

## **THE HIGHLAND LICENSING BOARD**

### **CONSULTATION DRAFT POLICY STATEMENT 2018-23**

#### **CONSULTATION RESPONSE FORM**

The Highland Licensing Board is required under the Licensing (Scotland) Act 2005 to publish a statement of their policy with respect to the exercise of their functions under the Act. The Board's policy statement for the period 2018 to 2023 requires to be published by 4 November 2018. In preparing its new policy statement, the Board must consult the Highland Licensing Forum, NHS Scotland and such other persons as the Board thinks appropriate. The Board is also undertaking a full public consultation on this and invites anyone wishing to express views to complete and submit this consultation response form.

**The Consultation Draft Policy Statement 2018-23** proposed by the Board on 26 June 2018 can be accessed [here](#).

Should you wish to compare the terms of the Consultation Draft Policy Statement 2018-23 with the Board's existing **Policy Statement 2013-18**, including the Board's current supplementary policy statement on extended hours, this can be accessed [here](#).

**You are invited to submit your views and comments on the Board's Consultation Draft Policy Statement 2018-23 by no later than 31 August 2018.**

**Responses should be addressed to:**

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While you are free to comment on any aspect of the document, it would assist the Board if you would respond to the specific questions listed below.

Respondents are also reminded that, in terms of the Act, the policies which the Board ultimately adopts must seek to promote the licensing objectives, namely: preventing crime and disorder, securing public safety, preventing public nuisance, protecting and improving public health and protecting children from harm

Consultation responses should therefore relate to these objectives. Proposals which seek to achieve outcomes which are not relevant to any of the licensing objectives cannot be considered by the Board.

## QUESTIONS:

### Sections 2.1 to 2.10 – proposed policies

1. **What are your views on the premises licence core hours proposed at section 2.1? Please explain any changes you think should be made and the reasons for your views.**

As a national organisation, we are not in a position to provide input about local experiences, but can offer comment on the impact of licensed hours on alcohol harm and the evidence available to support this, which will hopefully be helpful to the Board when determining its policy in this area.

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 other crimes (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.)

As noted within the policy, over two thirds 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 approach of the Board 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 with high-rates of alcohol harm, the maximum permitted off-sales hours should be the exception and not the norm.

AFS welcomes that the policy does not allow the sale of alcohol in general on-sales premises (for consumption on the premises) before 11.00am. However, the Board may wish to give further consideration as to whether it is appropriate that alcohol be available from as early as 09.00am within food-led operations.

2. (a) **What are your views on the policies proposed at section 2.2 on extended hours in licensed premises (for special events or occasions to be catered for on the premises, or for special events of local or national significance)? Please explain any changes you think should be made and the reasons for your views.**

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 generally granted.

The holding of public events should not serve as automatic justification for extended licensed hours; AFS believes that the vast majority of events and festivals can be appropriately accommodated within normal licensing hours and should not routinely be regarded as a need for extended licensing hours. However, should the Board decide to allow additional hours then this should be on limited days only and for not more than one extra hour. The operation of the premises should also be closely monitored to ensure that alcohol-related public nuisance and harm is minimised and conditions attached to licences if necessary.

- (b) Please list any other events which you consider should be identified in section 2.2 as “special events of local or national significance”.**

No comments

- 3. What are your views on the festive period hours proposed at section 2.3? Please explain any changes you think should be made and the reasons for your views.**

Please see comments in relation to extended hours above.

- 4. What are your views on the policies and core hours for occasional licences (at unlicensed premises) proposed at section 2.4? Please explain any changes you think should be made and the reasons for your views.**

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.

AFS would therefore recommend that the Board requires a hearing where it identifies 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. Licensing boards may wish to choose their own thresholds 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 order to ensure that the sale of alcohol under occasional licences is appropriately conditioned to uphold the licensing objectives, the Board could also include an Occasional Licence Application and Supplementary Information Form as an appendix. This approach is already adopted in some other board areas, where occasional licence applicants 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.

