



AFS RESPONSE TO CONSULTATION ON THE EDINBURGH DRAFT LICENSING POLICY STATEMENT AND OVERPROVISION ASSESSMENT– OCTOBER 2018

Alcohol Focus Scotland (AFS) welcomes the opportunity to respond consultation on the terms of the revised Edinburgh Statement of Licensing Policy and the Board’s Overprovision Assessment. This response builds upon our pre-consultation response, submitted to the Board in November 2017. It provides an update on recent developments and further suggestions regarding the sections of the draft policy that we believe may warrant particular scrutiny.

As a national organisation, we do not have sufficient local knowledge of the Edinburgh area to enable us to comment in detail on some of the specific policy content, and have therefore answered only those questions where we felt it most appropriate to comment.

COMMENT ON DRAFT LICENSING POLICY STATEMENT

SUPPLEMENTARY QUESTIONS FOR CONSULTEES

Children and Young Persons’ Access

- **Do consultees consider that the Board should continue to look at applications on a case by case basis or should specific terminal hours for children and young persons be included in the Statement of Licensing Policy? The Board welcomes consultees’ views on such hours.**

AFS fully appreciates that some Boards wish to encourage applications for licensed events and venues which are family friendly and safe for children. However, as highlighted in our pre-consultation response, 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.

As such, AFS believes that it would be beneficial to clearly set out within the new policy the general expectations of the Board with regards to factors like when children be allowed entry to licensed premises, including the ages of children to be allowed entry, and types, times and parts of the premises to which children will have access. In general, AFS would expect that premises that do not offer food of any description are highly unlikely to be a suitable environment for children.

We note that Police Scotland suggests the terminal hour could vary depending on the type of premises, and AFS is aware that this approach is already adopted in many board areas. If the Board is minded to enable children and/or young person’s later access to restaurants for the purposes of meal, AFS would recommend that the Board carefully set out the conditions it will apply in such circumstances and the additional responsibilities placed on licence holders. Similarly, if the Board continues to be of the view that it is generally permissible for children to remain on licensed

premises for private functions, AFS would recommend that the Board applies conditions to the premises to help ensure that due regard is had to the licensing objective of protecting children and young people from harm. These conditions should be set out within the policy and 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.

Extended Use of Occasional Licences

- **Should an indicative number of licences/number of applications be included in the Statement of Licensing Policy? The Board welcomes consultees' views on such a number.**

Occasional licences are intended to allow for the sale of alcohol at events that do not occur on a regular basis. However, as commented in our pre-consultation response, there is concern that this as an area where 'loopholes' in the legislation are being regularly exploited, and used to circumvent the requirement to have a premises licence. AFS would therefore fully support a policy requirement that applications be referred to the Board for consideration where it is identified that an applicant has made repeated occasional licence applications.

Licensing Boards may wish to choose an indicative number of applications for referring decisions to the Board, or they may wish to set alternative thresholds 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."* AFS believes that local stakeholders, and those directly involved in administering the licensing system, would be best placed to advise what the most appropriate threshold may be in an Edinburgh context.

In addition, in order to ensure that the sale of alcohol under occasional licences is appropriately conditioned to uphold the licensing objectives, the Board could also request that applicants complete an Occasional Licence Supplementary Information Form. This approach is already adopted in some Board areas, where occasional licence holders are asked to demonstrate how they will promote the five licensing objectives, and provide practical examples of how they plan to comply with each objective, with some boards also providing a pro forma for submission alongside the application.

Licensed hours

- **The Board is aware that there may no longer may be public satisfaction with the general approach to the same opening hours for similar licensed premises across the city depending on location and seeks the views of consultees as to whether the current policy should be reviewed and in particular if the terminal hours should vary across the city?**

AFS is not in a position to comment on local experiences, but can offer comment on the impact of licensed hours more generally and the evidence available to support this.

