

Dumfries and Galloway

What is your view on the current licensed hours?

AFS was particularly pleased to note that the Nithsdale and Wigtown Boards reduced opening hours in 2010, in light of concerns about the impact of later opening hours on the licensing objectives, and the evidence received by the Boards during consultation on this issue. We hope that the four divisional licensing boards will continue to firmly focus on the objectives, and the evidence provided by relevant stakeholders and local communities, when determining their new policy on licensed hours.

AFS supports the application of different licensed hours to later opening premises depending on the facilities offered and whether they are located in rural areas or town centres as there is a rationale for doing so. However, the operation of such premises should be closely monitored to ensure that alcohol-related public nuisance is minimised and conditions attached to the licence if necessary.

73% of alcohol is now purchased in off licenses and it will be particularly important that the new policy reflects and responds to this situation. The current policy states that, when determining licensed hours for off-sales premises, the Boards will have particular regard to the effect the hours would have on anti-social behaviour. However, AFS would stress that the temporal availability of alcohol in off-sales premises has the potential to impact upon all of the objectives, not just those related to occurrences of anti-social behaviour.

The current policy also states that, although promotion of the licensing objectives is paramount, licensing hours need not unnecessarily inhibit the development of night time local economies which may be important for investment, employment and tourism. While it is acknowledged that the council as a whole has an interest in promoting economic development, tourism and employment, this is not the specific function of a licensing board. The purpose of alcohol licensing is to regulate the sale of alcohol and licensed premises according to the terms laid out in licensing legislation and with regard to the promotion the licensing objectives. Commercial considerations are irrelevant to a policy which is designed to protect the wider public interest. AFS believes that the new policy should focus more firmly on the promotion of the five licensing objectives and the public interest.

If you would like to see current policy hours change, what would you suggest?

The current approach of all the Boards is to generally permit off sales hours from 10am until 10pm. These hours are the maximum allowed by law and AFS believes that, in areas of high-rates of alcohol harm, the maximum permitted off-sales hours should be the exception and not the norm.

At present several of the Boards give Individual consideration to applications relating to early morning on-sales hours. AFS would again maintain that early morning licensed hours should only ever be granted in exceptional circumstances, and recommends that all four Boards consider adopting the approach of the Wigtown Board, which sets out a general presumption against the sale of alcohol for consumption on the premises before 11.00am Monday to Saturday and before 12.30pm on a Sunday.

The current policy does well in setting out the reasoning for the licensed hours against the licensing objectives, and recognising the wider impact of licensing on those objectives. However, there does appear to be much more prominence given to the crime, public safety and nuisance objectives; AFS would encourage the licensing boards to give more consideration to the links with public health and protecting children and young people from harm. For example, measures to reduce consumption by

adults will not only protect and improve public health but will have a positive impact on protecting children from harm.

Which Licensing Board will you be commenting on in regards to Festive Hours Policy?

All

Should the Board keep this Policy for the Festive Season?

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. Should the boards decide to allow additional hours, AFS would recommend that they are on limited days and for not more than one extra hour.

Outdoor drinking areas can provide an enjoyable experience for customers, but this must be balanced against the needs of local residents and the impact that outdoor drinking areas may have e.g. possible nuisance and disturbance. Do you believe that the Board should have a policy on outdoor drinking areas?

Yes. AFS notes a number of other licensing boards have offered guidance on this issue within their policy statements, and setting out a clear policy in this regard can be helpful for residents and the licensed trade to understand what standards are expected.

Should the Board apply a time limit on the use of Outdoor Drinking Areas?

No comment.

In what circumstances do you believe there should be flexibility with regard to any proposed time limit on an outside drinking area?

No comment.

Do you believe the following factors should generally be taken into account when determining an application for outdoor drinking areas?