AFS welcomes that the policy outlines additional requirements relating to occasional licences for premises with a provisional licence, in response to concerns that the premises themselves may not yet be in a suitable condition for the sale of alcohol. It is wholly appropriate that the Board should require applicants in these circumstances to submit with their application either a building standards certificate or evidence of permission being granted under the Building (Scotland) Act 2003.

**5. What are your views on the policies in relation to access to premises by children (i.e. persons under the age of 16) and young persons (16 and 17 year olds) proposed at section 2.5? Please explain any changes you think should be made and the reasons for your views.**

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.

AFS would expect that premises that do not offer food of any description are highly unlikely to be a suitable environment for children. It is also critical 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 recommend that the Board requires applicants in these circumstances to demonstrate how they will promote this objective, including by providing a written statement (further details about how this could be done using a 'Supplementary Information' document are provided below).

Section 2.5, detailing the Board's policy with regards to children and young persons access, is particularly useful in setting out the Board's expectations and examples of the conditions may put in place. However, it could be beneficial to set out greater detail about the conditions the Board may impose relative to children and young people, and under what circumstances.

The policy states that children under the age of 16 must be excluded from rooms where there is a bar counter after 2200 hours except during private functions. AFS would recommend that more detail is provided in the policy with regards to children and/or young persons access to licensed premises for functions. For example, the policy could specify whether or not it is generally permissible for children to remain on licensed premises for the duration of functions. The policy could also stipulate the conditions that may be applied to premises holding functions to help ensure that due regard is had to the licensing objective of protecting children and young people from harm. This could include measures such as, for the duration of any function held on the premises, a staff supervisor being appointed to act as managerial liaison for the premises with the organiser of the function, and to monitor the function to ensure that its conduct is not inconsistent with the five licensing objectives.

During a series of regional events hosted by AFS in 2016, concerns were expressed across Scotland regarding occasional licences being granted for events mainly or exclusively targeted at families where children would be present. AFS also notes that the members of the public who responded to the survey of alcohol availability in the Highlands were concerned about the impact of alcohol on children and family life, and were not adverse to introducing further restrictions such as having no alcohol sales at events where children are present. We would therefore also recommend that the policy includes a presumption against granting occasional licences where the event predominantly involves children. The Board would still maintain its full discretion and flexibility to grant a licence in these circumstances, if minded to do so based on the merits of a particular application.

**6. What are your views on the policies in relation to adult entertainment proposed at section 2.6? Please explain any changes you think should be made and the reasons for your views?**

No comments

**7. In relation to home deliveries (section 2.7), what, if any, additional policies you would wish to see in place and why?**

AFS commends the Board for encouraging applicants to submit details of how deliveries will operate; including the hours of delivery, the steps which will be taken to verify the age of the person ordering, payment arrangements and arrangements to protect the safety of those delivering alcohol. It is also welcomed that the Board has set out an expectation that any person making home deliveries of alcohol will have received training of at least 2 hours' duration covering the matters specified in the Licensing (Training of Staff) (Scotland) Regulations 2007.

Alcohol deliveries and internet sales are an emerging area of concern and AFS is pleased that this is being 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. However, 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 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.

The Board's policy in this area helps to address some of these concerns, and we hope that other areas will adopt a similar approach. The Board may also wish to make clear in the policy that anyone making home deliveries should operate a "Challenge 25" policy, and that orders cannot be left in nominated safe places. With regards to training, the policy could be strengthened by specifying 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 as figures on delivery refusal rates.

- 8. Section 2.8 relating to clubs sets out reminders as to statutory requirements applicable to the sale of alcohol in clubs. Are there any additional requirements which you consider the Board should impose on clubs as a matter of policy? If so, why?**

No comments

- 9. What are your views on the policy proposed at section 2.9 as to circumstances in which the Board may impose a requirement that alcohol may be served only in cans or in plastic or polycarbonate containers? Please explain any changes you think should be made and the reasons for your views?**

No comments

- 10. What are your views on the policies in relation to outdoor drinking areas proposed at section 2.10? Please explain any changes you think should be made and the reasons for your views?**

No comments

## **Section 2.13 – overprovision statement**

The Board's policy statement has to include a statement as to the extent to which the Board considers there to be overprovision of licensed premises, or licensed premises of a particular description, in any locality within the Board's area. The Board can treat the whole of its area as a "locality" for this purpose. The inclusion of an overprovision statement in the policy statement is mandatory. Nevertheless, the statement may be to the effect that the Board does not consider there to be any overprovision in its area or in any part of it. Before reaching such a conclusion, however, the Board must still have undertaken an overprovision assessment, having regard, amongst other things, to the number and capacity of licensed premises in particular localities or the whole area and the views of consultees.

