



MINUTES OF THE MEETING OF THE EAST LoTHIAN LOCAL LICENSING FORUM (INCORPORATING JOINT MEETING WITH THE LICENSING BOARD) **1**

TUESDAY 5TH MARCH 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

Forum Members Present:

Bernard Harkins
Heather Bowsher
Dave Dickson (Chair)
Simon Broadhurst
Richard Foley
David Forrest
Rudi Fruzynski
Pat Hanson (Secretary)
Richard Ross
Jim Goodfellow

Council Officials Present:

Kirstie MacNeill

Visitors Present:

George Hood (RASP)

Apologies:

Stuart Baxter
John Boyce
Bill Duncan
All members of the Licensing Board apart from Jim Goodfellow

*Simon Broadbent was welcomed to his first meeting.
Kirstie MacNeill, Clerk to the Licensing Board, was
welcomed to the meeting*

1. JOINT DISCUSSION WITH THE LICENSING BOARD

i Meeting Arrangements Jim Goodfellow apologised for the fact that the other Licensing Board members could not attend due to various commitments. He suggested that a date for a similar meeting in 2014 be fixed three to six months in advance.

Decision

The Secretary would ensure that suitable liaison with the Licensing Board be carried out well in advance of the 2014 joint meeting.

ii Review of Licensing Policy Kirstie MacNeill reported that October 2013 was the target date for completion. A draft amended policy would be agreed by the Board and then put out for consultation, although there was no firm timescale for the process. Kirstie also mentioned some of the possible changes that would be examined. Forum members welcomed that chance to get involved with the consultation process.

iii Scottish Government Consultation on Licensing Reform Kirstie MacNeill reported that the Board had submitted a response. Matters covered included 'Brightcrew', review hearings and training for new Board members. Forum members confirmed that they would be discussing their own response, if any, later in the meeting.

iv The Licensing Board's Equalities Statement Kirstie MacNeill said that the Licensing Board was separate from East Lothian Council and therefore had to produce its own Equalities statement. This would be sent out for consultation, with responses required by the end of April 2013. The Board also required a Public Records Management Plan and on this occasion could piggyback the Council one.

v Future Liaison with the Forum and other matters Kirstie MacNeill reported that the Board also had a draft statement of principles on gambling licensing out for consultation. The Secretary noted that the Forum only dealt with liquor licensing issues and would therefore be unlikely to respond. Other current issues included a Government review of licensing fees, which would require the submission of statistical information; and the further extension of the list of acceptable IDs for proof of age – to include EU ID cards, military IDs etc. In reply to questions Kirstie confirmed that the cost of Occasional Licences would also be covered by the review. In conclusion, Kirstie and Jim Goodfellow confirmed that the Licensing Board would keep in close contact with the Forum during the course of the year. Both were thanked for their valuable contribution to the joint session.

2. ANNUAL ELECTIONS

The Secretary apologised for the fact that this item, required under the Constitution, had been omitted from the Agenda. He also confirmed that, while he had retired from the licensed trade recently, he had been informed by Council officials that he was still eligible to retain Forum membership as a personal licence holder and member of the community. Noted. The election of Forum officers followed.

Decision

Dave Dickson was nominated and seconded as Convenor and Chair of the Forum and duly elected. Pat Hanson was nominated and seconded as Secretary of the Forum and duly elected.

3. MINUTES OF THE MEETING HELD ON 5TH DECEMBER 2012

It was noted that John Boyce had pointed out that the £26 million cost of alcohol in East Lothian (Minute 3) not only needed to be reduced, as minuted, but was a substantial underestimate because of other unmeasured factors.

Decision

Subject to the above clarification the minutes were agreed as a correct record.

4. MATTERS ARISING FROM THE MINUTES

i Finding new Forum Members The Secretary reported that, while there was no money in the ELC budget for press advertising, updated copies of Forum recruitment flyers had been provided in bulk by Fiona Currie. These were tabled for members to take away and distribute locally. Kirstie MacNeill had also agreed to take a copy for incorporating in edited form in the next 'East Lothian Living' paper.

ii Questions regarding rating and 'open licence' premises The Secretary tabled a reply he had received from the ELC Rating Department to the forum's questions. It seemed that the matter was under active review. Rudi Fruzynski pointed out that the Scottish Government's current proposals included issues relating to members' clubs. There was further discussion about related matters, including clubs' charitable status.

iii Review of the Licensing Board's Statement of Licensing Policy Forum members noted that this had been largely covered in the preceding joint session. The Secretary said that he hoped that the Board's timescale would fit in with the Forum's June meeting.

5. PERSONAL LICENCE HOLDER REFRESHER TRAINING

The Chair reported on the launch of 'Refresher Training' by People 1st at QMU the day before the Forum meeting. He commented that the facilities had been surprisingly poor and that it had been difficult to hear some speakers and discussants. He reported on some key issues that had been identified eg that the SQA would have to ensure that trainers were properly accredited; that participants in the refresher training would have to provide photo ID; and that the training itself would only be of three hours' duration, with a 40-minute multiple-choice test.

Members discussed the report and other papers on refresher training that had been circulated prior to the meeting, as well as considering the issue of the relevant training deadlines. It was clarified that for all those that had taking training in the period March 2008 to September 2009 the effective date for the confirmation of successful refresher training would be 1st December 2014.

Ricky Ross said that the cost of personal licence training and retraining could be substantial. His local Pubwatch scheme had looked at ways to minimise such costs through a collective approach.

Members also raised the issue of reminders for existing personal licence holders. Rudi Fruzynski confirmed that Kirstie MacNeill would be writing to all East Lothian personal

licence holders on this matter. Existing personal licence holders would also be reminded through the trade press, professional bodies etc. It was noted that there was a risk of a big rush for refresher training later in 2014 and that the Licensing Board and that the Licensing Board would have to have a definitive list of those completing such training by January 2015. It was suggested that the Forum could also provide a role in sourcing collective refresher training e.g. by arranging a deal for East Lothian personal licence holders.

Decision

It was agreed that it would be a good idea for the Forum to explore, with one or more approved refresher training providers, the possibility of arranging a financially advantageous deal for East Lothian personal licence holders' refresher training. The Secretary would explore this once it was clear who such accredited local providers were.

6. SCOTTISH GOVERNMENT CONSULTATION PAPER ON LICENSING REFORM

The Secretary introduced this item and the associated paperwork that had been circulated prior to the meeting. He pointed out some of the main areas in which the Scottish Government's paper was seeking to tighten up the legislation e.g. by requiring Licensing Boards to actively *promote* the five licensing objectives. He also suggested that the consultation paper had failed to address licensing issues of importance to the trade e.g. in relation to the transfer of licences and also issues relating to provisional licences. The Secretary also confirmed that he had been sent a copy of a response to the consultation by the Nungate Tenants and Residents Association for information.

Simon Broadhurst drew attention to the consultation paper's references to overprovision, and in particular that the relevant locality could be the entire Board area. He felt that this was wrong and that, especially in an area like East Lothian, more local areas should be considered. Jim Goodfellow, Richard Foley and Ricky Ross also commented on overprovision issues and the balance of emphasis on on-sales and off-sales of alcohol.

Decision

It was agreed that the Secretary should send a brief response to the consultation on behalf of the Forum, suggesting that some sort of higher level guidance was needed on overprovision issues. The Forum would also comment on the need to look more closely at off-sales (particularly in this respect), as well as the points raised by the Secretary about the lost opportunity to address some licensing matters of importance to the retail trade.

7. ALCOHOL FOCUS SCOTLAND NEWSLETTERS NOV/DEC 2012 AND JAN 2013

These newsletters, which had been previously circulated, were noted.

8. POLICE REPORT

Heather Bowsher reported that it had been a reasonably quiet month, with about 90 incidents occurring at on- and off-sales premises. Approximately 50 occasional licences had been approved. There had been no test purchasing exercise for a year but this would be up and running again soon, possibly during the Easter holidays. Test purchasing exercises were *not* random but based on intelligence received.

Simon Broadhurst reported on the implications on moving to a single Scottish police force from 1st April 2013. There would be 14 'super-divisions', with East Lothian, Midlothian, West Lothian and the Borders being 'J' Division. The East Lothian Chief Inspector would be Colin Brown. Simon also said that he was keen to see more cases on licensed premises leading

to exclusion orders. PCs would be asked to consider this option more actively. Ricky Ross and George Hood confirmed that RASP would be following up the issuing of banning letters by building up cases for ASBOs and/or exclusion orders.

Simon and Heather were thanked for their reports.

9. LICENSING STANDARDS OFFICER'S REPORT

Rudi Fruzynski reported that the Licensing Board had dealt with a large number of licence applications and variations. An extension until 4am for Staggs (Musselburgh) on Super Bowl night had been approved.

At the 28th February Board meeting a general extension until 1am on the last day of the Open golf in July had been agreed. Details had been published on the forum website. Two further clubs had had a transfer to an open licence agreed.