	Yes	I dont know	
Location of the licensed premises	<input type="checkbox"/> Location of the licensed premises Yes	<input type="checkbox"/> Location of the licensed premises I dont know	<input type="checkbox"/> L premi
Location of the proposed outside drinking area	<input type="checkbox"/> Location of the proposed outside drinking area Yes	<input type="checkbox"/> Location of the proposed outside drinking area I dont know	<input type="checkbox"/> L drinki
Proximity of residential dwellings (i.e.the closeness of those who live nearby)	<input type="checkbox"/> Proximity of residential dwellings (i.e.the closeness of those who live nearby) Yes	<input type="checkbox"/> Proximity of residential dwellings (i.e.the closeness of those who live nearby) I dont know	<input type="checkbox"/> P dwelli who li
Whether removable barriers should be put in place to clearly identify the outside drinking area	<input type="checkbox"/> Whether removable barriers should be put in place to clearly identify the outside drinking area Yes	<input type="checkbox"/> Whether removable barriers should be put in place to clearly identify the outside drinking area I dont know	<input type="checkbox"/> W shoul identif

	Yes	I dont know	
Whether the use of glassware should be excluded after a certain time	<input type="checkbox"/> Whether the use of glassware should be excluded after a certain time Yes	<input type="checkbox"/> Whether the use of glassware should be excluded after a certain time I dont know	<input type="checkbox"/> Whether the use of glassware should be excluded after a certain time No
Whether amplified music should be prohibited in outside drinking areas	<input type="checkbox"/> Whether amplified music should be prohibited in outside drinking areas Yes	<input type="checkbox"/> Whether amplified music should be prohibited in outside drinking areas I dont know	<input type="checkbox"/> Whether amplified music should be prohibited in outside drinking areas No
Whether specific monitoring mechanisms should be put in place (eg: staff are physically able to monitor or the area is caught within CCTV)	<input type="checkbox"/> Whether specific monitoring mechanisms should be put in place (eg: staff are physically able to monitor or the area is caught within CCTV) Yes	<input type="checkbox"/> Whether specific monitoring mechanisms should be put in place (eg: staff are physically able to monitor or the area is caught within CCTV) I dont know	<input type="checkbox"/> Whether specific monitoring mechanisms should be put in place (eg: staff are physically able to monitor or the area is caught within CCTV) No

If you have answered yes to any of the above questions or if you have any other comments, please provide details.

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No comment

Children are those aged 0 to 15 and Young Persons aged 16 and 17.

All four Boards have allowed flexibility in relation to access by Children and Young Persons within licensed premises as they wish to see family friendly premises operating throughout their divisions.

Do you believe that Children and Young Persons should be allowed to access licensed premises?

AFS appreciates that the current policy of the Boards is to encourage applications that make venues 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.

AFS believes that any on-licensed premises to which families with children have access should give careful consideration to their responsibilities to protect children from harm, and AFS would recommend that the Boards set out an expectation that all applicants in these circumstances demonstrate how they will promote this objective, including by providing a written statement to accompany the application. Having a 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.

While the Boards have allowed flexibility in relation to access by children and young persons, it could be beneficial to set out greater detail in the new policy about the conditions the Boards may impose relative to children and young people, and under what circumstances. The new policy should also continue to set out the general expectations of the Boards with regards to factors like when children be allowed entry, including the ages of children to be allowed entry, times and parts of the premises to which children will have access.

Do you believe that access to licensed premises for under 18s should only be allowed when food/meals are being served on the premises?

No comment

Do you think there should be a menu specifically for children (aged 0 to 15)?

No comment

Do you believe that, for children (aged 0 to 15), drinks should only be served in plastic containers?

No comment

If the supply of alcohol on the premises is the main purpose of the service being provided (rather than the provision of food), do you think that under 18s should still be allowed access to the premises?

No comment

If you think there should be a specific time that under 18's should leave, what time do you suggest?

No comment

Do you believe that within licensed premises, there should be a separate designated area specifically for under 18's?