Section 2.13 of the Consultation Draft Policy Statement 2018-23 sets out the background to the Board's existing overprovision statement which was based on an overprovision assessment carried out in 2013.

The existing overprovision statement creates a presumption against the grant of applications for new premises licences or variations of premises licences where (a) the grant would result in the premises having an off sales display capacity in excess of 40 m<sup>2</sup>, or (b) in the case of licensed premises with existing off sales capacity of more than 40 m<sup>2</sup>, the grant of the variation sought would result in an increase in that capacity.

Section 2.13 also summarises the reassessment carried out in 2018, and includes a link to the assessment carried out by the Directorate of Public Health and Health Policy, NHS Highland in May 2018 which can be viewed [here](#). Specific details of current numbers and capacities of both on sales and off sales premises can be viewed below:

- (i) [2017-18 On Sales Capacities](#)
- (ii) [2017-18 Off-Sales Capacities](#)

At its meeting on 26 June 2018, the Board agreed:

**(A) To seek views on the question of whether there is overprovision of**

**(a) licensed premises, or**

**(b) licensed premises of a particular description**

**in any particular locality in the Highland area or in the whole of the Highland area, and to ask respondents to give reasons in support of their response to this question.**

**(B) In the case of respondents who consider there to be an overprovision of licensed premises in any locality or in the whole area, to invite them to put forward their own proposals as to how this can best be addressed.**

**(C) The Board also agreed that views be sought on the 4 options for tackling overprovision proposed by the Directorate of Public Health and Health Policy, NHS Highland, in their May 2018 assessment of the overprovision of licensed premises in the Highland area. These four options are as follows.**

- **NHS Option 1 (retain the Board’s current overprovision policy)**

The Board should retain its current policy presumption against the grant of applications for premises licences, provisional premises licences or variations of premises licences where (a) the grant of the application would result in the premises having an off sales display capacity in excess of 40 square metres, or (b) in the case of licensed premises with existing off sales capacity in excess of 40 square metres, the grant of any variation sought would result in an increase in that off sales capacity. This policy should continue to apply for the whole of the Board’s area, which the Board should agree should be treated as one “locality” for the purposes of the overprovision assessment.

- **NHS Option 2**

The Board should change its current policy presumption in respect of off sales (see Option 1) by introducing a presumption against the grant of applications which would result in the premises having an off sales display capacity which exceeds 30 square metres anywhere in the Highland area.

- **NHS Option 3**

The Board should retain its current policy presumption in respect of off sales anywhere in the Highland area (see Option 1) but also introduce an additional policy presumption against the grant of further on sales premises licences in the Caithness and Inverness Highland Community Partnership areas which have higher than average alcohol-related hospital admission rates.

- **NHS Option 4**

The Board should change its current policy presumption (see Option 1) by introducing a presumption against the grant of applications which would result in the premises having an off sales display capacity which exceeds 30 square metres anywhere in Highland and also introduce an additional policy presumption against the grant of further on sales premises licences in the Caithness and Inverness Highland Community Partnership areas which have higher than average alcohol-related hospital admission rates.