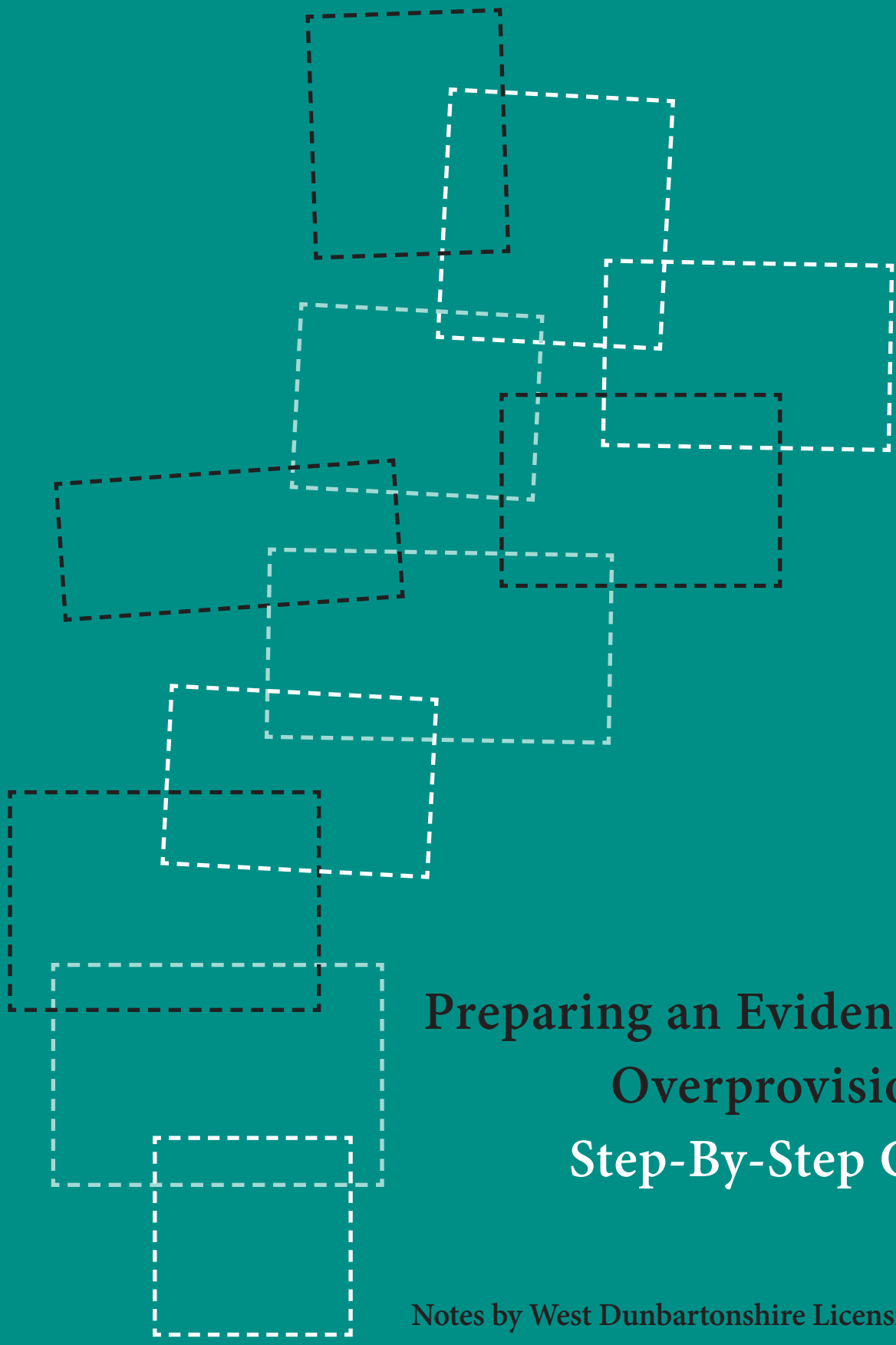
There has been only two complaints about noise from licensed premises and the festive 2am general extension of hours had not thrown up any problems.

Personal licence refresher training would be covered in detail on the Forum website; and finally Trading Standards Officers had thanked the licensed trade for their assistance in dealing with attempts to sell counterfeit tobacco in the East Lothian area.

Rudi Fruzynski was thanked for his report.

There being no further business, the meeting closed at 2105 hours after a vote of thanks to the Chair

3b



**Preparing an Evidence-Based
Overprovision Policy
Step-By-Step Guidance**

Notes by West Dunbartonshire Licensing Board Clerk

Introduction

In 2010, West Dunbartonshire Licensing Forum asked their local Alcohol and Drug Partnership (ADP) to prepare and present evidence to inform their response to the Licensing Board's planned consultation on overprovision. This can be considered a sensible approach to take for a number of reasons. Firstly, it is difficult to carry out a proper assessment without the appropriate evidence and analysis of your local area, which the ADP was well placed to do. Secondly, there was widespread interest from all partners involved to find out what the data said about our local area.

The data that were collected were very clear about the challenges that alcohol presented to our area, challenges which are common to many parts of Scotland. The evidence 'spoke for itself' and produced consensus from the Forum, Board, local licensed trade, Community Planning partners and consultees. It also produced a robust policy which has been applied consistently by the Licensing Board and remains unchallenged.

Licensing Boards face a number of differing pressures. Increasingly there is widespread recognition that the difficult problems facing an area (e.g. gap in life expectancy) cannot be solved by any single agency. Instead there is a need for a co-ordinated multi-agency approach to deal with community issues, and licensing needs to be part of that. Secondly, cases such as Brightcrew make it increasingly difficult for Boards to determine applications in the absence of a robust policy framework. Meanwhile, the licensing system requires to remain quasi-judicial and fair and its decisions need to be justified and robust. We found that the development of an evidence-based Licensing Policy Statement provided the answers to many of these pressures.

The gathering of data for our overprovision policy and its subsequent inclusion in policy produced a number of unexpected hurdles. Inevitably this meant that the process was longer than it might have been. This step-by-step guide is intended to point out some of the issues in the process and potential solutions in the hope that it will help Licensing Boards, Licensing Forums, Alcohol and Drugs Partnerships etc with a road map.

While West Dunbartonshire's data and analysis eventually resulted in an overprovision policy covering most of the local authority's area, I would not necessarily urge other Boards to adopt the same policy. The important fact is that you are aware of the extent of the alcohol related issues facing your area and are able to make fully informed decisions which reflect the licensing needs of your community.

Best of luck.

Andrew Fraser
Former Clerk West Dunbartonshire Licensing Board
Now Head of Service (Democratic and Administration Services),
North Ayrshire Council

1. An evidence-based policy or not?

Consider to what extent you need to collect evidence to support a policy.

On the one hand it might be perceived that an evidence-based policy ties the Board's hands. Thus there is an attraction in having wider policies, perhaps stressing the importance of local knowledge and potentially giving something on which to hang any decision.

On the other hand, the arguments for an evidence based policy are:-

- Section 3 of the Licensing (Scotland) Act 2005 provides that the Board must ensure the policy seeks to promote the licensing objectives. At least one Senior Counsel has given the opinion that 'a Board cannot ensure without gathering evidence'. Arguably the evidence should underlie all of the policy, not just the overprovision section of it;
- In determining individual applications, the onus is on the Board to demonstrate that any issue flows from the sale of alcohol in the particular premises. This may be very difficult to do. For example, it is very difficult to show that alcohol-related deaths and other health problems are linked to one particular premises. By way of contrast, the development of a policy can result in such wider issues being fully considered, then reversing the onus onto the applicant to demonstrate why the policy should not be followed;
- There is an increasing focus from the Scottish Government and others on changing Scotland's relationship with alcohol. Liquor licensing, being the sole means of controlling the availability of alcohol, is increasingly being viewed as a key part of this. The joined up thinking arising out of the Community Planning agenda will increasingly put pressure on Board members to look at the wider issues arising through the use of alcohol in their communities;
- A vague 'catch all' policy still needs to be clearly linked to the decision in question – *Watson v Western Isles LB* 18 January 2011. In that case the Board's refusal of an application for Sunday opening on the basis of the health objective was described by the Sheriff as 'an arbitrary application of a general policy'.
- Decisions made 'on the hoof' using local knowledge are more likely to attract challenge than those made on the basis of an evidence based policy. Different Sheriffs can easily come to different decisions on the use of local knowledge – contrast the two recent cases of *Tesco v Glasgow LB* 15 October 2012, and *Sabti v North Ayrshire LB* 24 August 2012.
- Decisions based on robust evidence-led policies are likely to withstand subsequent court challenge. There are two reasons for this. Firstly, the 2005 Act is predicated on the principle that Board policies should give fair notice of what Boards expect. This is particularly the case for overprovision. Secondly, Boards may face an insurmountable onus to demonstrate grounds of refusal in the absence of a clear and robust policy.

2. When to start?

Start the gathering of information process at least nine months before the policy is due to be finalised.

3. Advance work

Speak to contacts in the local Alcohol and Drugs Partnership (ADP), local authority and Police to ascertain that they are both willing and able to provide the required statistics. If the ADP is not in a position to co-ordinate the gathering of health data, speak to contacts in the Health Board.

4. Power to require information

If resistance is encountered, note that Section 6(5) allows the Licensing Board to request the Chief Constable, Council and Health Board to provide the Board with such statistical or other information as the Board may reasonably require for the purposes of preparing a Licensing Policy Statement.

5. Who leads in gathering information?

It is recommended that the local Alcohol and Drugs Partnership (ADP) takes the lead in co-ordinating the gathering of statistical evidence. While the ADP takes the lead, it is likely that preparation and analysis of the data will need to be done by the Health Board and Police.

6. Who gets the information?

The initial consideration of statistical evidence can either be done by the Board or by the Licensing Forum. While the Forum has Police and Health membership, the route to be chosen will probably depend on the capacity and the willingness of the Forum to undertake this role.

7. What areas should be used?

While the areas chosen for analysis need to reflect local communities, they also need to be areas for which statistics can be gathered. Thus avoid using more ad-hoc areas (e.g town centres). Scottish Neighbourhood Statistics are gathered for individual datazones which have been amalgamated into intermediate data zones which represent existing communities. These are approximately two to six thousand in population, depending on whether an area is rural or urban. Such intermediate datazones are probably the best areas to use.

8. Choosing a comparator

It is important that an appropriate comparator is obtained. The obvious comparator is to compare health data with the Scottish average and Police data with the Force average. However, it should be noted that if Scotland is the sick man of Europe for

alcohol problems, then such a comparator may not be particularly meaningful. Nevertheless, for 2013 the Scottish average might have to be used by most Boards. If seeking to use a UK wide comparison, it is advised that you contact Alcohol Focus Scotland to ascertain whether comparable UK data is available and, if so, from where. It is also important to compare trends within your area over time.

9. Standardising the data for comparison

For ease of analysis it is recommended that the data is standardised (e.g. the local data is converted into the same basis as the national data to enable direct comparison). This might be to normalise the number of cases to a figure representing the number per 100,000 of the population.

10. What is the minimum information to get?

The minimum statistical evidence which should be gathered is:-

- Alcohol-related deaths;
- Alcohol-related hospital admissions/or emergency admissions;
- Alcohol-related crimes;
- Alcohol-related Police incidents.

