

**AFS RESPONSE TO THE NORTH LANARKSHIRE LICENSING BOARD LICENSING POLICY
CONSULTATION (SEPTEMBER 2018)**

Alcohol Focus Scotland (AFS) welcomes the opportunity to comment on North Lanarkshire Licensing Board's Draft Statement of Licensing Policy 2018 - 2022 (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 policies which we believe may warrant particular scrutiny. Our response follows the order of the sections of the statement of licensing policy. We have provided comment only on selected sections.

As a general point, AFS would recommend that the Board includes details of the evidence considered by it in developing the policy. Boards should be explicit and demonstrate within their policy how it has been informed, with the material considered being published and links to this material being included in the policy itself. Stating this in the policy helps demonstrate the reasoning for the Board's agreed position and its responsive approach to consultation. At present, the draft policy makes reference to having consulted widely and given due consideration to views given, but there is no information provided on sources of information, data and evidence, nor on the respondents to the consultation or the views provided. This makes it difficult for the reader to understand the reasons or justification for aspects of the policy.

We would suggest that such information could usefully be included in the introduction section, alongside the helpful information currently provided on North Lanarkshire's population centres and number of licensed premises.

Consultation and links to other policies, strategies and legislation

The draft policy states that the board has consulted with those involved and responsible for its local strategies on crime prevention, planning, transport, culture, tourism and economic development. However, it does not go on to reference any particular strategies or policies that the board will have regard to when carrying out their functions. Further to this, there is no mention in this section of local health policies and strategies, particularly those aimed at reducing and responding to the harm caused by alcohol which AFS believes will be of importance to the Board. It will be critical that the work of the Board is aligned to a broad range of local partners to bring about improvements for individuals and communities. In particular, it is important that the new policy recognises the value of linkages with other bodies interested in alcohol regulation. We believe it would be helpful in the policy document to specifically reference the policies and strategies that are most relevant to the work of the Board.

We would suggest that it is most likely that the licensing board shares similar objectives to Community Planning Partners (CPPs). It is therefore important that there is mutual understanding of

how they can best support each other towards these ends. It will therefore be important that the new policy aligns with the Local Outcome Improvement Plan (LOIP). In addition, the work undertaken by the Lanarkshire Alcohol and Drug Partnership (ADP) will be of particular significance, and the new policy could signpost people to where they can access a copy of the Lanarkshire ADP Delivery Plan. AFS would also recommend that the new policy references relevant strategies of the Health and Social Care Partnership (HSCP).

The Boards/Licensing Divisions should also take into account the views of local partners, the Forum, communities, and other strategies and plans that have relevance to alcohol when developing and implementing their new policies. The Licensing Scotland Act (2005) and accompanying guidance should inform the Boards approach to how this can best be achieved, for example by responding to the recommendations of relevant Forums.

The policy currently highlights that the Board will have regard to any strategy of the Scottish Government designed to address the social, health and crime and disorder issues raised by the misuse of alcohol. Scotland's alcohol strategy 'Changing Scotland's relationship with Alcohol a Framework for Action' is of key relevance to the policy and should be specifically referenced. 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 (please note that an updated alcohol strategy is due for publication by Scottish Government during 2019).

The current policy also recognises that licensing boards have legal obligations under the Equality Act 2010, and highlight that the Board's incorporation of equalities duties into its functions is detailed in the Council's Equality Report. For ease of reference and understanding, we would suggest that it would be helpful to either embed a link to this report in the policy, or to include the relevant section as an appendix to the policy.

Applications for licenses and disposal of business

AFS welcomes that the current policy includes a commitment that the Board will deal with all of their business in an open and transparent manner. A lack of effective public engagement in licensing can prevent proper transparency and accountability. 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.

With this in mind, we would suggest that the policy could be strengthened by providing 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. Communities may not currently be aware of the various ways in which they can get

involved or the types of information/supports available to enable them to participate. The new policy should clearly signpost the general public to where they can find guidance to support them to get involved, including by making objections and representations, or this could be included as an Appendix e.g. the [Alcohol Licensing in Your Community Toolkit](#).¹ The current section of the policy about Enforcement and Licensing Standards Officers could also be expanded to include more detail about the assistance LSOs are able to offer to the public. Contact details for LSOs could also be included as an appendix.

We would encourage all licensing boards to commit to conducting hearings in as informal a manner as possible. This can be particularly important for many community members, who may feel intimidated by overly formal processes and environments. The new policy could help further support public participation by reassuring communities that the Boards will endeavour to make any proceedings as user-friendly as possible, and outlining the procedure to be followed at hearings (this could be added as an Appendix).

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. Informed by the views of over 170 licensing stakeholders, it also identifies learning and challenges, and makes recommendations for improvement and reform.

