

East Lothian online response

East Lothian Statement of Licensing Policy is based on promoting five Licensing Objectives. These Objectives are outlined in our draft Policy - please provide your views on each of these.

In respect of each licensing objective the Board has defined its intended outcomes and listed the factors that have an impact on the achievement of that objective. The policy also usefully lists the control measures which applicants and licence holders can put in place to ensure consistency with the objectives. 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. AFS has produced a Licensing Resource Pack that provides examples of licensing conditions relevant to each objective, and research which demonstrates the impact of particular licensing conditions on harms. This can be accessed via our website: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

AFS welcomes the inclusion of the Supplementary Application Information Form as an appendix, and that the policy requires this to be submitted with all Premises Licence/Provisional Licence applications. Having this statement of licensing objectives attached to their licence could help to focus applicant's attention on the objectives and ensure that they are afforded proper consideration in any proceedings. In addition, it is appropriate that the Board should go further and look to the evidence in respect of each of the five licensing objectives, also expecting applicants to provide evidence that suitable measures will be implemented and maintained.

AFS is also pleased that the draft statement contains some of the information received and considered by the Board in relation to overprovision as an Appendix e.g. statistics to evidence levels of alcohol harm in East Lothian, and mapping of licensed premises. However, it would be useful to provide more of this East Lothian context in relation to each objective within the body of the policy itself 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. AFS would suggest including both statistical and expert opinion, as well as any available local data, on what the issues are in the area. This should cover the range of alcohol-related issues such as town centre disorder; domestic incidents; chronic and acute health harms; fire incidents; and social work cases. Such evidence can be sought from local stakeholders, and the aforementioned Licensing Resource Pack provides resources to support the collection of evidence on local alcohol-related harm.

Crime: 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.

Health: The current policy states that one of the measures licence holders may wish to consider relevant to the health objective is 'making available information promoting moderate drinking along with awareness of units of alcohol and recommended guidelines.' AFS would recommend that the Board 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>.

Children and young people: AFS 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 welcomes that the policy includes Local Conditions relevant to this objective e.g. that children must be excluded from an area of 1.5 metres from any bar server in the premises. It could be beneficial to set out greater detail in the new policy about the conditions the Boards may impose relative to children and young people, and under what circumstances. The new policy should also continue to set out the general expectations of the Boards with regards to factors like when children be allowed entry, including the ages of children to be allowed entry, times and parts of the premises to which children will have access.

The Board should also give consideration as to whether it will apply the same policy to young persons or should have a different policy from that applied to children. AFS would be particularly interested to hear the views of children and young person's and their representative organisations on this issue.

The Board welcomes your views on on-sale licensed hours. The Board's current policy on the hours for the consumption of alcohol on the premises is shown in Part 3 of the draft Policy on pages 19 & 20. The Board proposes no change. Please indicate whether you agree / disagree with these times.

Monday to Wednesday 11.00 am to 11.00 pm

Monday to Wednesday 11.00 am to 11.00 pm Agree Monday to Wednesday 11.00 am to 11.00 pm Disagree

Thursday to Saturday 11.00 am to 1.00am

Thursday to Saturday 11.00 am to 1.00am Agree Thursday to Saturday 11.00 am to 1.00am Disagree

Sunday 11.00 am to midnight

Sunday 11.00 am to midnight Agree Sunday 11.00 am to midnight Disagree

East Lothian Licensing Forum has recommended that the current maximum hours for off-sales facilities, which is 10.00 am to 10.00 pm, be reduced to 12.00 midday to 10.00pm in order to protect and improve public health. What is your view on this proposal? (Note – Off-sales predominantly relate to licensed grocers, supermarkets and the like, but can also relate to such places as pubs who may have limited take-away facilities to take home a pack of beer, a bottle of wine or the like.)

Agree to restrict off-sales to 12.00 midday to 10.00 pm

Disagree - leave sales times at 10.00am to 10.00pm Other

(inserted in response to festive hours question) AFS has identified over 50 research studies published since 2000 that find an association between the total number of licensed premises and opening hours in a locality, and levels of alcohol harm. Localities examined include cities, states, provinces and countries and several studies have specifically investigated the links between temporal availability and alcohol harm. This includes a 2017 systematic review of literature

(published between 2000-2016) studying the impact of policies regulating alcohol trading times on alcohol related harm, which found that policies regulating times of alcohol trading can contribute to reductions in injuries, alcohol-related hospitalisations/ emergency department visits, homicides and crime.