11. Other useful data

Useful sources of other data are mentioned in the Alcohol Focus Scotland Toolkit at <http://www.alcohol-focus-scotland.org.uk/licensing-toolkit> and other core indicators are covered in <http://www.scotland.gov.uk/Resource/0039/00391796.pdf>. Such other data might include:-

- Environmental Health – noise and other nuisance cases involving licensed premises;
- Fires – there is a clear link between alcohol and fires and details of the number of fire related fatalities and fire-raising can be obtained from the Firemaster;
- Addiction rates;
- Figures from Police on sobriety of arrestees (noting that these will be an under estimate as warrants are normally exercised in the morning when persons are most likely to be found sober);
- Percentage of children and families social work cases involving addiction;
- Percentage of Criminal Justice cases involving addiction;
- Percentage of Accommodated Children and Young People cases involving addiction;
- Percentage of domestic violence cases involving alcohol;
- Local Alcohol-related deaths – these are recorded across 408 local authority areas in the UK for both males and females and a figure can be obtained as to where your Authority ranks;

- Local surveys and community consultations – these might include surveys on where alcohol was bought, analysis of test purchase failures etc;
- National data on the volume of alcohol sold in Scotland, the trends in sales relating to the On-Sales and Off-Sales sector – MESAS (Monitoring the Effectiveness of Scotland’s Alcohol Strategy). Data was prepared by the NHS in 2011 and 2012. This is freely available on the internet;
- Studies showing the link between alcohol related problems, the availability of alcohol and the number of licence premises – Alcohol Focus Scotland have done work on consolidating the information available and this can be found in their fact sheet 1 at www.alcohol-focus-scotland.org.uk/licensing-toolkit;
- Trend analysis is also useful to obtain. In other words, it is useful to ascertain whether the problem is getting better or worse. For example, this trend analysis might include a graph showing hospital admissions attributable to alcohol misuse for successive years;
- Local Police surveys taken during inspections of the number of patrons in on sales premises, comparing this to capacity to measure the extent to which premises were trading to their capacity;
- In September 2012 Alcohol Focus Scotland published details of the cost of alcohol to each local authority area, available at <http://www.alcohol-focus-scotland.org.uk/cost-of-alcohol-harm-profiles>;
- Mapping of the location of different types of premises can also be helpful in showing what percentage of the local population live within walking distance (500m) of a licensed premises. This gives an indication of the provision a local population has in terms of access to licensed premises.

Not all of this information may be available, check with the ADP, Police, Health Board and Social Work to see what they can provide.

12. Categories of licensed premises

Determine the categories of licensed premises which are to be examined. Use of the categories detailed in the Statutory Guidance is not recommended for an Overprovision Policy. It is essential to be able to clearly determine whether a particular application fits within the relevant category. The Statutory Guidance classifications are not sufficiently clear. For example, its use of ‘vertical drinking establishment’ might imply that an application with a 51% seated area was outwith this, but not within any other category. The use of the ‘hybrid premises’ category is also problematic. For this reason it is recommended that the categories used are tied to the Planning Use Classes. This could result in the following categories being looked at:-

- sui generis use as a public house – paragraph 3(5)(h) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This also includes use as a hotel or hostel licence for the sale of alcoholic liquor to persons other than residents or persons other than consuming meals on the premises (exclusion from Class 7, Use Classes Order);
- restaurants – Class 3, Use Classes Order;

- nightclubs – Class 11(d), Use Classes Order;
- town hotel – Class 7, Use Classes Order;
- supermarkets – these are mainly Class 1, Use Classes Order, but may contain other uses in addition;
- off-sales and local convenience stores - Class 1, Use Classes Order.

13. The number of licensed premises

Count up the number of licensed premises per category in each of the intermediate data zones.

14. Capacity

Count up the on-trade and off-sales capacity in each of the intermediate data zones. While the 2005 Act requires the capacity to be obtained this is unlikely to be of much help in determining if there is overprovision, particularly for on-sales. Many on-sales trade at massively below their capacity. A Police survey of capacity showed that different on-sales areas in West Dunbartonshire were trading at between 3% and 12% of capacity. Capacity does provide a benchmark for the future once an Overprovision Policy has been made.

15. Advance consultation

Informal consultation with Licensing Forum, Health Board and Police – in advance of a formal consultation process it would be worthwhile to hold an informal consultation to check that all relevant data had been gathered and to inform the preparation of an Issues paper for full consultation.

16. Public consultation

At this stage the issue is whether to consult on a draft proposal or to put out an ‘issues paper’ summarising the evidence and the issues on which views are sought. The local Citizens’ Panel could be used for consultation, an example being Aberdeen City’s work which can be viewed at <http://www.alcohol-focus-scotland.org.uk/public-health-and-licensing> Licensing Forum members should also be encouraged to get as full a consultation as possible from the groups that they represent.

17. How to determine if there is overprovision?

For the purpose of determining overprovision the key areas of data are probably:-

- alcohol-related deaths per intermediate data zone;
- alcohol-related hospital admissions/or emergency admissions per intermediate data zone;
- alcohol-related crimes per intermediate data zone;
- alcohol-related Police incidents per intermediate data zone.

If the figures show that an area is above the Scottish average for alcohol-related deaths and hospital admissions, then this substantiates a finding that there is overprovision of licensed premises within that area and a policy is necessary to protect and improve public health. If the figures for alcohol-related crimes for an intermediate data zone are above the average, (Scottish or Police Force area) this will support an Overprovision Policy based on preventing crime and disorder, and securing public safety. If the figures for alcohol-related Police incidents in an intermediate data zone are above the comparator, then this would support an overprovision area based on securing public safety and preventing nuisance.

There are two different ways on which an Overprovision Policy might be framed:-

1. The West Dunbartonshire approach was that if an intermediate data zone was above average for three out of the four statistics then there was overprovision in that area.
2. Another approach might be to hold that there may be overprovision for different reasons across different areas. For example:-
 - an area which was above average for all four characteristics might have overprovision for the crime and disorder, public safety, nuisance, protecting children from harm and public health objectives;
 - an area which had above average health figures but below average crime and disorder figures might be an overprovision area purely for the health objective.

This would result in layers of overprovision. It would, however, mean that when dealing with a particular application, the applicant would know the exact reason for the overprovision and would be able to focus on the figures for this particular objective.

Arguably the number or capacity of premises in a locality is not a key factor in deciding whether there is overprovision. Instead the determining factor is the extent to which there are alcohol related health, crime etc problems in an area.

18. Direct causal link between premises and overprovision

The Statutory Guidance is unhelpful as it refers to there being a direct causal link between the problems in an area and the number of premises in that area. It is thought this goes further than the Act and it is hoped that this will be removed prior to October 2013 when new Guidance is introduced. It may apply to traditional town centre type problems of a town centre reaching a limit for crime and disorder problems on a Friday and Saturday night. However, when 69% of all alcohol is sold by off-sales (75% of this from the four main supermarket chains) it is increasingly difficult to make a link between individual premises and the problems in a locality. Indeed some areas of deprivation can have significant alcohol-related problems but few licensed premises. Surveys such as the one in Whitecrock, Clydebank demonstrated that most persons bought alcohol outwith the area in the local Asda, meaning that there was little causal link between the problems occurring in Whitecrock and the number of premises in that area. Even in densely populated urban

areas customers are likely to travel up to two miles to buy alcohol from supermarkets. The way that West Dunbartonshire Licensing Board got round the ‘causal link’ problem was to have one overprovision area which encompassed 15 out of their 18 intermediate data zones. Thus it did not matter if the person bought alcohol in one intermediate data zone and drank it another. The 18 intermediate data zones were, however, retained as sub zones for statistical purposes.

19. Mapping the overprovision area

Maps will be available showing each intermediate data zone and these can be obtained through the ADP/Health Board. Sometimes the names given to an intermediate data zone might not truly reflect the local naming of the area and the Board can change the name of any intermediate data zone.

20. The importance of fully exploring the pros and cons of overprovision

When recommending policy to the Board it is important that the Board is fully aware of the implications of the recommendation. For example, an Overprovision Policy might, in the long term, improve the area’s health and economic development. However, in the short term, it might stop a new supermarket which might bring new employment and be seen as a key component of a regeneration proposal. Alternatively, it might make it more difficult to open up a local shop providing accessible groceries in areas of deprivation. All this information should be put to a Board to enable it to fully weigh up the pros and cons of making an Overprovision Policy. This ensures that if the Board makes such a policy they are fully bought into it and are more likely to consistently apply it in full knowledge of its impact.

21. Include in policy the evidence required to overcome the Policy

A policy creates a presumption and the onus will be on an applicant to overcome the presumption that the policy will be followed. It is helpful for Boards to give guidance to applicants on the evidence it would expect from them when seeking to persuade the Board to disapply the policy. The West Dunbartonshire policy indicates that it expects applicants to give robust and factual evidence against each licensing objective to demonstrate why the benefits in granting the application outweigh the Board’s Overprovision Policy.

22. Using the evidence for other increases in alcohol sales, outwith overprovision

Overprovision is a ground of refusal of a premises licence under Section 23(5)(e) and a ground of refusal of a major variation application under s.30(5) (d). These sections refer to the Board ‘having regard to the number and capacity’ of licensed premises. This implies that an application which neither increases the number or capacity of premises cannot be refused under overprovision. However other applications might

increase the supply of alcohol or be likely to have detrimental impacts on the health, crime etc figures. Examples might include an application to change the type of premises, to increases in hours and to applications for home deliveries etc. Such applications could be refused under 23(5)(c) or 30(5)(b) that granting the application would be inconsistent with one or more of the licensing objectives. A Licensing Policy Statement could provide that the same evidence underlying its overprovision assessment creates a presumption that any application which increases the availability of alcohol will be refused under Section 23(5)(c) or 30(5)(b) as inconsistent with one or more of the licensing objectives, on the basis of the evidence obtained for the overprovision assessment. This should be detailed in the policy.

23. Overprovision across the whole of a board's area?

The health statistics in particular may give reasons for having an Overprovision Policy covering the entire Board area. Section 7 does however refer to the Board making a statement “as to the extent to which there is overprovision in any locality within the Board’s area”. The word “within” might suggest that the overprovision area is smaller than the entire Board area. This was the view taken by Sir Crispin Agnew QC. To be safe, any Board wanting to make such a policy should try to exclude some small part of their area.

24. Subsequent reduction in premises - deal with this scenario in your policy

Overprovision provides a snap shot of the problems in a locality at that time. At present there is no statistical evidence available to demonstrate the level to which the number of premises would have to be reduced to remove overprovision. What happens if you have lost one or two premises? Does that automatically mean that there is room for these to be replaced by others? The West Dunbartonshire approach was to provide that if this occurred then the Board reserved the right to reconsider the overprovision situation, taking into account the capacity being replaced and the location of the new premises. Only if the figures had improved to an acceptable level would such an application find favour.

