achieved through the creation of a small Scottish Government led stakeholder group that will meet twice a year to reflect legislative changes and other matters. The Licensing Team will also look to Licensing Boards to provide examples of best practice, which can be incorporated into the guidance.

*[Note: case for feeding back up the chain – examples of successes / good practice]*

**1.12** (from MESAS Report): “...of the total alcohol sold in Scotland, 73% is now sold in the off trade. Drinking at home means less control over how much is consumed and some harms are harder to detect e.g. domestic violence. Many Licensing Boards recognise this shift and have reflected this when developing their licensing policy statements.

**1.14** An example of statistical information can be found on the National Records of Scotland (NRS) website: Number of alcohol specific deaths up 5% to 1,245 in 2021. Alcohol-specific deaths have generally risen since 2012. Before this point, deaths fell sharply from the peak of 1,417 in 2006 to 968 in 2012. Last year, deaths rose by 5% or 55 deaths to 1,245. NB: these are alcohol specific deaths – which we know to be the tip of iceberg – alcohol is a contributory cause to many more.

**1.16** The Scottish Government acknowledges that many Licensing Boards do review relevant information and actively engage with key partners. In addition, a number of Licensing Boards publish on their websites details containing the background information that has led them to adapt a particular policy. The Scottish Government commends these approaches to all Licensing Boards.

### **Licensing Objectives:**

**2.1** This chapter provides information on the five licensing objectives. A key component of the licensing system set out in the 2005 Act is that it provides local flexibility to deal with local circumstances.

*AND:*

**2.5** Since the implementation of the 2005 Act, Licensing Boards have **been able to develop their knowledge and understanding of how to best promote the 5 licensing objectives**. This will continue to be an ever evolving process, **informed by local experience**.

**2.7** Each objective is equally important and whilst the licensing objectives are standalone, there will also be an element of interaction between them.

**2.9 [Relevance to local neighbourhoods]:** Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and the activities at those premises”.

### ***[Covering a fuller spectrum of harms]***

**2.10** Alcohol related crime and disorder does not only occur within or immediately outside licensed premises. A significant proportion of alcohol is bought to be consumed at home or in other private dwellings. Whilst alcohol licensing alone cannot directly address issues such as domestic violence, Licensing Boards may wish to consider supporting work in this regard through partnership working.

## PROTECTING AND IMPROVING PUBLIC HEALTH

This Licensing objective, probably more so than the others, provides Licensing Boards with the opportunity to take a more strategic approach to licensing in their area, and set out their vision for their licensing area through engagement with the local community.

A GOOD EXAMPLE – BEING THE RELATIVELY CRUDE POLICY INSTRUMENT OF OVERPROVISION:

However, **overprovision is only one ground for refusal**, and the Licensing Board believes that in terms of the alcohol related health data it has considered, it is important to clearly set out its concern regarding the granting of an off-sales licence and the Licensing Objective of Protecting and Improving Public Health.

And echoes of CIP approach:

"While each application will be considered on its own merits, in the view of the Board where there is evidence that the locality in which the applicant premises are situated suffers from higher than the national average levels of alcohol related health harms, .....the Licensing Board will carefully consider whether the granting of such a licence would be inconsistent with the Licensing Objective of Protecting and Improving Public Health".

### Protecting Children and Young Persons from Harm

While understandable that licensed premises would not wish to discourage family-orientated events etc, a number of considerations are outlined:

Premises which are small and contained with few facilities are unlikely to be suitable

All reasonable measures must be taken to minimise exposure of C&YP to marketing materials / branding etc. (with potential implications for prizes)

While Boards would not be expected to have 'the reach' to deal with or directly tackle the risks of child exploitation, they should seek to work with wider partners to help achieve this wider aspect of harm to children – such as police and social work colleagues and third sector specialists (such as Barnado's).

*JM 14<sup>th</sup> April 2023*

**Note:** to be followed by a supplementary detailed overview of the evidence supporting the above.

