

AFS RESPONSE TO PERTH AND KINROSS LICENSING BOARD'S LICENSING POLICY STATEMENT CONSULTATION (AUGUST 2018)

Alcohol Focus Scotland (AFS) welcomes the opportunity to comment on Perth and Kinross Licensing Board's Statement of Licensing Policy (SLP). The licensing system plays a key role in minimising the risks of harm to individuals and society from the sale and consumption of alcohol. AFS is therefore keen to support the development of licensing policy and practice in Scotland that works most effectively to prevent and reduce alcohol related problems.

As a national organisation, we offer our opinion on the general approach, policy direction, and emerging issues relevant to alcohol licensing, which we hope the Licensing Board will find useful. We have also provided suggestions regarding the sections of the draft policy which we believe may warrant particular scrutiny.

Links with other strategies

AFS welcomes that the existing policy includes a commitment that the Board will work towards ensuring the integration of its policy statement with local strategies relevant to the licensing objectives. The various strategies detailed in the current policy are those that we believe to be the most appropriate e.g. local community plans, and the various strategies and action plans of local partnerships.

It will be important that the new policy continues to recognise the value of linkages with other bodies interested in alcohol regulation, and specifically references the policies and strategies which are most relevant to the work of the Board. The Board should also take into account the views of local partners, the Forum, communities, and other strategies and plans which have relevance to alcohol when developing and implementing their new policy.

The alcohol licensing regime provides a locally led system for regulating the sale of alcohol and is one of the key mechanisms by which availability can be controlled at a local level. As alcohol licensing is the responsibility of licensing boards, it will be essential that boards can identify where they share similar objectives to Community Planning Partners, and understand how they can best support each other towards these ends. In many respects, licensing boards and CPPs are already working towards shared goals and stand to benefit from more collaborative approaches. It will therefore be important that the new Licensing Policy aligns with community planning Local Outcome Improvement Plans (LOIPs). In addition, the work undertaken by the Alcohol and Drug Partnership will be of particular significance, and the new policy could signpost people to where they can access a copy of the ADP's Strategy and Delivery Plan. AFS would also recommend that the new policy references relevant strategies of the Health and Social Care Partnership (HSCP).

Scotland's alcohol strategy 'Changing Scotland's relationship with Alcohol a Framework for Action' remains of key relevance to the policy and should continue to be included. This established a whole population approach to reducing alcohol harm and identified action on availability as one of three key mechanisms - alongside price and marketing - to achieve this. The Scottish Government's

consultation on the strategy, published in 2008, recognised that the main mechanism for controlling alcohol availability was licensing legislation.

The existing policy recognises that licensing boards have legal obligations under the Equality Act. AFS would recommend that the new policy also recognises that boards are bound by human rights legislation. Action on human rights in Scotland is currently being driven through Scotland's National Action Plan for Human Rights (SNAP) and there a range of links between alcohol related harm and the realisation of human rights in Scotland.

Accessibility and participation

During a series of regional licensing seminars, hosted by AFS in 2016, a lack of public participation in licensing was reported across the country. Barriers to participation can relate to poor accessibility of licensing processes, but inconsistencies in policy and practice can also prevent meaningful engagement.

The existing policy includes a commitment that the Board will conduct its business in an open and transparent way. This is welcomed but the new policy could provide much more detail about the means by which the Board's processes and procedures will provide for increased accessibility, transparency and accountability for communities, for example by requiring:

- a set of published standing orders;
- board papers and minutes being published on time;
- board minutes recording the names of board members voting for/against a decision; and
- details to be made available of what people can expect when attending meetings and the supports available to them.

The new policy could also have an increased focus on supporting public engagement and participation. The current policy states that the Board has guidance notes available to assist the public, however it would appear that the only guidance notes available on the Perth and Kinross Council website are those intended to assist licence applicants to correctly complete the relevant forms. The new policy should more clearly signpost the general public to where they can find guidance to support them to get involved, or this guidance should be included as an Appendix e.g. the [Alcohol Licensing in Your Community Toolkit](#).¹ It would be particularly helpful to make guidance available for the public on making objections and representations. The current section of the policy outlining the role of the Licensing Standards Officer could also be expanded to include more detail about the assistance they are able to offer to the public and how they can be contacted.

The new policy could also include a commitment that the Board will attempt to make the experience of attending a hearing as informal and friendly as possible. This can be a particularly important commitment for many community members, who may feel intimidated by overly formal processes and environments.

¹ Alcohol Focus Scotland (2015). *Alcohol Licensing in Your Community How You Can Get Involved*. Glasgow: Alcohol Focus Scotland: <https://www.alcohol-focus-scotland.org.uk/media/133477/Community-licensing-toolkit.pdf>

In addition, policy statements should be easily understood by all licensing stakeholders, including by members of the public without technical expertise. Ensuring that the new policy is written in plain, accessible language could help facilitate the involvement of a wide range of stakeholders.