25. Applications outwith the overprovision area which draw trade from it – cover this in policy

To get round an Overprovision Policy it is likely that new applications will be made in areas outwith the overprovision area. Some of these applications may well have a trade draw from within the overprovision area. For example, an off-sales or supermarket just outside an overprovision area will almost certainly attract custom from the overprovision area. Similarly a nightclub may attract trade from the entire local authority area and wider. On the other hand, a local community pub may not attract significant trade from outwith its immediate locality. The West Dunbartonshire approach was to provide that if new applications outwith the overprovision area have significant trade draw from an overprovision area then the Board reserved the right to consider these against overprovision. How trade draw is established is as follows:

Firstly, for a new supermarket these inevitably have to provide a retail impact assessment as part of the planning process which defines the extent of trade draw and the impact on nearby towns. This retail impact assessment could be used by a Board (or the Board asks for its own retail impact assessment from the applicant) to ascertain trade draw. For an off-sales, a comparison of the walking or driving distances to other nearby off-sales will provide a measure of trade draw. As regards pubs and nightclubs this is largely determined on the basis of local knowledge.

26. Update the information regularly

Once a policy is in place, continue to provide updated statistical information to the Board.

27. Considering applications against an overprovision policy

When applications are received contrary to policy, it is helpful to applicants (and to avoid future challenge) if the applicants are directed to the publicly available evidence which underlies the Board's Licensing Policy Statement. They can then be in no doubt as to the hurdles they need to overcome.

28. Normal legal hoops for a policy

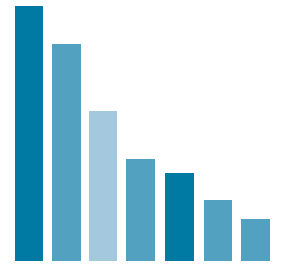
Finally, the Licensing Policy Statement will need to comply with normal legal hoops. These include:-

- Elder v Ross & Cromarty District Licensing Board 1990 SLT307 – the policy must be based on grounds which relate to and are not inconsistent with or destructive of the purposes of the Statutory Provisions under which the discretion is operated;
- Brightcrew v Glasgow City Licensing Board 2011 SC1846 – the function of the Act is the licensing of the sale of alcohol and the Board's policy must be based on these purposes;
- Brightcrew – the Board cannot, through a policy, impose a condition that could not be imposed under Section 27(7) e.g. relates to a matter such as planning, building control or food hygiene which is regulated under another enactment;
- The policy must have a proper basis, in fact - Cinderella Rockerfellas Limited v Glasgow DLB1994 SCLR591;
- Note, however, that the weight to be given to factors is for the Board to determine – Hughes v Hamilton District Council 1991 SLT628. This applies as much to development of policy as to determining applications.

29. Further reading

Alcohol Focus Scotland – Licensing Resource Toolkit – Factsheet 1 – using evidence to support policy and decision making

Alcohol Focus Scotland – Licensing Resource Toolkit – Factsheet 2 – Statements of licensing policy: Using policy to guide licensing decisions

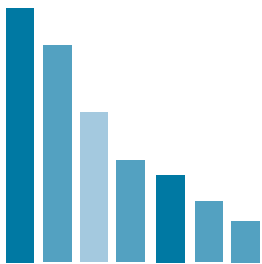


Changing Times

3c



Why we need to change licensing practice
A guide for stakeholders



What is alcohol licensing?

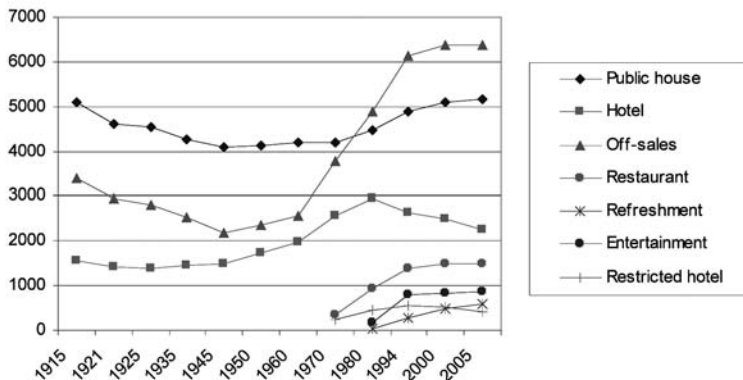
Licensing is a system of granting permits to retailers to sell alcohol. Although legally available and widely consumed in Scotland, alcohol is a drug with known toxic, intoxicating and addictive effects. Controlling the supply of alcohol is something that public authorities have done for centuries to reduce the risk of harm to individuals and society from its use. Licensing regulates who can sell alcohol, where it can be sold, the conditions of sale, the hours and days of sale, and the total number of premises permitted to sell alcohol.

Why do we need to 're-think' alcohol licensing?

For many decades, the main focus of licensing work has been on regulation of the on-trade to prevent noise, nuisance, and social disorder associated with drinking in public houses. However, there have been several significant changes in recent years, which make this traditional approach to licensing increasingly out of date. Firstly, where we drink has changed. Today more alcohol is sold in Scotland from off-sales than on-sales and a majority of people do most of their drinking at home. Secondly, what we know about the consequences of drinking has changed. Alcohol has a wide range of negative impacts that extend far beyond public drunkenness and anti-social behaviour in the streets. Harmful alcohol use impairs long-term health, has a detrimental effect on family and community life, and damages the productive capacity of the economy. There are growing demands for the licensing system to operate in a way that reflects these changes. Finally, licensing law has changed. A new licensing act, the Licensing (Scotland) Act 2005, came into force in September 2009. The new Act requires a different approach to alcohol licensing.

Number of liquor licences in force in Scotland by licence type 1915 to 2005

Sources: Clayson Committee report; Scottish Government



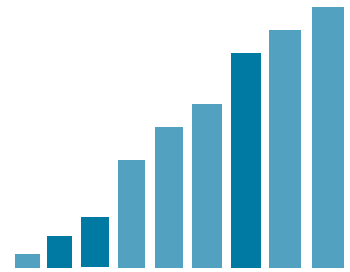
What is different about the new Scottish licensing legislation?

Unlike previous licensing legislation, the 2005 Act establishes objectives for licensing and for the first time requires a consideration of the impact of the sale of alcohol on public health. The five licensing objectives included in the 2005 Act are the prevention of crime and disorder; securing public safety; preventing public nuisance; protecting children from harm; and the protection and improvement of public health. These objectives provide a clear purpose for the licensing system. The 2005 Act also introduces for the first time a duty on licensing boards to publish a statement of licensing policy setting out what action they will take to promote the licensing objectives. This means that individual licensing decisions should now be guided by evidence-based policy. In principle, the new legislation extends the scope of licensing boards to take action to manage and restrict the supply of alcohol in the public interest. However, the potential of the new legislation will only be realised if it changes licensing practice.

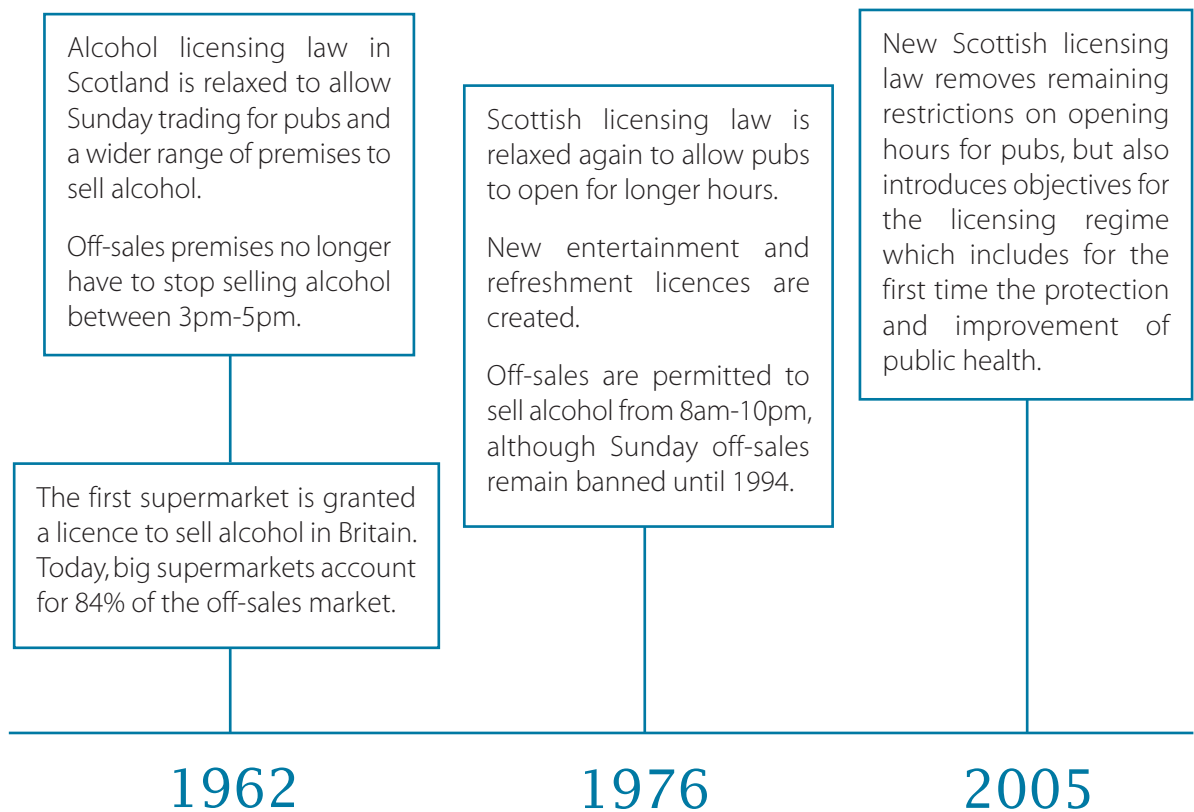
Where we drink In the 1950s 70% of the alcohol drunk in Britain was beer, and most drinking took place in pubs. Today, the most common drinking location for all age groups in Scotland apart from 16-24 years old is the home. Two thirds of the volume of pure alcohol sold in Scotland is now bought from off-sales.

But isn't excessive drinking in Scotland a cultural issue, not a licensing problem?