No comment

If there is a room with a bar, do you agree that under 18's should be excluded from that room after 10pm except:

- during private functions
- for the purpose of taking a meal
- where the licensed premises form part of a caravan/holiday park

No comment

Do you agree that all children (0-15 years) must be accompanied by a responsible adult whilst within a room with a bar?

Yes, AFS would envisage that all children would be required to be accompanied by an adult whilst within a room with a bar.

Do you have any further comments to make in regards to Children and Young Persons access to licensed premises?

The Boards must seek to ensure that their Licensing Policy Statement promotes the five Licensing Objectives which underpin the whole alcohol licensing system. The five Licensing Objectives are:

- (a) Preventing Crime and Disorder
- (b) Securing Public Safety
- (c) Preventing Public Nuisance
- (d) Protecting and Improving Public Health
- (e) Protecting Children and Young Persons from Harm

Do you have any suggestions for promoting Licensing Objective – (a) Preventing Crime and Disorder?

Comments and Reasons for Comments

The current policy has a particular focus on reducing/preventing crime and disorder on, and in the vicinity of, licensed premises. While this remains important, the proportion of alcohol now bought to consume at home or in other private dwellings 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.

Do you have any suggestions for promoting Licensing Objective – (b) Securing Public Safety?

Comments and Reasons for Comments

No comment

Do you have any suggestions for promoting Licensing Objective – (c) Preventing Public Nuisance?

Comments and Reasons for Comments

Do you have any suggestions for promoting Licensing Objective – (d) Protecting and Improving Public Health?

Yes

The Boards should continue to take advice from appropriate bodies such as the Alcohol Licensing Information Group, and those represented on the Forum, to help determine how this, and indeed all the objectives, can be best promoted relative to the local context.

AFS would suggest that a policy is adopted whereby applicants are expected to demonstrate in their operating plan that sufficient measures will be implemented and maintained to protect patrons' health.

In the current policy it is stated that "educating the public on sensible levels of drinking is a key public health message." 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/>

Do you have any suggestions for promoting Licensing Objective – (e) Protecting Children and Young Persons from Harm?

Yes.

With regard to on-sales, AFS would recommend that the Boards set out an expectation that applicants demonstrate how they will promote this objective, including by providing a written statement as outlined previously. However, it will be important that the new policy addresses the broader impact of alcohol on children and young people, including alcohol that is purchased for consumption at home and the impact of parental drinking.

AFS is also aware that there is concern across Scotland regarding occasional licenses being granted for events mainly or exclusively targeted at families where children would be present. As such, we would suggest that the board should give careful consideration to this issue and set out its approach to considering the appropriateness of occasional licence applications within the policy.

The section relating to the objective of protecting children from harm will require to be updated to reflect legislative changes, such as extending the objective to protect children and ‘young people’ from harm. The Board should 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 particularly interested to hear the views of children and young person’s and their representative organisations on this issue.

Overprovision is where there are too many licensed premises in a locality within a Board’s area.

The Boards must undertake an assessment as to whether or not they consider there to be too many licensed premises within their areas.

The last assessment of overprovision took place in 2013.

At that time , the Wigtown Board agreed that there is overprovision of off sales within Central Stranraer.

Categories of Premises

The Boards have also agreed that, they will divide consideration of licensed premises into two categories:

- (i) Off sales (usually shops and supermarkets) and**
- (ii) On sales (usually bars and restaurants)**

Factors to take into account in the assessment

Whilst the Boards must consider the number and capacity of licensed premises they have also agreed to include licensed hours in their overprovision assessment.

Do you agree that there is overprovision of off sale licensed premises in central Stranraer?

I don’t know

As a national organisation, AFS Scotland does not have sufficient local knowledge of the Dumfries and Galloway area to enable us to comment in detail on some of the specific localities and premises concerned.

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 should therefore be considered in conjunction with density information, such as from the [CRESH alcohol outlet density map](https://creshmap.com/shiny/alcoholtobacco/),¹ to make an informed assessment of overprovision.