AFS would also recommend that the Board includes details of the evidence considered by the Board in developing the policy. Boards should be explicit and demonstrate within the policy how it has been informed through consultation, with the material considered by the Board being published and links to this material being included in the policy itself. Stating this in the policy statement helps demonstrate the Board's responsive approach to consultation.

Further details about accessibility and participation in licensing can be found in AFS's 2017 report *Taking Stock*.² This report analyses experiences of progress within the alcohol licensing system in Scotland since the Licensing (Scotland) Act 2005 was implemented in 2009. It also identifies learning and challenges, and makes recommendations for improvement and reform, many of which may be of interest to the Board.

Promotion of the licensing objectives

As s.6 of the Licensing Scotland Act (2005) makes clear, the policy statement must seek to promote the licensing objectives. For all objectives, AFS would suggest the following format:

1. State the licensing objective.
2. Give a statement as to what the licensing board is trying to achieve with this objective.
3. List concerns in the area relating to this objective – identify what evidence was used to identify these concerns.
4. List what the licensing board intends to do. Note that this could include declaring overprovision, controlling licensed hours, or applying certain conditions – referring to the relevant section/s in the policy.
5. List any suggested actions the licensing board would like to see the licensed trade in the area undertake to meet this objective.

The 'Licensing Objectives' section of the policy currently sets out an expectation that applicants will provide information about the control measures they will put in place, but provides very few examples of what these measures could actually be. This section within the new policy could explain in much greater detail the control measures that licensees could put in place relative to each objective, or signpost them to where within the policy this information can be found (at present this primarily appears to be within the 'Management of Premises' section of the policy). In addition, the policy does not set out the actions the Board intends to take in promote the objectives, for example by describing the conditions it may consider applying in pursuance of each objective and why.

AFS has produced a Licensing Resource Pack³ that provides resources to support the collection of evidence on local alcohol-related harm, and provides examples of research which demonstrates the impact of particular licensing conditions on harms. This may be particularly useful to the Board when developing its new policy: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

² Alcohol Focus Scotland (2017). *Taking Stock: Views and experiences of alcohol licensing in Scotland in 2016/17*. Glasgow: Alcohol Focus Scotland: <http://www.alcohol-focus-scotland.org.uk/media/287043/Taking-Stock-Report.pdf>

³ Alcohol Focus Scotland (2017). *Licensing Resource Pack*. Glasgow: Alcohol Focus Scotland: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

It would also be beneficial to provide more of the Perth and Kinross context in relation to each objective e.g. relevant statistics or evidence of the current situation, identification of any issues that are a particular concern, measures that have had an impact etc. We would suggest including both statistical and expert opinion, as well as any available local data, on what the issues are in Perth and Kinross. There should then be a clear line of reasoning from the evidence to the conclusions in the policy.

AFS commends the Board for updating the policy to make clear that premises and provisional licence applicants are expected to submit the Board's Supplementary Information document alongside their application; setting out how the business will comply with the licensing objectives. Having this statement of licensing objectives attached to their licence could help to focus applicant's attention on the objectives and ensure that they are afforded proper consideration in any proceedings. In addition, it is appropriate that the Board should go further and look to the evidence in respect of each of the five licensing objectives, also expecting applicants to provide evidence that suitable measures will be implemented and maintained.

Specific to the objective of Preventing Crime and Disorder, the proportion of alcohol now bought to consume at home or in other private dwellings (73% of all alcohol sold being purchased in off-sales⁴) underlines the need for the new policy to reference the importance of licensing for preventing crime and disorder in private spheres as well as the public.

Specific to the objective of Protecting and Improving Public Health, AFS welcomes that the current policy suggests that applicants make available information regarding sensible drinking and where support can be accessed. The intention behind this is admirable and this approach should continue. However, AFS would recommend that the Board avoid using terms like 'sensible' drinking in its new policy, and instead make clear that any information provided should be based on the Chief Medical Officer's (CMO) low risk guidelines. The Board might also wish to consider providing materials to licensees which is independently produced. The World Health Organisation has stated categorically that the alcohol industry should not be involved in health promotion, and the Government has a duty to ensure access to information and advice on alcohol is based on the best available scientific evidence and is impartial. NHS Inform is the best website in Scotland for impartial health advice: <https://www.nhsinform.scot/healthy-living/alcohol>

In relation to the objective to protect children and young people from harm, the Board may wish to give consideration as to whether it will apply the same policy to young persons or should have a different policy from that applied to children. AFS would be interested to hear the views of children and young person's and their representative organisations on this issue; however, it would seem sensible to apply the same policy for the purposes of alcohol licensing.