Overprovision

As a national organisation, we do not have sufficient local knowledge of North Lanarkshire to enable us to comment in detail on some of the specific localities and premises concerned. However, we offer our opinion on the general approach and policy direction, which we hope the Boards will find useful.

We are concerned that while there is a fairly detailed section on overprovision, and a statement included at para 9.2 that at this point in time the Board has not made any determination of overprovision, there is no information provided on how this position has been arrived at. Further, at para 9.7 where regard is given to the Board's future approach to overprovision it would appear that consideration is limited to large, vertical drinking establishments. In fact, the whole section on overprovision appears to focus exclusively on on-licence premises with no mention of off-licensed premises. With almost three quarters of alcohol in Scotland being bought from off-sales outlets for consumption at home, off-sales outlets should be a significant overprovision consideration for all licensing boards.

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 the Board area should therefore be considered in conjunction with density information, such as from the [CRESH alcohol outlet density map](#), to make an informed assessment of overprovision. AFS has published profiles containing information about the levels of alcohol availability and related harm (at both a national level and for

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>

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>

each local authority). These can be accessed via our website: www.alcohol-focus-scotland.org.uk/campaigns-policy/availability-and-licensing/alcohol-outlet-availability. For ease, we have sent a copy of the North Lanarkshire profile to accompany this response.

The CRESH data shows that North Lanarkshire is ranked 16th out of 30 local authority areas for alcohol outlet availability in Scotland (21st for on-sales and 10th for off-sales outlets). North Lanarkshire has an alcohol outlet density lower than Scotland as a whole; neighbourhoods had an average of 10.8 alcohol outlets within 800m of the population centre, compared to the Scottish average of 16.8 outlets.

However, the data shows that while North Lanarkshire on the whole has a relatively low overall level of alcohol availability, there are pockets of high availability in the local authority. A significant 17% of neighbourhoods in North Lanarkshire have total outlet availability higher than the Scottish average. The most deprived neighbourhoods in North Lanarkshire have more than double the number of alcohol outlets than the least deprived. This is particularly the case for off-sales outlets, with 32% of neighbourhoods in North Lanarkshire having off-sales outlet availability higher than the Scottish average. To identify potential 'hot spots', the Board may wish to review the density information contained in the [CRESH alcohol outlet density map](#).

Information about numbers of premises should be considered in conjunction with alcohol harm statistics for the Board area to make an informed assessment of overprovision. From the CRESH data, the vast majority of neighbourhoods in North Lanarkshire experience high levels of alcohol-related problems. For example, some neighbourhoods had more than double the Scottish average for alcohol-related hospitalisations, and in some cases almost five times the Scottish crime rate.

In order for North Lanarkshire Licensing Board to make an informed assessment of overprovision, AFS would recommend a nuanced and in-depth analysis of alcohol provision and alcohol-related harm rates within the relevant local areas, looking at on-sales and off-sales premises separately. This could be done through use of the [CRESH data](#) and information provided by other local stakeholders to indicate areas where levels of availability and/or harm are sufficiently high to cause concern, and which may indicate that a statement of overprovision would be an appropriate response. A cursory analysis using the CRESH data suggests that among others, neighbourhoods within Airdrie North, Craigneuk Wishaw, Cumbernauld Central and Motherwell South should be examined. It is important to note that areas with the highest outlet density may not be those experiencing the highest levels of harm, and that different communities can be affected differently by alcohol, with some communities experiencing disproportionate levels of harm.

The assessment of overprovision should be informed by evidence from local partners including the police, health authorities and other agencies. The current policy does not state what information has been taken into account in preparing the overprovision statement. It is therefore difficult to discern how decisions on overprovision were reached. AFS would therefore recommend that the final policy provide detail about the evidence received by the Board to inform the overprovision assessment, and the rationale behind the policy approach adopted. This should include evidence as to how the overprovision policies were decided and what factors were considered or discounted.

When considering off-sales in particular, however, the Board may wish to consider that 73% of alcohol sold in Scotland is bought from off-sales premises, and people now travel further to buy alcohol. As such, should the Board be considering overprovision for off-sales, a policy over a wider area may be more effective in helping to reduce and prevent levels of alcohol consumption and harm.

Further information and guidance on assessing overprovision is included in section 4 of Alcohol Focus Scotland's Licensing Resource Pack³.

Occasional Grants

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, 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.

Occasional licences are intended to allow for the sale of alcohol at events that do not occur on a regular basis. We note that the Board has identified this issue at para 12.1 but would suggest that consideration is given to enhancing this section of the policy with more detail. AFS would recommend that the Board require a hearing where they identify that an applicant has made repeated occasional licence applications. The Board could also adopt a policy whereby a certain number of back-to-back occasional applications (exceeding a set threshold) be automatically referred to the Board for a decision. The Board may wish to choose their own threshold for referring decisions to the Board, based on local circumstances. For example, the proposed approach in the Perth and Kinross Licensing Board draft policy is that *"the Board considers it reasonable for occasional licences covering up to 30 days (including into the following mornings) to be granted in any one calendar year for a single premise. Where more than 30 days are sought, the Board expects a premises licence application to be submitted. 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."*

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, with some also providing a pro forma for submission alongside the application.