AFS has identified over 50 research studies published since 2000 that find an association between the total number of licensed premises and opening hours in a locality, and levels of alcohol harm. Localities examined include cities, states, provinces and countries and several studies have

specifically investigated the links between temporal availability and alcohol harm. This includes a 2017 systematic review of literature (published between 2000-2016) studying the impact of policies regulating alcohol trading times on alcohol related harm, which found that policies regulating times of alcohol trading can contribute to reductions in injuries, alcohol-related hospitalisations/emergency department visits, homicides and crime.¹

Extended hours increase the availability of alcohol, which in turn is linked to increased consumption and increased harm. As such, the Board may wish to give further consideration as to whether it is appropriate that all on-sales premises across Edinburgh can commence alcohol sales from as early as 10am (on every day except Sunday). With regard to off-sales hours, AFS would again highlight that the hours of 10am until 10pm are the maximum allowed by law and AFS believes that, particularly in areas of high-rates of alcohol harm, the maximum permitted hours should be the exception and not the norm.

AFS supports the application of different licensed hours to later opening premises depending on whether they are located in or out of the city centre as there is a rationale for doing so. Later opening premises located in the city centre are more likely to be located in less residential areas. However, the operation of such premises should be monitored to ensure that alcohol-related public nuisance is minimised and conditions attached to the licence if necessary.

ADDITIONAL COMMENTS

Accessibility, participation and transparency

As commented in our pre-consultation response, a lack of public participation in the licensing process has been reported across the country, and an absence of effective public engagement in licensing risks preventing proper transparency and accountability. As such, AFS would recommend that the new policy has a stronger focus on ensuring increased accessibility, transparency and accountability for communities.

In addition to the suggestions we proposed in our pre-consultation response (e.g. ensuring that administrative processes provide transparency and accountability), the new policy could outline the various ways in which people can get involved and the types of information/supports available to enable them to participate. It is likely that a significant number of community members will have a very limited understanding of the licensing system or the ways in which they might engage with it.

The new policy could also clearly signpost the general public to where they can find guidance to support them to get involved, including by making objections and representations, or this could be included as an Appendix e.g. the [Alcohol Licensing in Your Community Toolkit](#).² The policy could also outline the role of the Licensing Standards Officer and the types of assistance they are able to offer to the public.

¹ 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.

² Alcohol Focus Scotland (2015). *Alcohol Licensing in Your Community How You Can Get Involved*. Glasgow: Alcohol Focus Scotland: <https://www.alcohol-focus-scotland.org.uk/media/133477/Community-licensing-toolkit.pdf>

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 would also recommend that the Board includes details of the evidence considered by the Board in developing the policy. Boards 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.

Promoting the Licensing Objectives

For all the licensing objectives, the Board has usefully defined its intended outcomes, the influencing factors on the achievement of the objectives, and the control measures that applicants and licence holders can put in place. As commented in our pre-consultation response, it would be useful for the new policy to provide more detail about the conditions the Board can/will apply in relation to each of the objectives.

AFS has produced a Licensing Resource Pack³ that provides resources to support the collection of evidence on local alcohol-related harm, and provides examples of research which demonstrates the impact of particular licensing conditions on harms. This may particularly be useful to the Board when developing their new policy: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

AFS welcomes that the existing policy sets out a clear expectation that applicants address the five objectives in their operating plan and also supply a written statement detailing how they will promote the objectives. In several other Board areas, applicants are also provided with a 'Supplementary Information' document to submit alongside their application - asking them to set out exactly how they will comply with the objectives. AFS would recommend that the Board considers whether it would be beneficial to provide Edinburgh applicants with such a pro forma, both to assist them to provide a written statement relevant to each objective, and also ensure consistency.

Alcohol deliveries

In our pre-consultation response we highlighted emerging concerns regarding online sales and alcohol deliveries. As such, AFS would urge the Board to set its approach to alcohol deliveries within the new policy. For example, it could be specified that when making an alcohol delivery certain checks should be carried out such as Challenge 25. In addition, the policy could require that orders cannot be left in nominated safe places, and that staff delivering alcohol must be trained to the same level as staff who sell or supply alcohol in licensed premises. AFS is aware that these measures are being proposed in other Board areas. 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.