**(D) Separately, the Board further agreed to seek views on the option of introducing a similar overprovision policy to that currently adopted by the Scottish Borders Licensing Board. This policy reads as follows:**



- “4.6 *The Board strongly considers well run on sales premises are a preferred and safer environment for alcohol consumption and should be encouraged over drinking in the home or any other unlicensed environment. On sales premises which provide a full range of services, for example food and quality accommodation, will be encouraged in most areas.*
- 4.7 *The proliferation of larger type supermarkets outwith town centres has continued, the Board recognises that this type of operation serves a larger area than the immediate area in which they are situated. It also acknowledges that small convenience type shops offering a full range of goods are a vital part of the many small rural communities in the area and that it is essential for the viability of such businesses that they are able to provide a full range of goods and services.*
- 4.8 *Where any application for an off sales Premises Licence, with no on sales provision, does not fall into the categories referred to at 4.7 or it replicates a similar off sales business in a particular area then the Board is likely to take the view that this would be overprovision, and applicants will be asked to clearly show how their individual proposal differs from what already exists and how it is likely to benefit the area as a whole.*
- 4.9 *With further regard to off sales premises, the Board is conscious of the fact that the capacity required to be shown within the premises can sometimes be confusing and even seem somewhat irrelevant, in as much as large shops can have a small display area with a large storage area which replenishes the display area frequently or vice versa. However, the Board does acknowledge that display areas can be a factor in encouraging purchase and ultimately consumption and as such will look for detailed justification for any application to have a display area in excess of 10% of the overall sales area of premises, other than dedicated wine and spirit merchants. While Regulations dictate the requirement for display areas to be shown as height and width of display with a linear measurements of displays outwith that on a layout plan, the Board will further require layout plans to clearly show the area, lined and shaded, as a square metres of floor area given over to alcohol display when any application or a variation application is submitted”*

**This policy therefore creates a presumption against the grant of an off sales licence for the following types of premises:**

- (a) off sales premises which are neither “*larger type supermarkets outwith town centres*” nor “*small convenience type shops offering a full range of goods*” and which are a vital part of a small rural community, or
- (b) off sales premises which “*replicate a similar off sales business in a particular area*”

unless, in either case, the applicant can demonstrate “*how the proposal differs from what already exists in the area and how it likely to benefit the area as a whole*”, and

- (c) off sales premises with a display area in excess of 10% of the overall sales area (calculated in m<sup>2</sup>) of the premises (other than dedicated wine and spirit merchants)

unless, in the case of (c), a “*detailed justification*” for exceeding this size of display area is provided.

**Put in context, parts (a) and (b) of this policy would presume against the grant of a licence for**

- larger type supermarkets in town centres
- larger type supermarkets outwith town centres but in the same area as another larger type supermarket
- small convenience type shops offering a full range of goods but which are not a vital part of a small rural community (eg, small convenience shops in towns or the city)
- small convenience shops offering a full range of goods but which “*replicate*” a similar shop in the same area
- shops dedicated purely to off sales of alcohol (including specialist whisky, wine, craft beer, etc. shops)
- distillery shops and visitor centres which do not also sell alcohol for consumption on the premises

The policy contains no obvious explanation (in terms of the licensing objectives) as to why there should be a presumption against the grant of a licence for these particular types of premises.

It should be noted also that the policy contains no definitions of the terms “larger type supermarkets” or “small convenience type shops”. Were the Board to adopt a similar policy these, and various other terms used within it, would require to be clearly defined so that the policy can achieve the Board’s stated aim which is “*to promote consistency of decision-making and to give advance notice to applicants of the Board’s likely approach to determining applications*”.

**In addition, part (c) of this policy (the 10% of total sales area restriction) would also have the effect that:**

- hypermarkets (defined by IGD<sup>1</sup> as stores with sales areas typically over 5,600 m<sup>2</sup>) would be permitted an alcohol display area of 560 m<sup>2</sup> or more depending on their size,
- supermarkets (defined by IGD as stores with sales areas typically between 280 m<sup>2</sup> and 5,600 m<sup>2</sup>) would be permitted an alcohol display area between 28 m<sup>2</sup> and 560 m<sup>2</sup> depending on their size, and

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<sup>1</sup> See <https://www.igd.com/articles/article-viewer/t/uk-grocery-retailing/i/15513>

- convenience stores (defined by IGD as stores with sales areas typically up to 280 m<sup>2</sup>) would be permitted an alcohol display area of up to 28 m<sup>2</sup> depending on their size.

