

**AFS RESPONSE TO INITIAL CONSULTATION EXERCISE ON THE RENFREWSHIRE LICENSING POLICY STATEMENT – JANUARY 2018**

**GENERAL COMMENT**

Alcohol Focus Scotland (AFS) welcomes the opportunity to participate in Renfrewshire Licensing Board’s initial consultation exercise. 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 problems.

A range of factors will affect levels of alcohol consumption and harm, but the evidence consistently indicates that ease of access to alcohol is a contributory element. The relationship between alcohol availability, consumption and harm means that licensing policy can make a positive contribution to alleviating and preventing alcohol problems, or it can exacerbate them.

AFS commends Renfrewshire Licensing Board for undertaking this initial, informal, consultation exercise. Licensing law prescribes that a licensing board should consult on its draft policy statement and we consider this an important mechanism for enabling representatives of the local area to have their say on the proposed approach to alcohol licensing in their community. However, seeking views prior to the statement being drafted affords stakeholders a greater opportunity to contribute to the shaping of licensing policy. We hope that other boards will adopt the same approach.

As a national organisation, we do not have sufficient local knowledge of the Renfrewshire area to enable us to comment in detail on some of the specific policy content. However, we offer our opinion on the general approach and policy direction, which we hope the Licensing Board will find useful. As such, we have only commented on those aspects of the policy where we felt it most appropriate, and also on the topics identified by the Board as being of particular interest.

**COMMENT ON TOPICS IDENTIFIED AS OF PARTICULAR INTEREST**

**Licensing hours**

We now know that 73%<sup>1</sup> of alcohol is purchased in off licenses and it will be important that the new policy reflects and responds to this situation. The current approach of the Board is to generally permit off sales hours from 10am until 10pm. These hours are the maximum allowed by law. 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.

The policy states that, when determining licensed hours for off-sales premises, the Board 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.

In relation to on-sales specifically, the policy acknowledges that the licensing objective of Protecting and Improving Public Health is relevant to licensed hours. This was in response to the views of Renfrewshire Community Health Partnership and NHS Greater Glasgow and Clyde on licensing hours, and the links between alcohol availability and harm. However, the policy then goes on to remove restrictions on Sunday on-sales opening hours, as licensing hours 'contribute to the development of local economies'.

While it is acknowledged that the council as a whole has an interest in promoting economic development, tourism and revitalising deprived areas, 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.

### **Children and young persons access to licensed premises**

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. The Board should continue to make clear in the policy that any applicants who wish to allow children and young people access to the premises will have additional responsibilities placed upon them. In such circumstances, it is wholly appropriate that applicants give careful consideration to their responsibilities to protect children from harm, and the Board should further require applicants to demonstrate how they will promote this objective as part of the application process.

In developing its new policy, the Board could set out more clearly its general approach to issues relating to children's access to licensed premises. While each application will be considered on its merits, this could include indicating the hours during which children would

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<sup>1</sup> Giles, L., & Robinson, M. (2017). *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017*. Edinburgh: NHS Health Scotland

normally be permitted entry to particular types of premises, based upon the views expressed during consultation.

The Board could also set out in the policy any conditions it may consider applying relating to access to licensed premises by children and young persons, in addition to the mandatory conditions. This could include, for example, requiring children in licensed premises to remain under the supervision of an adult, not allowing children in rooms where there is a bar counter, or not allowing children to sit at the bar counter.

The policy will also 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 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.

### **Extended use of 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 board give careful consideration to this issue and what may be the most appropriate response in a Renfrewshire context.

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 set out its approach to considering the appropriateness of occasional licence applications within the policy.

### **Overprovision**

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.

The existing overprovision localities were identified on the basis of the information provided by the Police and the Board's own local knowledge. AFS would recommend that, to identify new localities, the Board gives careful consideration to levels of alcohol-related harm by drawing upon a broader range of sources (e.g. pertaining to health, crime, antisocial behaviour etc.), and then uses that assessment to help identify areas of concern.