Licensing is part of Scottish drinking culture, not something separate from it. Changes in licensing law and practice in Scotland over the past fifty years have helped shape current attitudes to alcohol and drinking behaviour. Granting more licences to a wider range of retail premises and for longer trading hours have enhanced access, visibility and promotion of alcohol. Permitting supermarkets to sell alcohol has allowed the 'grocerisation' of alcohol, a process in which alcohol has been repositioned as an everyday shopping item to be purchased alongside bread and milk. The growth in off-sales premises, particularly supermarkets, has contributed to the rise in affordability of alcohol as competition between major supermarkets has led to more price promotions and discounting. This expansion and extension in the supply of alcohol has influenced drinking patterns and problems. If Scottish drinking culture is to change, then licensing attitudes and practice will also need to change.



Trends in alcohol licensing in Scotland



How can licensing work to reduce alcohol problems in society?

Licensing can work to reduce alcohol problems in two main ways. By carefully controlling the overall availability of alcohol through the number, type and opening hours of licensed premises, and by regulating the way individual pubs and off-licences do business. Evidence shows that applying conditions to how individual licensed premises operate can work in reducing certain types of alcohol problems. However, evidence also shows that independent of the way premises are managed, the general availability of alcohol in an area can have an impact on a range of alcohol-related harms. More premises and longer hours have been linked to increased rates of alcohol-related deaths, violence, traffic accidents, self-reported injuries and suicide, sexually-transmitted disease and child abuse and neglect. In the UK, availability and affordability of alcohol was reduced during the First World War and interwar period, and consumption and liver cirrhosis mortality fell to the lowest rates in decades.

The impact of the increased regulation on drinking behaviour during the interwar years was commented on in a report by a Royal Commission on Licensing in Scotland in 1931 which concluded :-

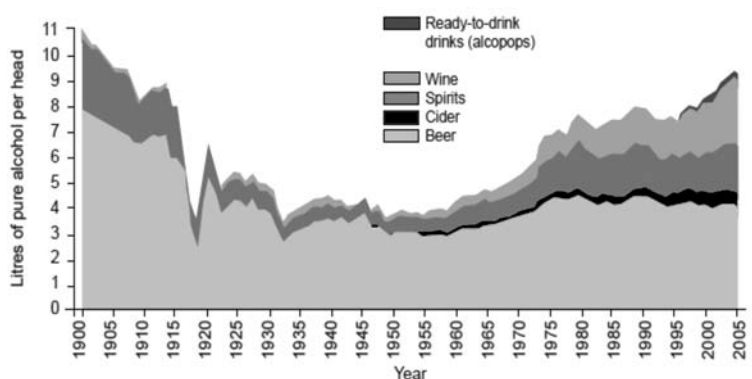
“Sobriety has increased, instances of public drunkenness have become fewer.a younger generation is growing up to which, as a whole, any resort to alcoholic excess as a necessary or usual practice is almost totally unknown.”

Royal Commission on Licensing in Scotland 1931

Since the 1960s, alcohol has become increasingly affordable and available due to a more relaxed licensing regime. Consumption and deaths from liver cirrhosis mortality have reached record highs.

UK per capita consumption of pure alcohol 1900 to 2005

Source: BBPA Statistical Handbook 2007



Isn't the purpose of licensing to regulate the sale of alcohol, not how it is consumed?

The 2005 Licensing Act makes provision for regulating the sale of alcohol and regulating licensed premises on which alcohol is sold. However, regulation is there for a purpose: it is not an end in itself. Liquor licensing has been put in place to manage the selling of alcohol in such a way as to reduce the risks of harm to individuals and society from its use. The value and effectiveness of the licensing system is measured by the extent to which it achieves that purpose.

Availability of alcohol In the 1950s there were around 8000 premises licensed to sell alcohol in Scotland. Today there are around 17,000.

Why is the overall availability of alcohol important in promoting the licensing objectives?

Harm from alcohol can be caused during a single drinking occasion in one licensed premises, but is more likely to result from many drinking episodes with alcohol bought from many licensed premises. Harm can occur regardless of how well-managed individual licensed premises are. Effective licensing practice therefore requires that attention is paid to the general availability of alcohol as well as the operating conditions of individual premises as both have an influence on rates of alcohol-related harm.

The 2005 Act places a duty on licensing boards to assess overprovision of licensed premises in their area and refuse premises licence applications where it considers a locality is overprovided for. The inclusion of a duty to assess overprovision recognises that the total number and capacity of licensed premises in an area, or licensed premises of a particular type, can exacerbate alcohol problems.

Traditionally, overprovision has been considered in relation to quite small areas, such as half a street in a city centre, or 200-500metres around individual premises. However this approach is increasingly at odds with the reality of how we buy and consume alcohol today. We live in highly mobile societies and drink more alcohol bought from off-sales, meaning that alcohol-related problems in one locality may not arise from alcohol bought in that locality. Overprovision needs to be considered over larger geographical areas to ensure that licensing remains relevant and effective as a regulatory mechanism.

How much we drink In the 1950s the amount of pure alcohol drunk in Britain was around 5 litres per adult (16+). Today we drink more than 10 litres per adult.

How can public health be promoted in licensing?

Public health in relation to alcohol is commonly measured by the number of alcohol-related deaths and hospital admissions in an area. Evidence indicates that rates of alcohol-related health harm can be affected by the overall availability of alcohol, including the number, type, capacity and opening hours of licensed premises. In seeking to promote the public health objective in practice, licensing boards need to consider how each of these factors can be modified to protect and improve public health.

What is the value of policy statements in licensing?

The policy statement is the engine that drives a licensing regime in an area. Formulating a statement of licensing policy provides licensing boards with an opportunity to consider the bigger picture in relation to licensing. What can be observed in terms of long term licensing trends? How is the make-up of licensed premises changing? What is the impact of these changes on indicators of alcohol problems? How can licensing practice be modified to reduce alcohol problems? The policy statement will help to provide coherence and consistency to individual decision-making and to ensure that the sum total of a licensing board's decisions serve to promote the licensing objectives. The development of licensing policy and the public consultation that is part of the process also gives members of the community an input into shaping the licensing environment in their area.

Alcohol harm In the 1950s, the liver cirrhosis mortality rate amongst men in Scotland was about 5 deaths per 100,000 of the population. Today the male mortality rate is around 30.

Is there a sound legal basis for using a policy statement to decide whether or not to grant a licence?

Some licensing boards have queried whether there is a proper basis in law for using policy statements to guide decisions on individual premises licence applications. The 2005 Act lists the grounds for refusal for a premises licence application and although being considered contrary to a board's licensing policy is not one of them, the Act states clearly that a licensing board must have regard to its policy statement when exercising its functions under the Act. Deciding on premises licence applications is one of a board's functions. Even before the 2005 Act came into force, the use of policy statements by licensing boards was accepted by the courts:

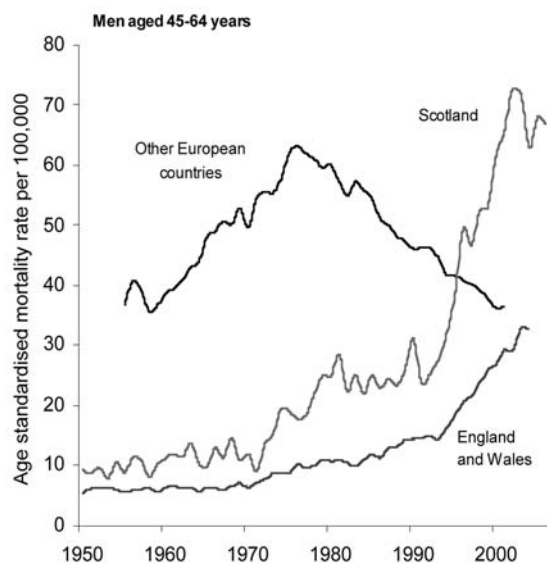
"Where a statutory body having discretionary power is required to consider numerous applications there is no objection to it announcing that it proposes to follow a certain general policy in examining such applications."

Elder v Ross and Cromarty DLB

The accepted proviso to the use of policy statements is that any applicant is granted an opportunity to explain why they should be regarded as an exception to the policy. Policy statements must also be clearly related to the licensing objectives to be considered lawful.

Chronic Liver Disease Mortality Rates, 1950 - 2006

Source: Leon and McCambridge 2006 (updated)

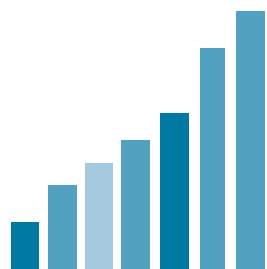


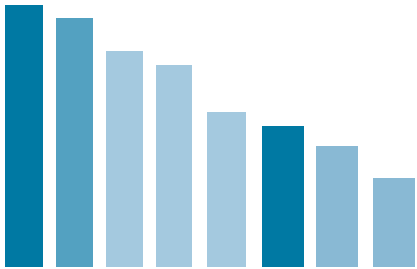
Will the use of policy statements by boards mean they will be more at risk of legal challenge?

Protection against legal challenge comes from ensuring that statements of licensing policy are well-prepared, evidence-based, and demonstrate a clear line of reasoning from the evidence to the policy position adopted and to the objectives of the Act.

What counts as evidence in the development of licensing policy?

As a general legal principle any policy has to have a sound factual basis. The 2005 Act states that a licensing board must ensure that its statement of licensing policy seeks to promote the licensing objectives. It is therefore incumbent on a licensing board to obtain sufficient information on each of the licensing objectives to be able to meaningfully promote the licensing objectives in a policy statement. It is difficult to see how a licensing board can develop effective licensing policy if it does not have all the relevant information at its disposal. There are many sources of evidence that can be used to inform a policy statement. A board's knowledge and experience of licensing matters in their area can count as evidence, but it is not sufficient. Trends in alcohol-related health, such as hospital admissions, can only be known by examining routinely collected health statistics. The same is true for certain types of crime and social problems related to alcohol use. A range of statistics is available and should be used by licensing boards to develop their policy positions. Local agencies, such as the police, health boards, and alcohol and drug partnerships, can be called on to assist licensing boards in the gathering and analysis of evidence.





Alcohol Focus Scotland is Scotland's national alcohol charity working to reduce the harm caused by alcohol.

www.alcohol-focus-scotland.org.uk

SHAAP was established by the Scottish Royal Medical Colleges and Faculties to advocate for evidence-based measures to reduce alcohol-related harm.

www.shaap.org.uk



Training Resource

for

Local Licensing Forum Members

2010



3d





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Welcome

Welcome to the Training Resource for Local Licensing Forums produced by Alcohol Focus Scotland.