It should be noted, therefore, that to replace the Board's current policy (which presumes against the grant of a licence for any off sales premises where the display capacity would exceed 40 m<sup>2</sup>) with this 10% policy would have the effect of restricting convenience stores to much smaller alcohol display areas than current policy would allow and allowing far larger display areas in supermarkets or hypermarkets.

**The Board has reached no view on these various options at present and wishes to consider the views of consultees and the public generally, including the licensed trade, before deciding (a) whether there is overprovision of any type of licensed premises in its area or in any part of it and, if so, (b) whether to retain or amend its current overprovision policy. Your views are therefore sought below.**

- 11. Do you consider there to be overprovision of (a) licensed premises, or (b) licensed premises of a particular description in any locality in Highland or in the whole Highland area? Please give reasons for your answer.**

As a national organisation, we do not have sufficient local knowledge of the Highland area 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 Board will find useful.

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 Highland 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 also published profiles containing information about the levels of alcohol availability and related harm (at both a national level and for each local authority). These can be accessed via our website: [www.alcohol-focus-scotland.org.uk/campaigns-policy/availability-and-licensing/alcohol-outlet-availability](http://www.alcohol-focus-scotland.org.uk/campaigns-policy/availability-and-licensing/alcohol-outlet-availability). For ease, we have provided a copy of the Highland profile alongside this response.

The CRESH data shows that Highland is ranked 26th out of 30 local authority areas for alcohol outlet density in Scotland (19th for on-sales and 26th for off-sales outlets). Highland has an alcohol outlet density lower than Scotland as a whole; neighbourhoods had an average of 8.9 alcohol outlets within 800m of the population centre, compared to the Scottish average of 16.8 outlets. However, 13% of neighbourhoods in Highland have a total outlet density higher than the Scottish average, and the most deprived neighbourhoods have 6.5 times the number of alcohol outlets than the least deprived.

When considering links to harm, a statistically significant relationship was found in Highland between alcohol outlet density and alcohol-related death rates,

alcohol-related hospitalisation rates and crime rates. Specifically, alcohol-related death rates in the neighbourhoods with the most alcohol outlets were 2 times higher than in neighbourhoods with the least, hospitalisation rates 2.4 times higher, and crime rates 4.7 times higher. The links between alcohol outlet density and harm were found even when other possible explanatory factors, such as age, sex, urban/rural status and levels of income deprivation, had been taken into account.

Decisions on overprovision should also be informed by evidence from the police, health authorities and other agencies. AFS notes the range and quality of information provided to the Board by the Directorate of Public Health and Health Policy, NHS Highland. This helpfully collates local data pertaining to crime and disorder, house fires, alcohol-related health harms and also presents the views of the local public. This evidence shows that high levels of alcohol-related harm are widespread across Highland, and that the public there are concerned that there are already enough places selling alcohol in their local area. It is encouraging that there is improving local evidence of the impact of alcohol-related harm on communities across Highland.

Aggregated statistics such as these point compellingly to the conclusion that there exists a state of overprovision in Highland. AFS would recommend that the Board draw upon the evidence submitted by local partners and 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 density, 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). However, 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.

When considering off-sales in particular, however, the Board may also wish to consider that the majority of alcohol sold in Scotland is bought from off-sales premises, and people now travel further to buy alcohol. Should the Board be concerned about overprovision of off-sales in any particular locations, an off-sales overprovision policy over a wider area may therefore be more effective in helping to reduce and prevent levels of alcohol consumption and harm.

**12. If you consider there is overprovision of licensed premises, or of licensed premises of a particular description anywhere in Highland, what measures do you think the Board should put in place to address this?**

AFS believes that, if the evidence indicates areas where levels of availability and/or harm are sufficiently high to cause concern, declaring overprovision would likely be the most appropriate response.

**13. Having regard to the four options (see section (C) above) for tackling overprovision proposed by the Directorate of Public Health and Health Policy, NHS Highland:**

- **What are your views on NHS Option 1? Please include your reasons.**

No comments

- **What are your views on NHS Option 2? Please include your reasons.**

No comments

- **What are your views on NHS Option 3? Please include your reasons.**

No comments

- **What are your views on NHS Option 4? Please include your reasons.**

AFS believes the evidence submitted by NHS Highland to be particularly comprehensive, robust and compelling, and we would fully support the adoption of NHS Option 4, which was the NHS preferred option.