At present, the Board has determined Paisley Town Centre as an overprovision area. AFS is not in a position to comment on which streets or areas in Renfrewshire should or should not be declared overprovided. In terms of the general approach to assessing overprovision, we would recommend that alcohol harm statistics be considered in conjunction with density

information, as such from the CRESH alcohol outlet density map (available [here](#) but due to be updated before in early 2018 with 2016 data).

In Scotland, 1 in 4 people drink above the low-risk drinking guidelines.<sup>2</sup> In Greater Glasgow & Clyde, more than 1 in 3 men (34%) and 1 in 6 women (16%) are drinking at hazardous/harmful levels.<sup>3</sup> There were also 1,618 alcohol-related hospital stays<sup>4</sup> and 43 alcohol-related deaths<sup>5</sup> in Renfrewshire last year. Although Renfrewshire has an alcohol outlet availability lower than Scotland as a whole, it also has pockets of high availability.<sup>6</sup>

AFS would recommend that the Board draw upon this type of data to ensure the development of a robust overprovision assessment, relevant to the needs of local communities. We would also stress the importance that all boards follow the process set out in the guidance to the Licensing Act (Scotland) 2005 when assessing overprovision.

AFS welcomes that Board is explicit within the current policy that the overprovision assessment was informed through consultation, and that the material considered by the Board was published with links to this material being included in the policy itself. Stating this in the policy statement demonstrates the board's responsive approach to consultation. AFS would recommend that this is replicated in the new policy, and that this approach also be applied to the 'Preparation of Statement' section at the beginning of the policy.

## **SPECIFIC COMMENT ON DEVELOPMENT OF NEW POLICY**

### **Context**

The current policy sets out the context in which the Renfrewshire Board operates. It identifies Renfrewshire as the main international gateway to Scotland and describes its rich and diverse environment, as well the rich architectural heritage of Paisley - being Scotland's largest town. However, it is also appropriate to consider policy formulation in the context of the nature and scale of problems related to alcohol use in Renfrewshire. That way the most suitable, proportionate and effective policy measures can be identified and adopted to achieve the licensing objectives. Including more detail in the context section about the scale and nature of alcohol related problems in Renfrewshire (such as the statistics provided above) could also support stakeholders/communities to better understand the factors that the Board must take into account, both when making decisions and determining policy.

### **Links to Other Policies, Strategies and Legislation**

It is critical that the licensing system does not operate in isolation. The Board should take into account the views of local partners, communities, and other strategies and plans which have relevance to alcohol when developing and implementing their policy. The Licensing Scotland Act (2005) and accompanying guidance should inform the Boards approach to how

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<sup>2</sup> Scottish Health Survey 2015, Scottish Government, 2016

<sup>3</sup> Scottish Health Survey 2015 Health Board Results, Scottish Government, 2016

<sup>4</sup> Alcohol-related hospital statistics Scotland 2015/16, NHS National Services Scotland, 2016

<sup>5</sup> Alcohol-related deaths 2015, National Records of Scotland, 2016

<sup>6</sup> Alcohol outlets and health in Scotland, CRESH, 2014

this can best be achieved, for example by responding to the recommendations of relevant Forums.

Although the current policy states that the Board will endeavour to secure proper integration with local crime prevention, community safety, health etc. strategies, it does not actually reference what any of these strategies are or how the desired integration might be achieved (although it does specifically refer to reports on the needs of tourism).

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 limited 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 that they 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 Board should be explicit in its new policy that it will liaise closely with the Local Alcohol and Drugs Partnership. 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. There are also number of national strategies in development which will have relevance to the policy such as the Child and Adolescent Health and Wellbeing Action Plan, the Suicide Prevention Strategy (expected to be updated in 2018), and the Social Isolation Strategy.