This resource can be used by Forums to train their own members. It includes guidelines for how to run a session as well as some suggested answers to some discussion points.

Local Licensing Forums were established by the Licensing (Scotland) Act 2005. The Act lists two roles for Forums:

- to review the operation of the Act in their area and the exercise of the Licensing Board's functions, and
- to advise and make recommendations on matters they see appropriate.

To do this Forums need to be aware of what's happening in their area, what the Licensing Board is doing to address any problems and what further plans the Board has. This will be written in the Board's Licensing Policy and will also be seen in their on-going decisions.

A Local Licensing Forum therefore needs to be familiar with:

1. their Board's Licensing Policy, and
2. the relevant parts of the legislation and of the Guidance issued by the Scottish Government.

A Licensing Board must write their Licensing Policy statement every three years – although supplementary policies can be issued as required. The purpose of the Licensing Policy is to demonstrate how the Board intends to meet the 5 objectives that underpin the Licensing (Scotland) Act 2005. Therefore any review of the operation of the Act and the way that the Board is carrying out its functions should start with the 5 objectives, and so this Training Resource will focus on them.

In addition to the 5 objectives, you should also consider community engagement. Local Licensing Forums are a way of connecting the decision makers (Licensing Boards) more closely with the community affected by their decisions. Forums are made up from local people who volunteer their time. They also need to consider how they gather and represent the views of the wider community.

In this resource, for each objective you will be asked to consider:

- what the key issues are in your local area,
- what evidence there is to support this,
- how your Licensing Board addresses this in their Licensing Policy statement, and
- how you can move this forward in your area.

You are also asked how you engage with the community and most importantly, any action points for the Forum to take forward.



Aims and objectives

Using this Training Resource for Local Licensing Forum members

This Training Resource can be used by Local Licensing Forums in two main ways:

1. to run a training session for all Forum members.
2. to use as an induction for a new Forum member to introduce the role of the Forum, the 5 licensing objectives, and community engagement.

Aims of the training:

- Inform Local Licensing Forum members of their rights and responsibilities under the Licensing (Scotland) Act 2005
- Clarify and reinforce Local Licensing Forum members' understanding of the importance of their role in licensing
- Ensure Local Licensing Forum members have an understanding of the 5 objectives underpinning the Licensing (Scotland) Act 2005
- Ensure Local Licensing Forum members have an understanding of the ways in which they can work with the Licensing Board
- Ensure Local Licensing Forum members have an understanding of the ways in which they can engage with the community

Objectives of the training:

- Provide relevant expert opinion to help clarify the purpose of Local Licensing Forums; the meaning of the 5 objectives and community engagement
- Provide opportunities for discussion so Local Licensing Forum members can identify how these relate to their own local area
- Encourage Local Licensing Forum members to identify action points to progress in their own area



Running a training session for all members

Running a training session for all members of the Local Licensing Forum

Planning the session

Trainer

You don't need to have someone with training experience to run the session but:

- It would be helpful to have one person responsible for managing time so that the session doesn't overrun.
- Depending on how you decide to run the session, you may wish to consider whether you need someone to Chair the discussion.

Timings

- There are 6 topics for discussion, each with a short 5 minute video clip. It would be reasonable to allow approximately 15 minutes discussion for each one. That adds up to a minimum of 2 hours. You should plan the session to take longer than this to include an introduction and to allow a bit of flexibility if the discussions take longer.
- Alternatively, you may wish to split the training into two (or more) sessions.

What to provide to members

- Members should know the content of your Licensing Board's statement of Licensing Policy. It would be helpful if they had read this in advance and have a copy with them on the day.
- Members should have an understanding of the role of a Local Licensing Forum as stated in the legislation. This is further expanded upon in the Guidance that was issued by the Scottish Government to Local Authorities in 2007. It would be helpful if a copy of the relevant sections of these documents was available for reference on the day.

Extra information

- Frequently asked questions from Local Licensing Forum members are given on the website www.local-licensing-forums.org.uk. The website also has lots of useful links to related topics (including the relevant sections of the legislation and the Guidance) which may be helpful and includes examples of good practice.

Decide how you're going to run the session

- The training session will use a DVD to give a series of short presentations by experts on key topics for participants to discuss and identify any action points. Discussion sheets with sample answers are included in this pack.
 - a. Choose whether or not to show the DVD in 'chunks'. Three options are listed at Appendix 1 – choose whichever is most suitable for your Forum members.
 - b. Choose whether you wish people to work in groups or not – again three options are listed in Appendix 2 and you should select the one most suitable for your Forum.

On the day

- Appoint someone as timekeeper. If relevant, agree the groups people should work in and who will Chair the meeting.
- Give members a copy of the discussion sheets. These include sample answers (gathered from Regional training events carried out in February 2010). Encourage participants to take their own notes of the discussions. This is more likely to get everyone to participate. It is a good idea to also take an official minute of the action points agreed.
- Show the DVD, followed by discussion, as planned.



Running a training session for a new member

Running a training session for a new member of the Local Licensing Forum

Planning the session

Much of this is very similar to what's above. However, you should be clear whether you wish the new member to work through the DVD in detail with the purpose of identifying issues and actions that can be done in your area, or if you wish them to gain an overview of the five objectives and some of the issues that the Forum should be looking at.

Trainer

- You don't require a trainer. The new member can work through the DVD and discussion points by themselves, at a time and place to suit them.

Timings

- Because the new member will be working by themselves, it's likely they will take less time – probably about an hour to an hour-and-a-half if they're working through it in detail, and about 45 minutes if they're gaining a general overview of the issues.

What to provide to the member

- It's important to make sure the new member has the basic information – details of the relevant sections of the Act and Guidance, the Licensing Board's statement of Licensing Policy - and knows that there is further information available via the www.local-licensing-forums.org.uk website.

Running the session

- New members would benefit from watching each part of the video and making their notes on that topic before moving onto the next part.



Running a training session: content of the DVD

Content of the DVD

- Part 1 **The Rights and Responsibilities of Local Licensing Forums**
Jack Cummins
 Hill Brown Licensing
 Member of the Nicholson Committee
- Part 2.1 **Preventing Crime and Disorder**
Assistant Chief Constable Andrew Barker
 Fife Constabulary
 Association of Chief Police Officers in Scotland (ACPOS)
- Part 2.2 **Securing Public Safety**
Willie Caie
 City Centre Task Force Programme Manager
 Glasgow Community & Safety Services
- Part 2.3 **Preventing Public Nuisance**
Denise Hamilton
 Assistant Manager for Environmental Health & Trading Standards Out of Hours
 Glasgow City Council
- Part 2.4 **Protecting and Improving Public Health**
Dr Kirsty Licence
 Consultant in Public Health Medicine
 Tayside NHS Health Board
- Part 2.5 **Protecting Children from Harm**
Tam Baillie
 Scotland's Commissioner for Children and Young People
- Part 3 **Community Engagement**
Charlie Bryceland
 Community Project Officer
 Community Action - Blackburn (Changing Attitudes to Alcohol) project

Questions for discussion after each objective

1. What are the key issues relating to this objective in your Forum's area?
2. What evidence do you have for this?
3. How are these issues addressed in your Licensing Board's policy statement?
4. How can you take this forward with your Board?

Questions for discussion after the "Community engagement" section

1. How does your Forum engage with the local community in the area?
2. Are there any areas where this could be improved?

Running a training session: Appendix 1

Appendix 1: Options for running the sessions

<p><u>Option 1</u></p> <ol style="list-style-type: none"> 1. Show Part 1 and Part 2.1 of the DVD, then discuss the “preventing crime and disorder” objective. 2. Show Part 2.2 of the DVD, then discuss the “securing public safety” objective. 3. Show Part 2.3 of the DVD, then discuss the “preventing public nuisance” objective. 4. Show Part 2.4 of the DVD, then discuss the “protecting and improving public health” objective. 5. Show Part 2.5 of the DVD, then discuss the “protecting children from harm” objective. 6. Show Part 3 of the DVD, then discuss community engagement. 7. Ensure that all participants agree an action list from their discussions. 	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Each objective is given equal weighting • Each objective is discussed in detail <p><u>Disadvantages:</u></p> <ul style="list-style-type: none"> • Can feel ‘bitty’ • Facilitators need to be strict with timings
<p><u>Option 2</u></p> <ol style="list-style-type: none"> 1. Show the whole DVD. 2. Discuss each of the 5 objectives and community engagement 3. Ensure that all participants agree an action list from their discussions. 	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Participants get an overview of all of the issues • Will take less time • Easier to control timings <p><u>Disadvantages:</u></p> <ul style="list-style-type: none"> • It’s possible that more time will be spent discussing the ‘easy’ objectives (where there is more evidence and actions points are more obvious) and the more difficult ones will be passed over
<p><u>Option 3</u></p> <ol style="list-style-type: none"> 1. Show the DVD in 2 or 3 ‘slots’ with discussion after each one. <p>For example:</p> <ol style="list-style-type: none"> 1. show Parts 1, 2.1 and 2.2 and then break for first discussion on crime & disorder and public safety 2. show Parts 2.3 and 2.4 and then break for discussion on public nuisance and public health 3. show Parts 2.5 and 3 and then break for discussion on protecting children and community engagement 4. Ensure that all participants agree an action list from their discussions. 	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Participants get an overview of all of the issues • Likely to have more in-depth discussions on certain topics • Less likely to miss out the ‘hard’ objectives • Takes less time than 1st option, but more detail than 2nd option <p><u>Disadvantages:</u></p> <ul style="list-style-type: none"> • Still possible that more time will be spent discussing the ‘easy’ objectives • Facilitators need to be careful with timings



Running a training session: Appendix 2

Appendix 2: Group work

<p><u>Option 1</u> Keep all members together and discuss the matters as one group</p>	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Participants can have a meaningful discussion on the issues in their area • Everyone can hear everyone else's point of view <p><u>Disadvantages:</u></p> <ul style="list-style-type: none"> • More dominant personalities may take over (if it happens in meetings it'll happen here as well) • Easier for discussions to overrun
<p><u>Option 2</u> Split participants into small groups of two or three</p>	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Participants should be able to have a meaningful discussion on the issues in their area • Everyone should have the opportunity to contribute <p><u>Disadvantages:</u></p> <ul style="list-style-type: none"> • Extra time required to feedback discussions from each of the groups to the Forum as a whole and agree action points
<p><u>Option 3</u> Participants work individually</p>	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> • All participants forced to think about the issues – especially if used with Option 1 for running the session • Easier to control time • Opportunity for individuals to come up with ideas unfettered by concerns about others' reactions <p><u>Disadvantages:</u></p> <ul style="list-style-type: none"> • May be quite intimidating for someone who is not sure of the issues • Extra time required to feedback discussions from each of the groups to the Forum as a whole and agree action points



Running a training session: Appendix 3

Appendix 3: Example of Training session for Forum members and suggested timings

In this example, the DVD is shown in 3 slots (Appendix 1, Option 3) and members are asked to work in groups of 3 (Appendix 2, Option 2). Suggested timings for each part are shown, along with total timings for the training session. Note that many discussions could take longer and that these timings do not include a comfort break.