We now know that 73% 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 - the maximum allowed by law. AFS believes that the maximum permitted off-sales hours should be the exception and not the norm, particularly in areas of high-rates of alcohol harm. As such, AFS would fully support the recommendation of the Forum that off-sale hours be restricted to 12.00 midday to 10.00 pm; this was proposed by the Forum following its consideration of the impact of the availability of alcohol people drinking at harmful levels, or with an addiction to alcohol or other substances.

Similarly, with regards to festive hours, extended hours increase availability of alcohol, which in turn is linked to increased consumption and increased harm, therefore AFS would recommend that longer hours are not granted. Should the board decide to allow additional hours, AFS would recommend that they are limited to the 5 days identified, as opposed to 2 weeks, and for not more than one extra hour.

The Licensing Board normally grants a general extension to normal licensed hours for on-sales premises (i.e. Pubs, Hotels, Clubs, Restaurants) at the festive period over a period of 2 weeks until 2am each day. The Board proposes to restrict that general extension to 3 days at Christmas and two days at New Year. Please select an option below, which you feel is appropriate

**Extension of festive hours should remain as they are - extension to 2am for a 2 week period
Restrict the extension to 2am for 3 days at Christmas and 2 days at New Year Other**

Extended hours increase availability of alcohol, which in turn is linked to increased consumption and increased harm, therefore AFS would recommend that longer hours are not granted. Should the board decide to allow additional hours, AFS would recommend that they are limited to the 5 days identified, as opposed to 2 weeks, and for not more than one extra hour.

The Board would particularly like your views on the use of occasional licences for events that are predominantly organised for children. The Board feels that children's events should not necessarily attract the need for alcohol to be consumed. Do you agree / disagree that the sale or supply of alcohol should be restricted at events that are predominantly focused towards children?

Agree Disagree Other

If you disagreed or selected 'other' please provide further details

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, 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, AFS believes that having a presumption against granting occasional licences where the event predominantly involves children is a proportionate and justified policy measure to achieve a

legitimate aim i.e. protecting children from harm. In addition, 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.

With regard to occasional licenses more generally, AFS fully supports the approach of the board in requiring a hearing where it is identified that an applicant has made repeated occasional licence applications. This could be further strengthened by adopting a policy whereby any more than six (at the most) back-to-back occasional applications be automatically referred to the Board for a decision. AFS would also suggest that the board implements a policy whereby there is a presumption against the grant of occasional applications which do not relate to special events.

The inclusion of the Occasional Licence Application and Supplementary Information Form appendix, and corresponding requirement that applicants must complete this when applying for an occasional licence, is particularly welcomed, as is the inclusion of local conditions relevant to occasional licenses as an appendix.

Every Licensing Board must publish a statement on overprovision relating to the sufficiency of the number, type and capacity of Licensed premises in its area. What is your view regarding availability of alcohol in East Lothian? (please tick as many as apply)

There are too many off-sales selling alcohol (i.e. licensed newsagents, grocer shops, supermarkets, etc.) **The number of off-sales selling alcohol is about right** **There are not enough premises selling alcohol** **There are too many on-sale premises selling alcohol (i.e. licensed cafes, pubs, hotels, restaurants, clubs)** **The number of on-sales premises selling alcohol is about right** **There are not enough on-sales premises selling alcohol.** **Comments.**

Currently, the whole of East Lothian is regarded as being 'overprovided' with all types of licensed premises. However, the Board agrees with the NHS, Police and Licensing Forum that ON-SALES premises (licensed cafes, pubs, clubs, hotels, restaurants, etc.) are NOT OVERPROVIDED. Do you agree or disagree with this view?

Agree **Disagree** **Please use this box to share on comments on this**

The Board now agrees with the NHS, Police and Licensing Forum that OFF-SALES premises (off-sales predominantly means licensed grocers, supermarkets and the like, and not such places as pubs who may have limited take-away facilities to take home a pack of beer, a bottle of wine or the like) ARE OVERPROVIDED. Do you agree or disagree with this view?

Agree **Disagree**

Please comment on your answer

The Board is minded to declare that all localities in East Lothian, above the average alcohol related deaths and alcohol related hospital admissions, should be declared overprovided for off-sales (see draft policy pages 33 and 35 to 39). Do you agree / disagree with this stance?

Agree **Disagree**

Please share any comments on your answer here

As a national organisation, we do not have sufficient local knowledge of the East Lothian 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 East Lothian 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. Decisions on overprovision should also be informed by evidence from the police, health authorities and other agencies. AFS is therefore pleased that the draft statement contains some of the evidence (as an appendix) considered by the Board to help inform the overprovision assessment e.g. statistics to evidence levels of alcohol harm in East Lothian, and mapping of licensed premises. This helps people to understand the rationale for the boards approach and aids transparency.