Using the webmap, for example, it can be clearly identified that many neighbourhoods within Stranraer have a significantly higher number of off-sales outlets when compared to both the local authority and Scotland average. AFS also notes that Stranraer Central and Stranraer West were previously identified by the Alcohol Licensing Information Group as experiencing particularly high alcohol-related hospital admissions and alcohol-related police incidents, crimes and offences. This

¹ Available at <https://creshmap.com/shiny/alcoholtobacco/>

strongly indicates that there exists a state of overprovision at least in some neighbourhoods within Stranraer, and it is wholly appropriate that the Board should again draw on this type of evidence to inform their overprovision assessment.

Why do you think this?

N/A

Do you think there is overprovision of ON SALE licensed premises generally in the following areas?

	Yes	I dont know
Annadale and Eskdale	<input type="checkbox"/> Annadale and Eskdale Yes	<input checked="" type="checkbox"/> Annadale and Eskdale I dont know
Nithsdale	<input type="checkbox"/> Nithsdale Yes	<input checked="" type="checkbox"/> Nithsdale I dont know
Stewartry	<input type="checkbox"/> Stewartry Yes	<input checked="" type="checkbox"/> Stewartry I dont know
Wigtown	<input type="checkbox"/> Wigtown Yes	<input checked="" type="checkbox"/> Wigtown I dont know

If you think there is an overprovision, state where and why.

As a national organisation, AFS Scotland does not have sufficient local knowledge of the Dumfries and Galloway area to enable us to comment in detail on some of the specific localities and premises concerned. As noted previously, alcohol harm statistics should therefore be considered in conjunction with density information, such as from the [CRESH alcohol outlet density map](#),² to make an informed assessment of overprovision.

Dumfries and Galloway is ranked 22nd out of 30 local authority areas for alcohol outlet availability in Scotland (15th for on-sales and 24th for off-sales outlets). Although alcohol outlet availability is lower in Dumfries and Galloway than the national average, there are pockets of high availability; 17% of neighbourhoods have total outlet availability higher than the Scottish average, 18% of neighbourhoods have on-sales outlet availability higher than the Scottish average, and 16% of neighbourhoods had off-sales outlet availability higher than the Scottish average.

Analysis conducted by Alcohol Focus Scotland and the Centre for Research on Environment, Society and Health, also reveals that there is a relationship between alcohol outlet availability and health and social harms across Scotland. Specifically, there is double the alcohol-related death rate, almost double the alcohol-related hospitalisation rate, and over 4 times the crime rate in neighbourhoods with the most alcohol outlets as compared to neighbourhoods with the least. This relationship was also found for Dumfries and Galloway for hospitalisation and crimes rates; alcohol-related hospitalisation rates were 2.3 times higher, and crime rates 2.7 times higher in the neighbourhoods with the most alcohol outlets compared to the least.

In addition, in Dumfries and Galloway, a statistically significant relationship was found between alcohol outlet availability and degree of income deprivation: the most deprived neighbourhoods had more places to buy alcohol than the least deprived neighbourhoods. Specifically, the most deprived neighbourhoods had 3.4 times the number of alcohol outlets than the least deprived neighbourhoods.

² Available at <https://creshmap.com/shiny/alcoholtobacco/>

All of these findings and more detailed statistics are available to view in the recent publication *Alcohol Outlet Availability and Harm in Dumfries and Galloway*, which can be accessed via our website: www.alcohol-focus-scotland.org.uk/campaigns-policy/availability-and-licensing/alcohol-outlet-availability

AFS would also highlight the importance that Boards give careful consideration as to how localities are defined for the purposes of overprovision, in order to be able to attribute meaningful weight to data which may be available at different levels. Alcohol-related public nuisance and social disorder issues may often be localised to relatively small areas. However, the relationship between outlet density and health harm, as well as certain crimes, is demonstrated over larger geographical areas. Moreover, important indicators of alcohol-related harm relevant to the promotion of the licensing objectives are only available over larger areas. If licensing policy must seek to promote the licensing objectives, and if indicators of the licensing objectives can only be demonstrated over a larger geographical area, then it is arguable that a licensing board should assess overprovision over the larger area to fully promote these objectives.