Timings for an afternoon session	Activity	Suggested time for activity
2pm	Welcome <ul style="list-style-type: none"> • Make sure everyone knows who everyone else is • Explain what the aims of the session are • Explain how it's going to run and expected timings 	10 minutes
2.10pm	Show the first three parts of the DVD, the introduction, "The Role and Responsibilities of Forums" and the first two objectives, "preventing crime and disorder" and "securing public safety".	15 minutes
2.25pm	Ask members to discuss "preventing crime and disorder" and "securing public safety". <ol style="list-style-type: none"> 1. What are the key issues relating to "preventing crime and disorder" and "securing public safety" in your Forum's area? 2. What evidence do you have for this? 3. How are these issues addressed in your Licensing Board's policy statement? 4. How can you take this forward with your Board? 	30 minutes
2.55pm	Bring the whole group together to agree the key issues in the area for the Forum to focus on and the actions points to take forward.	10 minutes
3.05pm	Show the second two parts of the DVD, "preventing public nuisance" and "protecting and improving public health".	10 minutes
3.15pm	Ask members to discuss "preventing public nuisance" and "protecting and improving public health". <ol style="list-style-type: none"> 1. What are the key issues relating to "preventing crime and disorder" and "securing public safety" in your Forum's area? 2. What evidence do you have for this? 3. How are these issues addressed in your Licensing Board's policy statement? 4. How can you take this forward with your Board? 	30 minutes

3.45pm	Bring the whole group together to agree the key issues in the area for the Forum to focus on and the actions points to take forward.	10 minutes
3.55pm	Show the last two parts of the DVD, “protecting children from harm” and “community engagement”.	10 minutes
4.05pm	<p>Ask members to discuss “protecting children from harm”.</p> <ol style="list-style-type: none"> 1. What are the key issues relating to “preventing crime and disorder” and “securing public safety” in your Forum’s area? 2. What evidence do you have for this? 3. How are these issues addressed in your Licensing Board’s policy statement? 4. How can you take this forward with your Board? <p>Ask members to discuss “community engagement”.</p> <ol style="list-style-type: none"> 1. How does your Forum engage with the local community in the area? 2. Are there any areas where this could be improved? 	30 minutes
4.35pm	Bring the whole group together to agree the key issues in the area for the Forum to focus on and the actions points to take forward.	10 minutes
4.45pm	<ul style="list-style-type: none"> • Thank everyone for their time • Ensure everyone knows what the Forum is going to do with this information • Confirm the date of the next Forum meeting 	15 minutes
5pm	Close	



Suggested answers

We have included some suggested answers to the discussion points. They were collated from the Regional Training events held in February 2010.

What if we don't cover all of these points?

That's not a problem - not all of the suggested answers will be relevant in your area, and your Licensing Board may not have any of these points in their licensing policy statement but they will have others that are more relevant to your area. In addition, some suggested answers fit under more than one objective but we will only show them once to avoid repetition.

Limited by legislation

Licensing Boards can only address issues that are controlled by licensing legislation. Local Licensing Forums have to be clear what issues can, and what cannot, be addressed by the Licensing Board. However some of these issues can be addressed by other parts of the Council and the Board could work with the wider Council on these matters.

- Board can raise issues, e.g. noise complaints about a premises (and check it's being followed up), with Council departments, e.g. Environmental Health, LSO
- E.g. the Forum and Board could work with the wider Council and with the police to look at what information is made available to the public on licensing issues, and how legislation can be enforced.

Local vs. National

Note that some problems identified can only be dealt with at a national level – for example, minimum pricing - or are out with the scope of licensing legislation – for example, parents allowing teenagers to drink at home. Local Licensing Forums can only comment on issues that happen in their local area and they should focus on what can be done within their area. This may be by linking with the work of other relevant local or regional groups for example a Community Safety Group or bodies such as the Alcohol and Drugs Partnership.

It is also useful if concerns relating to matters that require national action are relayed to any relevant national groups. In the absence of a National Licensing Body, Alcohol Focus Scotland is keen to collect any such data to pass on to the Scottish Government, COSLA and others as relevant. However Forums should not spend so much time concentrating on national issues that they forget to do their main job – i.e., comment on the Act in their area and the Board's exercise of its functions.

Raising awareness of local initiatives

Forums can work with the Licensing Board to raise awareness of local initiatives – often highlighted by the various agencies represented on the Local Licensing Forum – and to encourage the licensed trade to participate where possible. Note that this is in addition to their core role of commenting on the Act in their area and the Board's exercise of its functions.

- E.g., where the police are running a bottle marking scheme, or the local Health Promotion Team are promoting diversionary activities for young people in the area, the Forum could ask the Board to commend the premises that participate

Raising issues with the Licensing Board

There is no guidance in the Act about how Forums should raise issues with their Licensing Board. Some suggestions are:

- Write a letter to the Board
- Discuss it at a joint meeting. Note that the Act requires Forums and Boards to have at least one joint meeting each year. In some areas it has been decided that more frequent meetings would be more helpful.

When the Licensing Board does not follow the Forum's advice

Where the Licensing Board chooses not to follow the advice or recommendations of the Local Licensing Forum the Board must give their reasons. The Board has 42 days from when the decision was taken to give the Forum their reasons.

The Forum should consider these reasons and ensure that they address any issues raised with their future recommendations.

What evidence do you have for this?

For each licensing objective Forums are asked to consider what evidence they have for this. The Act states that the Local Licensing Forum is entitled to receive the same statistical, or other, information as the Licensing Board from the police and the local council.

It's important that Forums do gather evidence when raising issues with the Board. It would be very difficult for the Licensing Board to justify why they should change their policy based solely on the *opinion* of the Forum.

Many of the sources of evidence are the similar for each objective, therefore they've all been listed together here. Don't forget, statistics are useful, but they don't cover everything!

Evidence Forums may wish to gather:

- Police statistics
- A&E statistics
- Statistics from other Council departments, especially Environmental Health (which is likely to include Smoking Enforcement Officers, Out of Hours complaints, noise nuisance teams, etc)
- Licensing statistics
- It can be useful to use statistics from several years to see trends.
- Information from licensed premises' incident logs or refusals books*
- Complaints received by the LSO about premises
- Any policies for particular vulnerable groups (egg known victims of domestic abuse)
- Information on any strategies and initiatives in the area by the police, health or community groups (note that many of these seem to be short term)
- Information from NHS (e.g. one surgeon collected information from patients with alcohol-related injuries about which licensed premises they had been in)
- Information from social workers
- Information from alcohol agencies – such as the local Council on Alcohol or the Health Board or the Community Addiction Team (CAT) (e.g. one alcohol counsellor collects information from drinkers about where they purchase their alcohol)
- Anecdotal evidence from residents, police, young people, the licensed trade such as gathered by a survey, or through focus groups

*Ideas for gathering evidence – Refusals Book analysis

Many licensed premises record all refusals of service in a 'Refusals Book'. In some premises there will be an 'Incident book' which may include refusals of service but also records incidents such as abuse from customers, instances of theft or suspicious behaviour, etc. Some excellent information can be found in these books including the most common reasons for refusing service, common drinks that 'problem customers' such as underagers or drunks are trying to buy, days and times when problems are more likely to occur, etc.

It may be useful for the Local Licensing Forum to collect all Refusals Books/Incident Books from a given period of time and to collate this information to get a picture of what's happening in the local area and so gain an understanding of the issues faced by the licensed trade.

Assistant Chief Constable Andrew Barker

Fife Constabulary
Association of Chief Police
Officers in Scotland (ACPOS)



WHAT ARE THE KEY ISSUES RELATING TO THIS OBJECTIVE IN YOUR FORUM'S AREA?

Examples include:

- Pre-loading – people are drinking at home before going out. Customers are not going in to licensed premises until later and they're frequently drunk before they get there. Sometimes this leads to groups of drunken people on the streets who are not admitted to licensed premises
- Agency sales – where a person aged 18 years or over purchases alcohol for an underager
- 'Hidden Crime' such as domestic abuse
- Drunkenness and fights related to particular events – e.g. football matches
- Fights and assaults
- Aggression faced by staff of licensed premises when refusing entry or refusing service
- Transport, particularly late night transport – is there sufficient to enable people to get home? Is it well controlled?

WHAT EVIDENCE DO YOU HAVE FOR THIS?

(see pages 14 and 15)

HOW ARE THESE ISSUES ADDRESSED IN YOUR LICENSING BOARD'S POLICY STATEMENT?

Examples include:

- Premises are allowed a maximum number of licensed hours per day
- A curfew is in place which requires premises to refuse entry to new customers after a certain time
- Premises are recommended to keep a Refusals Book and /or incident log. The LSO will check it to ensure that all members of staff use it
- The policy reinforces that there's a responsibility for the licensed trade to challenge drunkenness at the point of service and throughout the premises – it's not all down to door staff

HOW CAN YOU TAKE THIS FORWARD WITH YOUR LICENSING BOARD?

Examples include:

- Recommend that the Licensing Board takes a strong line on offences, e.g. written warning for premises that fail one test purchase or sell alcohol to drunken persons

ACTION POINTS



Securing Public Safety

Willie Caie

City Centre Task Force
Programme Manager
Glasgow Community & Safety
Services



WHAT ARE THE KEY ISSUES RELATING TO THIS OBJECTIVE IN YOUR FORUM'S AREA?