**14. Having regard to the terms of the Scottish Borders overprovision policy (see section (D) above), do you consider that a similar policy should be introduced in Highland? Please include the reasons for your view.**

No. Please see comment above.

**Local conditions applicable to premises licences (Appendix 7), occasional licences (Appendix 8) and adult entertainment (Appendix 9)**

**15. Please describe any changes or additions to the local conditions listed at appendices 7, 8 and 9 which you consider should be made and why? (If you have already commented on any of these conditions in your answers to the previous questions, please simply refer to those answers.)**

AFS welcomes the inclusion of these appendices, and commends the Board for clearly setting out the objectives to which each condition relates. We have produced a Licensing Resource Pack that provides examples of research which demonstrates the impact of particular licensing conditions on harms. This may particularly useful to the Board when developing the new Licensing Policy Statement, and can be downloaded from our website: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

**Other comments or proposals**

**16. If you wish to make any further comment on the Consultation Draft Policy Statement 2018-23, or put forward proposals for additional policies you**

**would like the Board to consider, please add these below, giving your reasons.**

Links with other strategies

At present, the policy does not appear to outline the national strategies and local policies which the Board will have regard to when carrying out its functions. It will be important that the new policy recognises the value of linkages with other bodies interested in alcohol regulation, and specifically references the policies and strategies that are most relevant to the work of the Board.

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 (CPPs), 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 Highland ADP Delivery Plan. AFS would also recommend that the new policy references relevant strategies of the Health and Social Care Partnership (HSCP).

The Board 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 policy. The Licensing (Scotland) Act 2005 and accompanying guidance should inform the Board's approach to how this can best be achieved, for example by responding to the recommendations of relevant Forums.

Scotland's alcohol strategy 'Changing Scotland's relationship with Alcohol a Framework for Action' is of key relevance to the policy and reference to this 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 draft policy recognises that licensing boards have legal obligations under equalities legislation. AFS would highlight 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.

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. However, the draft policy does not currently contain a section specific to 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 new policy could 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 in the Highlands. 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. Much of this evidence is set out well within the report provided to Board by the Directorate of Public Health and Health Policy, NHS Highland. Aspects of this report could be included within the policy, even as an appendix, with a clear line of reasoning from that evidence to the conclusions in the policy.

It is helpful that the policy gives examples of the control measures licensees could put in place to promote each of the objectives. The new policy could build upon this by setting out a clear expectation that individual applicants address the five licensing objectives in their operating plan. It could also include an expectation that applicants 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 detail 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. 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-sales) 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 has suggested a control measure that information promoting moderate drinking, awareness of units and recommended guidelines be provided. The new policy should 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>

AFS would also recommend that the Board has particular regard to the views of Alcohol and Drugs Partnership when considering the impact of alcohol and the measures required locally to ensure the protection of public health.

#### Accessibility, participation and transparency

A lack of effective public engagement in licensing can prevent proper transparency and accountability. During the 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.

It is useful that the policy includes information about the Board's reporting functions and publication scheme, and includes a link to where the information available to the public can be accessed. However, the policy could provide much more detail about the means by which the boards' processes and procedures will provide for increased accessibility, transparency and accountability for communities. For example, participants at the 2016 regional licensing seminars recommended that Boards require to have:

- 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 should include a commitment that the Board will follow the principles of openness and transparency when carrying out its functions. It could also include an additional commitment that the Board will attempt to make the experience of attending a hearing as informal as possible. This can be a particularly important commitment 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 Board will endeavour to make proceedings as user-friendly as possible, and setting out the procedure to be followed at hearings,



also signposting the public to sources of guidance/support they could access e.g. the AFS Alcohol Licensing in Your Community Toolkit, or such guidance could be included as an Appendix.

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 is pleased that the policy currently references some of the evidence and views the Board considered in relation to overprovision. The new policy could include a list of consultees and include more of the evidence considered by the Board in developing the policy. The Board 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 further demonstrates the board's responsive approach to consultation.

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**Date:** 20/08/2018