Do you think there is overprovision of OFF SALE licensed premises in the following areas?

	Yes	I dont know	
Annadale and Eskdale	<input type="checkbox"/> Annadale and Eskdale Yes	<input type="checkbox"/> Annadale and Eskdale I dont know	<input type="checkbox"/> Annadale and Eskdale
Nithsdale	<input type="checkbox"/> Nithsdale Yes	<input type="checkbox"/> Nithsdale I dont know	<input type="checkbox"/> Nithsdale
Stewartry	<input type="checkbox"/> Stewartry Yes	<input type="checkbox"/> Stewartry I dont know	<input type="checkbox"/> Stewartry
Wigtown	<input type="checkbox"/> Wigtown Yes	<input type="checkbox"/> Wigtown I dont know	<input type="checkbox"/> Wigtown

If you think there is an overprovision, state where and why.

Please see response to previous question regarding on-sales overprovision

Do you have any further views and comment that you wish to have taken into account with regard to the new Statement of Licensing Policy? If so, please state:

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. (Evidence is probably best quoted in an appendix.)
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 existing policy does well in setting out some of the ways that the objectives can be promoted and the influencing factors for achieving each objective. It is also welcomed that the existing policy

lists possible control measures for each objective. However, this could be strengthened further by providing more detail about the conditions the Boards can/will apply in relation to each of the objectives.

It would also be good to include more statistics and evidence of the current situation in relation to each objective, any issues that are a particular concern, and 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. This should cover the range of alcohol-related issues such as town centre disorder; domestic incidents; chronic and acute health harms; fire incidents; social work cases. Such evidence can be sought from local stakeholders. There should then be a clear line of reasoning from the evidence to the conclusions in the Statement of Licensing Policy.

AFS has produced a Licensing Resource Pack that provides resources to support the collection of evidence on local alcohol-related harm, and also provides examples of research which demonstrates the impact of particular licensing conditions on harms. This may particularly useful to the Boards when developing the new Licensing Policy Statement, and can be downloaded from our website here: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

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. As such we would suggest that the Boards give careful consideration to this issue and continues to implement a policy whereby any more than six (at the very most) back to back applications be referred to the Boards for a decision. We would also recommend that the policy includes a presumption against granting a series of occasional applications to one premises, and sets out the local conditions that the Board will attach to occasional licences.

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 would therefore urge the Boards to set out their approach to online retailers in the new policy, and to consider placing conditions on online retailers to request details of sales and distribution areas, as well figures on delivery refusal rates.

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.

AFS would recommend that the new policy should have an increased focus on supporting public engagement and participation. For example, the new policy could provide more detail about the ways in which people can get involved and the types of information/support that can or will be made available to enable them to participate. The commitment that, where a hearing is to take place, the Board will attempt to make the experience as informal as possible, should be extended to include a commitment that all participants will receive appropriate advice on procedures or requirements.

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 welcomes that the existing policy includes details of people can contact the board regarding Supplementary Statements and provides a contact point, and recommends that this is replicated within the new policy.

Links with other strategies

AFS welcomes that the existing policy sets out a commitment that the Boards will endeavour to secure proper integration with local strategies, including crime prevention, community safety, and health. It will be important that the new policy explicitly recognises 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 Boards. The Boards should also take into account the views of local partners, 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).

The Boards should continue to make explicit in the new policy that they will liaise closely with the local Alcohol and Drugs Partnership (ADP). AFS would also recommend that the new policy

references relevant locality plans, the ADP strategic plan, and the strategic plan of the Health and Social Care Partnership (HSCP).

Scotland's alcohol strategy '*Changing Scotland's relationship with Alcohol a Framework for Action*' is also of key relevance to the policy and should 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 also recognises that licensing boards are also 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.