The 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**

The sections of the policy dealing with Board meetings and hearings outline that the Board will meet in public and attempt to make the experience as informal as possible. During a series of regional licensing seminars, hosted by AFS in 2016, a lack of public participation in the licensing process 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.

Licensing boards should ensure that their administrative processes provide transparency and accountability, for example by: having 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 holding hearings on statements of licensing policy.

AFS would recommend that the board make explicit in the policy that it will dispose of its business in an open, fair and transparent manner, and that any meeting or hearings will be conducted in as informal a manner as possible. The policy should also detail the types of information and support that can or will be made available to enable people to participate.

### **Conditions attached to licences**

The current policy includes an appendix which sets out Local Conditions for Nightclub Type Premises. This is welcomed but AFS would recommend that the new policy sets out examples of the different types of conditions that could be applied, relevant to each of the objectives, and for a wider range of premises.

### **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 (AFS is pleased to note that Renfrewshire has already attempted this for each 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 current policy does well in setting out the factors which applicants should consider in relation to each objective, and the control measures that they can put in place to address any concerns. However, this could be strengthened further by providing more detail about the conditions the Board can/will apply in relation to each of the objectives. It would also be good to provide more of Renfrewshire 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 which have had an impact etc.

The existing policy states that applicants should be able to demonstrate that all those factors which impact on the objectives have been considered. AFS would recommend that the Board explicitly requires that applicants demonstrate how they have done this as part of the application process. For example, the Board could require that applicants supply a

written statement detailing how they will promote the objectives. 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. 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 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 Board encourages licensees to display materials which promote awareness of units of alcohol and the recommended guidelines for consumption. AFS would recommend that the Board makes 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/>

### **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 geographic areas have the potential to undermine 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 we consider 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 impossible 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, at precisely the time when rates of

youth drinking have begun to decline, and could undermine progress made in meeting the licensing objective to protect children from harm. Recent media coverage has also demonstrated the pressure that delivery drivers are under to deliver quickly and how this may compromise adherence to regulations.

AFS would therefore urge boards to set out their approach to online retailers in their policies, and to place conditions on online retailers to request details of sales and distribution areas, as well figures on delivery refusal rates.

### **Enforcement**

The section dealing with enforcement makes particular mention of LSOs and how resources are to be targeted. During the 2016 regional licensing events, LSOs themselves highlighted that they had achieved various successes, and that their roles had continued to evolve/develop in recent years. This was reflected in the views of other stakeholders, who greatly valued the support they had received from LSOs. LSOs were seen to have a vital role in both establishing links with and supporting the community. It was also felt by some that, due to the efforts of LSOs, fewer licensing reviews were reaching board level, as there were fewer breaches of conditions/legislation and improved relationships. As such, the new policy should make clear the support that LSOs can provide to communities and stakeholders, as well as providing contact details for the relevant persons or departments.

However, it should also be recognised that there are decreasing resources available to support LSOs in their roles. Scottish Government data shows that the number of LSO posts has decreased every year since 2011 (a total decrease of 10% from 2011 – 2017).<sup>7</sup> The number of licences has increased by 2% over the same time period.<sup>8</sup> In some areas the LSO's role has also been extended to cover other licensing considerations, such as civic licensing, reducing the time they can devote to alcohol licensing issues. AFS would therefore recommend that the Board commits to ensuring that the LSOs are enabled to carry out their functions efficiently.

### **Supplementary statement**

The introduction to the policy states that the Board may publish a supplementary statement. AFS would recommend that the new policy is explicit that the Board will keep the policy under review and make revisions as necessary, as well as consulting before publishing a Supplementary Licensing Policy Statement. It could be beneficial if the policy gave an indication of the reasons why such a supplementary statement might be issued e.g. if the Board identifies that the objectives are not being achieved, circumstances change, or new evidence emerges.

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<sup>7</sup> Scottish Government, Statistical Bulletin Crime and Justice Series: Scottish Liquor Licensing Statistics, 2011-2016 <http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/PubLiquor>

<sup>8</sup> Ibid