Examples include:

- Youths congregating outside shops making members of the public feel threatened
- Fights in, or near, on-licensed premises, and in related areas such as late night catering outlets and taxi ranks, when customers exit at closing time
- Staff being threatened when they refuse service (particularly relevant to off-sales)
- Adults under duress to purchase alcohol for under 18s (otherwise get their car/house/etc damaged)
- Cars being vandalised
- Drunk people on the streets

Note:

Several of these issues are related to alcohol but they do not come under licensing legislation – e.g. taxi queues, late night catering, vandalism. This means that the Licensing Board will have limited opportunities to address them and the Forum should take this into consideration when commenting on the Board's exercise of its functions.

WHAT EVIDENCE DO YOU HAVE FOR THIS?

(see pages 14 and 15)

HOW ARE THESE ISSUES ADDRESSED IN YOUR LICENSING BOARD'S POLICY STATEMENT?

Examples include:

- Statement that licensed hours will be reduced for premises where there is a link to external problems
- Closing times of neighbouring premises to be staggered to ensure customers are not all exiting at the same time
- Premises allowed a maximum number of licensed hours per day
- Use of toughened or plastic glassware after a certain time of night

HOW CAN YOU TAKE THIS FORWARD WITH YOUR LICENSING BOARD?

Examples include:

- Licensing Forum to gather information, for example, in some areas it is noted that Pubwatch seems to be effective in reducing problems licensed premises face
- Licensing Forum to look at other schemes or projects that address some of the issues – for example Pubwatch, Retail Link schemes, Best Bar None, Unight, Playsafe – and ask the Board to encourage premises to get involved and to commend premises that took part.
- Noted that there has been improvements in the licensed trade in having things like exit strategies / dispersal policies to minimise issues outside of premises

ACTION POINTS



Preventing Public Nuisance

Denise Hamilton

Assistant Manager for
Environmental Health & Trading
Standards Out of Hours
Glasgow City Council



WHAT ARE THE KEY ISSUES RELATING TO THIS OBJECTIVE IN YOUR FORUM'S AREA?

Examples include:

- noise from smokers outside licensed premises, especially where on-licence premises are now using new areas (e.g., tables on the pavement, areas at the back of the premises) for customers to accommodate smokers
- noise from bottles being put out at night
- noise from music from the premises
- litter from people drinking outside (e.g. in parks); litter from people buying food from late night catering outlets; litter from small items bought from off-sales premises (e.g. the wrapping from cigarette packets)
- vomit

WHAT EVIDENCE DO YOU HAVE FOR THIS?

(see pages 14 and 15)

HOW ARE THESE ISSUES ADDRESSED IN YOUR LICENSING BOARD'S POLICY STATEMENT?

Examples include:

- On-licence premises required to have dispersal policies to ensure the public exit the premises quietly and move away from the area at closing time
- Overprovision statement takes into account the residents living in the area and the types of premises that would be suitable

HOW CAN YOU TAKE THIS FORWARD WITH YOUR LICENSING BOARD?

Examples include:

- Many of the low level complaints can be sorted out by the parties involved – i.e. the person complaining and the licensed premises. LSOs should be encouraged to mediate in such disputes to prevent them escalating and to resolve them
- Where a person has chosen to live near a licensed premises the Board should make clear if they expect that resident to accept a certain level of noise from that licensed premises (similar to someone buying a house near a busy road)

Note:

There are multiple options for dealing with many public nuisance issues – these could be dealt with by police, EHO, LSO and/or Community Wardens

ACTION POINTS

Dr Kirsty Licence

Consultant in Public Health
Medicine
Tayside NHS Board

**WHAT ARE THE KEY ISSUES RELATING TO THIS OBJECTIVE IN YOUR AREA?**

Examples include:

- Some areas are more affected by others, especially where there's deprivation
- Alcohol and drinking is 'normalised'. For example, until the law changed, supermarkets displayed alcohol throughout the store. Alcohol is still heavily promoted in supermarkets and it's rare to see someone go through a checkout with no alcohol in their trolley. Bars are available in many family activities – e.g. cinema, ten pin bowling. Children are encouraged to use other facilities in bars - e.g., to play the pool table. Most sports clubs' activities – other than the sport - revolve around alcohol and drinking
- The move towards drinking at home means there's more emphasis on getting drunk and less emphasis on drinking as one part of a social interaction
- Alcohol-related accidents and injuries
- High rates of teenage pregnancies and sexually transmitted diseases

WHAT EVIDENCE DO YOU HAVE FOR THIS?

(see pages 14 and 15)

HOW ARE THESE ISSUES ADDRESSED IN YOUR LICENSING BOARD'S POLICY STATEMENT?

Examples include:

- The Licensing Board's overprovision policy will address the amount of premises, and the types of premises, that can sell alcohol
- All premises are required to keep a Refusals Book. The LSO will check it to ensure that all members of staff use it and to ensure that drunk people are not being served
- Licensed premises are encouraged to display alcohol awareness materials and sensible drinking messages and to get involved with Alcohol Awareness Week
- Licensed premises are encouraged to have an alcohol policy for their staff. (Workplaces can contact the Scottish Centre for Healthy Working Lives for more information and help)
- On-licence premises are encouraged to sell low alcohol and non-alcoholic alternatives
- Off-licence premises are discouraged from stocking high strength, cheap drinks, or alcoholic drinks with a high caffeine content

HOW CAN YOU TAKE THIS FORWARD WITH YOUR LICENSING BOARD?

Examples include

- Recommend that the Licensing Board takes a strong line on alcohol promotions
- Recommend that the Board limits availability of alcohol through control of licensed hours and assessment of overprovision

ACTION POINTS



Protecting Children from Harm

Tam Baillie

Scotland's Commissioner for
Children and Young People



WHAT ARE THE KEY ISSUES RELATING TO THIS OBJECTIVE IN YOUR FORUM'S AREA?

Examples include:

- Young people drinking in parks, etc.
- The police have reported that when they take drunk teenagers home (e.g., if they've been found drinking on the streets), the parents are sometimes more drunk or they don't see what the problem is with kids drinking
- Different areas have different attitudes to alcohol (often relates to socio-economic factors)
- Agent purchase is a big problem – often it's parents buying alcohol for their children, but it should be recognised that some adults are being intimidated into buying alcohol for underagers.
- The move towards drinking at home means there's more emphasis on getting drunk and less emphasis on drinking as one part of a social interaction.

WHAT EVIDENCE DO YOU HAVE FOR THIS?

(see pages 14 and 15)

HOW ARE THESE ISSUES ADDRESSED IN YOUR LICENSING BOARD'S POLICY STATEMENT?

Examples include:

- The policy includes stipulations for when under 18s can access games in licensed premises (e.g. pool) – such as supervision by an adult, limits on the ages or times at which they can play
- Where patterns are identified (e.g., if most attempted underage sales were between 6 and 10pm on a Friday) consideration will be given to varying the licensed hours for those premises

HOW CAN YOU TAKE THIS FORWARD WITH YOUR LICENSING BOARD?

Examples include:

- Licensing Forum to gather information and be clear what issues can, and what cannot, be addressed by the Licensing Board
- Licensing Forum to look at other schemes or projects that address some of the issues – for example a campaign to raise awareness with the public that buying for under 18's is an offence – and ask the Board to encourage premises to get involved and to commend premises that took part

ACTION POINTS



Community Engagement

Charlie Bryceland

Community Project Officer
Community Action - Blackburn
(Changing Attitudes to Alcohol)
project



HOW DOES YOUR FORUM ENGAGE WITH THE COMMUNITY IN THE AREA?

Examples include:

- The Forum has its own section on the Council website
- There are links from the website www.local-licensing-forums.org.uk to the relevant parts of the Council website to encourage the public with an interest in licensing to contact their local Forum
- The Council officer responsible for the Local Licensing Forum made a presentation to Community Councils to inform them of basic licensing issues and the work of the Forum
- Posters have been put up in community halls; adverts have been placed in local newspapers as well as short articles in free local newspapers to inform the public of the work of the Forum, as well as advertising for new members
- Links have been made with the local Pubwatch, Unight, Retail Link, trade association to ensure that the licensed trade is represented
- There was great difficulty in getting young people to attend the Forum meetings regularly so an annual consultation has been held in the local college
- Meetings are held in the early evening to make it easier for more people to attend
- Meetings are held in different venues to ensure people from any one geographical area are not disadvantaged

ARE THERE ANY AREAS WHERE THIS COULD BE IMPROVED?

Examples include:

- It would be helpful if there was a clear budget for the Forum to cover any advertising expenses, travel to speak to other groups, attendance at events etc. Note that money to support Forums should come from licensing fees
- Forums could use licensed premises for meetings to attract the general public
- The Council should advertise the fact that Forum and Board meetings are open to the public
- The Forum could use youth workers to approach young people



Training Resource for Local Licensing Forum Members

Produced by Alcohol Focus Scotland, April 2010
Contact licensing@alcohol-focus-scotland.org.uk or 0141 572 6705
www.local-licensing-forums.org.uk

STATEMENT

5

In terms of Section 67 of the Licensing (Scotland) Act 2005, the Board has determined that it is appropriate to grant a general extension of licensed hours for the Open Championship 2013. This extension will apply to Sunday 21st July 2013 and will allow an extension of the terminal hour for the sale of alcohol until 1am.

This extension will only apply to on-sales and not to off-sales of alcohol.

There will be no general extensions beyond this although any applications for extended hours outwith the general extension will be considered on a case-by-case basis. It should be noted that such applications will require to be submitted no later than Friday 31st May 2013.

There is no need for licensees to apply for the general extension to 1am. On sales premises can utilise these hours to the extent they considered appropriate.

STATEMENT

In terms of Section 67 of the Licensing (Scotland) Act 2005, the Board has determined that it is appropriate to grant a general extension of licensed hours for the Open Championship 2013. This extension will apply from 15th to 17th July 2013 inclusive and will allow an extension of the terminal hours for the sale of alcohol until 1am.

This extension will only apply to on-sales and not to off-sales of alcohol.

There will be no general extensions beyond this although any applications for extended hours outwith the general extension will be considered on a case-by-case basis. It should be noted that such applications will require to be submitted no later than Friday 31st May 2013.

There is no need for licensees to apply for the general extension to 1am. On sales premises can utilise these hours to the extent they considered appropriate.