The CRESH data shows that East Lothian is ranked 18th out of 30 local authority areas for alcohol outlet availability in Scotland (13th for on-sales and 21st for off-sales outlets). A statistically significant relationship was also found in East Lothian between alcohol outlet availability and crime, alcohol-related death, and alcohol related hospitalisation rates. As such, AFS would fully support the Board declaring areas with high rates of harm as overprovided.

When considering off-sales in particular, however, the Board may also wish to consider that 73% of alcohol sold in Scotland is bought from off-sales premises, and people now travel further to buy alcohol. 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.

Are there any specific localities in East Lothian that you feel are overprovided in terms of off-sales? - if yes, please provide details below.

AFS would recommend that the Board use the CRESH webmap to help identify areas of potential overprovision. This tool can be used to compare areas against the Scottish average for outlet availability, compare alcohol outlet availability between neighbourhoods *within* the local authority, and also identify corresponding rates of harm (e.g. alcohol-related hospitalisations, crime rates, and alcohol mortality).

An initial analysis shows that although East Lothian has lower alcohol outlet availability than Scotland as a whole, over 20% of neighbourhoods have higher availability than the Scottish average. This includes areas that have high levels of off-sales outlet availability and harm, including neighbourhoods within Musselburgh, Tranent, and Haddington, and Dunbar. Some of these areas also have high numbers of on-sales outlets.

All staff who are employed to sell or supply alcohol to the public must either be a personal licence holder or have received a minimum of two hours training on licensing practice and procedures. Do you feel that this is adequate?

Yes No

Please share any comments on your answer here

The Board has experienced large numbers of premises making late payment of the annual fee due on 1 October. This causes the Board a great deal of extra work chasing payments and is a breach of the mandatory conditions attached to a licence. The Board therefore proposes to tighten its position on those who pay late and to bring such licence holders to a review hearing at the end of October when sanctions can be imposed. Do you agree / disagree with this approach?

Agree Disagree Other

If you disagreed or selected 'other' please provide further details

At the moment there is no mechanism in law to require licence holders to provide the Board with information about the volume of alcohol sales from their premises. Do you agree or disagree that the law should be amended to enable such information to be obtained by Licensing Boards to inform the development of their policies?

Yes No

Please share any comments on your answer here

Without alcohol sales data it is not possible to get a true measure of alcohol availability, fully inform licensing decisions, or monitor changes over time. AFS believes that licensed premises should be required by law to provide alcohol sales data to licensing boards as a condition of their licence, to help inform future overprovision policies and licensing decisions.

Our understanding is that the trade/industry may be reluctant to make sales data available as the information can be commercially sensitive. Therefore AFS has recommended that, in the immediate term, aggregated anonymised sales data should be provided to the Scottish Government to help inform future national policy on availability and licensing.

Please use the box below to share any further comments you may have.

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. AFS also notes East Lothian Forum's concerns about transparency and would therefore recommend that the new policy has a particular focus on this area.

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 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 should include a 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 support public participation by reassuring communities that the Board will endeavour to make proceedings as open and friendly as possible, and ensure that all participants receive appropriate advice on procedures or requirements.

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

AFS is pleased that the policy includes a list of consultees and includes some 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.

Alcohol deliveries and internet sales

AFS welcomes that the new policy has included a sections on alcohol deliveries and internet sales. We commend the Board for specifying in the new policy that when making an alcohol delivery, certain checks should be carried out such as Challenge 25, 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.

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

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

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

The Boards policy in this area helps to address many of these concerns, and we hope that other areas will adopt a similar approach. The Board may also will to consider placing conditions on online retailers to request details of sales and distribution areas, as well figures on delivery refusal rates.

Links with other strategies

AFS is pleased that the policy makes clear that the Board considers the work undertaken by the Midlothian and East Lothian Drugs and Alcohol Partnership (MELDAP) to be of particular significance, and signposts people to where they can access a copy of the MELDAP Delivery Plan for 2015 - 2018. AFS would also recommend that the new policy references relevant locality plans, and the strategic plan of the Health and Social Care Partnership (HSCP).

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

The alcohol licensing regime provides a locally led system for regulating the sale of alcohol and is one of the key mechanisms by which availability can be controlled at a local level. As alcohol licensing is the responsibility of licensing boards, it will be essential that boards can identify where they share similar objectives to Community Planning Partners, and understand how they can best support each other towards these ends. In many respects, licensing boards and CPPs are already working towards shared goals and stand to benefit from more collaborative approaches. It will therefore be important that the new Licensing Policy aligns with community planning Local Outcome Improvement Plans (LOIPs).

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.

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.