The policy states that the Board has a long standing interest in encouraging family-friendly premises within Perth and Kinross and wishes to see them thriving in the area. AFS fully appreciates that some Boards wish to encourage applications for licensed events and venues which are family friendly and safe for children. However, evidence shows that children and young people are influenced by the behaviour of adults they observe and this should be taken into account when considering the appropriateness of licensing applications. It will also be important that the new policy addresses the broader impact of alcohol on children and young people, including the impact of parental drinking.

⁴ Giles, L., & Robinson, M. (2017). *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017*. Edinburgh: NHS Health Scotland

The 'Children and Young Persons on Licensed Premises' section of the policy appears to contain much of the detail of how the objective relevant to children and young persons might be promoted. However, the new policy could set out much more detail about the general expectations of the Board with regards to factors like when children normally be allowed entry, including the ages of children to be allowed entry, and the types, times and parts of premises to which children should have access. In general, AFS would expect that premises that do not offer food of any description are highly unlikely to be a suitable environment for children.

During the series of Regional events hosted by AFS in 2016, concerns were also expressed across Scotland regarding occasional licences being granted for events mainly or exclusively targeted at families where children would be present. The current policy of the Board is to pay particular attention to occasional licence applications for events primarily aimed at children and young persons. We would recommend that the new policy is strengthened in this regard by making clear that if there are no other activities available other than the sale of alcohol - or an event is aimed primarily at children and young persons or families where large numbers of children will be present - it is unlikely that a licence will be granted.

Overprovision

AFS notes that the Board intends to consult upon a supplementary policy statement in respect of overprovision in the future. As such, at this stage, the Board may be particularly interested to know that AFS has worked with the Centre for Research on Environment, Society and Health (CRESH) at the Universities of Edinburgh and Glasgow to publish further evidence of the links between alcohol availability and harm in Scotland.

Detailed local information on alcohol availability and harm at neighbourhood level can be found using the [CRESH WebMap](#). In addition, profiles containing information about the levels of alcohol availability and related harm (at both a national level and for each local authority) can now be accessed via our website: www.alcohol-focus-scotland.org.uk/campaigns-policy/availability-and-licensing/alcohol-outlet-availability. We have also sent a copy of the Perth and Kinross profile to accompany this response.

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. Alcohol harm statistics for Perth and Kinross should therefore be considered in conjunction with density information, such as from the CRESH WebMap, to make an informed assessment of overprovision.

The CRESH data shows that Perth and Kinross is ranked 8th out of 30 local authority areas for alcohol outlet availability in Scotland (6th for on-sales and 23rd for off-sales outlets). Perth and Kinross has an alcohol outlet availability lower than Scotland as a whole; neighbourhoods had an average of 12.5 alcohol outlets within 800m of the population centre, compared to the Scottish average of 16.8 outlets. However, 15% of neighbourhoods in Perth and Kinross have a total outlet availability higher than the Scottish average, and of particular note is the finding that the most deprived neighbourhoods in Perth and Kinross have 5.8 times the number of alcohol outlets than the least deprived.

When considering links to harm, a statistically significant relationship was found in Perth and Kinross between alcohol outlet availability and alcohol-related hospitalisation rates and crime rates. Specifically, alcohol-related hospitalisation rates in the neighbourhoods with the most alcohol outlets were 3.9 times higher than in neighbourhoods with the least, and crime rates 5 times higher.

The links between alcohol outlet availability and harm was found even when other possible explanatory factors, such as age, sex, urban/rural status and levels of income deprivation, had been taken into account.

When developing its supplementary policy statement in respect of overprovision, AFS would recommend that the Board use the CRESH webmap to indicate areas where levels of availability and/or harm are sufficiently high to cause concern, and which may indicate that overprovision would be an appropriate response. The webmap can be used to compare areas against the Scottish average for outlet availability, compare alcohol outlet availability between neighbourhoods *within* the local authority, and also identify corresponding rates of harm (e.g. alcohol-related hospitalisations, crime rates, and alcohol mortality).

Decisions on overprovision should also be informed by evidence from the police, health authorities and other agencies. AFS is therefore pleased that the Board is discussing the question of overprovision with Perth and Kinross Alcohol and Drugs Partnership.

Licensed hours

The most apparent change within the draft policy appears to be in relation to the Board's policy on licensed and extended hours; specifically, the new policy significantly extends the generally permitted social demand hours, functions hours, entertainment/nightclub hours, and festive trading hours.

The reasoning for extending the hours in the ways indicated has not been set out. However, AFS would recommend that all licensing boards focus firmly on the licensing objectives when determining their policy on licensed hours. As a national organisation, we are not in a position to comment on local experiences, but can offer comment on the impact of licensed hours more generally and the evidence available to support this.