Hours of Trading

Again, 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

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>

of alcohol trading can contribute to reductions in injuries, alcohol-related hospitalisations/ emergency department visits, homicides and crime.⁴

AFS welcomes the Board's stated approach to hours of trading which appears to take account of the potential impact of licensed hours on the promotion of licensing objectives, and gives the Board flexibility to respond to local concerns in this regard.

Section B - Licensing Objectives (including comment on section 17 Off-sales)

As s.6 of the Licensing Scotland Act (2005) makes clear, policy statements 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.

Section B of the policy statement usefully sets out each of the licensing objectives in turn. For each one the Board has stated its intention, or intended outcomes and what it would like to achieve. It has also provided information on how the Board itself will seek to promote the licensing objectives and listed examples of measures that it expects applicants and existing licensees to take. However, information about relevant concerns under each objective (as per point 3 above) are provided in quite limited and general terms. For example, at point 24.1 it states *'The board believes that licensed premises may have a significantly adverse impact on communities, through public nuisances which arise from their operation.'* It is difficult to assess from this statement and others in this section whether these concerns are based on information and evidence gathered by the Board specific to the experience in North Lanarkshire, or if they are simply more general statements.

AFS is of the opinion that the policy would be significantly strengthened by providing more specific information about local concerns relating to each licensing 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 the Board area. There should then be a clear line of reasoning from the evidence to the conclusions in the policy. This would serve to explain to any reader of the policy the reasoning behind the actions and conditions that the Board may be likely to require or impose, leaving less room for challenge.

AFS has produced a Licensing Resource Pack⁵ 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 particularly useful to the Boards when

⁴ 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.

⁵ 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>

developing their new policy: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

AFS would also suggest that the policy could be enhanced by setting out a clear expectation that applicants address the objectives in their operating plan, and also supply a written statement detailing how they will promote the objectives. This approach is already adopted in other board areas, with several providing a 'Supplementary Information' document for applicants to submit alongside their application - asking them to set out exactly how they will comply with the objectives. Having a statement of licensing objectives attached to their licence could help to focus applicants' attention on the objectives and ensure that they are afforded proper consideration in any proceedings.

AFS welcomes the focus given to off-sales premises in the policy statement at section 17. With the significant proportion of alcohol now bought to consume at home or in other private dwellings (73% of all alcohol sold being purchased in off-sales⁶), this underlines the need for the new policies to reference the importance of licensing for preventing alcohol-related harm in private spheres as well as the public. As noted in paragraph 17.3 of the policy, this is relevant to most of the licensing objectives. There is further specific reference to the potential impact of off-sales licensed hours at paragraphs 24.3 and 24.5 and action that the board may take to mitigate such impact, which we find very helpful. However this information is only provided under section 24, in reference to the licensing objective of preventing public nuisance. As stated in section 17, off-sales hours can have an impact on a number of the licensing objectives. We therefore think it would be helpful if the board made reference to this under the other licensing objectives too. This could simply be done by referring the reader back to section 17.

Specific to the objective of Protecting and Improving Public Health, AFS welcomes that the current policies suggest licence holders make available information with regard to sensible drinking. The intention behind this is admirable and this approach should continue. However, AFS would recommend that the Boards avoid using terms like 'sensible' drinking in the new policies, and instead make clear that any information provided should be based on the Chief Medical Officer's (CMO) low risk drinking guidelines. The Board may 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 policy states that the Board wishes to see family friendly premises thriving in North Lanarkshire. 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 policies address the broader impact of alcohol on children and young people, including the impact of parental drinking.

It is wholly appropriate that any on-licensed premises to which families with children have access give careful consideration of their responsibilities to protect children from harm, and AFS would

⁶ Giles, L., & Robinson, M. (2017). *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017*. Edinburgh: NHS Health Scotland

recommend that the Boards require applicants in these circumstances to demonstrate how they will promote this objective, including by providing a written statement as suggested above.

The policy usefully gives examples of control measures that could be put in place to protect children and young people from harm and helpfully lists the conditions that the licensing board generally applies relative to children and young people at appendices D and E. 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. As such, AFS would recommend that the policies contain a presumption against granting occasional licences where the event predominantly involves children. The Board would still maintain their full discretion and flexibility to grant a licence in these circumstances, if minded to do so based on the merits of a particular application.

Additional comment - 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.

A further concern relates to 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 urge all boards to set out their approach to online retailers and deliveries within their new policies, including by requiring that when making an alcohol delivery certain checks should be carried out such as Challenge 25. In addition, the policies 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 Boards 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.