³ Alcohol Focus Scotland (2017). *Licensing Resource Pack*. Glasgow: Alcohol Focus Scotland: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

COMMENT ON ASSESSMENT OF OVERPROVISION

AFS is not in a position to comment in detail on which streets or areas in Edinburgh should be declared overprovided, but we can provide information based on the analysis of the relationship between outlet availability and certain harm statistics which the board may find useful.

In terms of the general approach to assessing overprovision - as noted in our pre-consultation response - AFS would recommend that alcohol harm statistics are considered in conjunction with alcohol outlet density information to make an informed assessment of overprovision. Subsequently to responding to the Board's pre-consultation, AFS worked with the Centre for Research on Environment, Society and Health (CRESH) at the Universities of Edinburgh and Glasgow to publish further evidence of the links between alcohol availability and harm in Scotland.

Detailed updated local information on alcohol availability and harm at neighbourhood level can now be found using the [CRESH WebMap](#). In addition, profiles containing information about the levels of alcohol availability and related harm (at both a national level and for each local authority) can now be accessed via our website: www.alcohol-focus-scotland.org.uk/campaigns-policy/availability-and-licensing/alcohol-outlet-availability. For ease, we have also sent a copy of the Edinburgh profile to accompany this response.

The CRESH profile shows that Edinburgh has a very high overall level of alcohol availability, the highest of all the local authority areas in Scotland. Around half of the neighbourhoods in Edinburgh had a higher total alcohol outlet availability than Scotland as a whole, rising to two thirds of neighbourhoods for off-sales outlets.

Neighbourhoods within Edinburgh City have up to 26 times the Scottish average number of alcohol outlets, 33 times the Scottish average for on-sales outlets and 11 times the Scottish average for off-sales outlets. In addition, the number of alcohol outlets in Edinburgh City increased by 12.1% between 2012 and 2016, with a 8.6% increase in on-sales outlets and a 22% increase in off-sales outlets. With almost three quarters of alcohol bought from off-sales outlets for consumption at home, the increase in this type of outlet should be a significant consideration for the Board.

When considering links to harm, although Edinburgh City as a whole experiences lower than national average rates for alcohol-related deaths and alcohol-related hospitalisations, at least two fifths of neighbourhoods have higher than Scottish average rates of alcohol-related deaths, and neighbourhoods within Edinburgh City have up to 6 times the Scottish average for alcohol-related hospitalisations (Niddrie). Overall, Edinburgh City has a higher than national average crime rate, with neighbourhoods that have up to 20 times the Scottish crime rate (Old Town, Princes street and Leith Street).

In relation to the proposed overprovision localities, the vast majority have significantly higher levels of alcohol-related health harms and crime rates than Scotland as a whole. In addition, majority of neighbourhoods within these localities are income deprived. This is an important consideration given that people who are income deprived are disproportionately impacted by high concentrations of alcohol outlets in their area,⁴ and the clear evidence that the impact of harmful drinking and alcohol dependence is much greater for those experiencing the highest levels of deprivation. For

⁴ Shortt, N.K., Rind, E., Pearce, J., Mitchell, R. & Curtis, S. (2018). Alcohol Risk Environments, Vulnerability, and Social Inequalities in Alcohol Consumption. *Annals of the American Association of Geographers*. DOI: 10.1080/24694452.2018.1431105

example, people living in our most deprived communities are eight times more likely to die or be admitted to hospital due to alcohol use than those in our most affluent communities.⁵

An initial analysis using the CRESH data also shows that there are multiple neighbourhoods in Edinburgh that have higher outlet density than the Scottish average as well as high levels of alcohol-related harm, which have not been suggested as overprovision localities. For example, Gorgie West and Stenhouse and Saughton Mains have high outlet density and higher than Scottish average levels of alcohol-related deaths, alcohol-related hospitalisations, and crime rates.

As such, AFS would recommend that the Board 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 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).

AFS would also support the Board's proposal that the areas of serious special concern are not retained in the updated policy, and that these areas (including Leith Docks) are instead assessed to determine whether overprovision would be an appropriate response. 'Areas of serious special concern' is a term that does not appear in the legislation and is therefore not defined, whereas overprovision is one of the defined grounds for refusal.

⁵ NHS Health Scotland (2018) Monitoring and Evaluating Scotland's Alcohol Strategy.