AFS has identified over 50 research studies published since 2000 that find an association between the total number of licensed premises and opening hours in a locality, and levels of alcohol harm. Localities examined include cities, states, provinces and countries and several studies have specifically investigated the links between temporal availability and alcohol harm. This includes a 2017 systematic review of literature (published between 2000-2016) studying the impact of policies regulating alcohol trading times on alcohol related harm, which found that policies regulating times of alcohol trading can contribute to reductions in injuries, alcohol-related hospitalisations/emergency department visits, homicides and crime.⁵

Extended hours increase availability of alcohol, which in turn is linked to increased consumption and increased harm. As such, AFS would recommend that longer licensed hours are not permitted. However, we would be interested to hear the views of local stakeholders on this issue and review any evidence/information gathered to help inform the proposed new policy in relation to hours – for example, to better understand whether this change is intended to better promote one or more of the licensing objectives.

With regards to off-sales hours, the current approach of the Board is to generally permit off sales hours from 10am until 10pm - the maximum allowed by law. AFS believes that the maximum permitted off-sales hours should be the exception and not the norm, particularly in areas of high-

⁵ Sanchez-Ramirez DC, Voaklander D (2018). The impact of policies regulating alcohol trading hours and days on specific alcohol-related harms: a systematic review. *Injury Prevention* 2018;24: 94-100.

rates of alcohol harm. Similarly, with regards to festive hours, extended hours increase availability of alcohol, which in turn is linked to increased consumption and increased harm, therefore AFS would recommend that longer hours are not granted.

Occasional Licences

AFS has identified that occasional licences are causing concern in some areas of the country, with licensing stakeholders reporting that this as an area where 'loopholes' in the legislation are being regularly exploited. People have reported to us that occasional licences are significantly increasing alcohol access and availability (although they were not being taken into account in overprovision assessments) and in some cases are being used to circumvent the requirement to have a premises licence to sell alcohol. In addition, as the updated policy identifies, although members clubs are premises that are not generally open to the public, occasional licenses can be obtained by members clubs in order to sell alcohol to the general public.

AFS commends the Board for updating its policy such that, where occasional licences covering more than 30 days are granted in one year for a single premise, the Board expects a premises licence application to be submitted. We also welcome that failure to do so may result in all further occasional licence applications being submitted to the Board for consideration rather than being dealt with under delegated powers. The Board could also consider requiring a hearing where it identifies that an applicant has made repeated occasional licence applications.

In addition, in order to ensure that the sale of alcohol under occasional licences is appropriately conditioned to uphold the licensing objectives, the Board could also request that applicants complete an Occasional Licence Supplementary Information Form. This approach is already adopted in some other board areas, where occasional licence holders are asked to demonstrate how they will promote the five licensing objectives, and provide practical examples of how they plan to comply with each objective.

Alcohol deliveries and internet sales

Alcohol deliveries and internet sales are an emerging area of concern and should be considered as part of the policy development process. Remote alcohol sales and distribution across wide geographical areas have the potential to undermine local efforts to control the availability of alcohol and reduce alcohol-related harm. Online sales are not a new issue but are a continuously evolving and expanding area of retail; applications from large online retailers represent what AFS considers to be a considerable advancement of the online market for alcohol.

There is a distinct lack of information available about the business operations of online retailers, or the extent to which they contribute to alcohol sales and availability. For example, there is no data available pertaining to their distribution areas, or the volumes and types of alcohol they sell. Without this information, it is more difficult to make informed decisions about alcohol licensing or create robust alcohol policies, relevant to the needs of local communities.

A further concern relates the potential impact of on-line sales to children and young people. It is unclear how age verification can and will be effectively implemented when alcohol is being purchased on-line, or delivered to people's homes. Unlike supermarkets, which employ their own delivery staff, on-line alcohol retailers may rely on various contract carriers, who may not receive any instruction in this regard. This has the potential to make alcohol much more readily accessible

to young people, and could undermine progress made in meeting the licensing objective to protect children from harm.

AFS is therefore pleased that the new policy includes a section setting out expectations with regards to the delivery of alcohol to persons under 18 or drunk persons; including that applicants seeking a delivery service should expect local conditions requirements that relevant policies and procedures be in place, and that it is the responsibility of the premises licence holder to make sure any courier/third party also has these in place.

It could be specified that when making an alcohol delivery certain checks should be carried out such as Challenge 25. In addition, the policy could require that orders cannot be left in nominated safe places, and that staff delivering alcohol must be trained to the same level as staff who sell or supply alcohol in licensed premises. The Board could also explore the possibility of placing conditions on online retailers to request details of sales and distribution areas, as well figures on delivery refusal rates.