

Co-operative Retail Trading Group

West Dunbartonshire Licensing Board – Consultation on Licensing Policy Statement

The Co-operative Retail Trading Group welcomes the opportunity to respond to West Dunbartonshire Licensing Board's consultation on their licensing policy statement.

The Co-operative Retail Trading Group (CRTG) comprises 17 retail Co-operative Societies. These are consumer-owned co-operatives based around a democratic, member-owned structure. Food retailing is core to the activities of all co-operative societies; part of the retail mix in Co-operative Food stores is the sale of alcohol products.

Three co-operative societies operate in West Dunbartonshire. Clydebank Co-operative Society operates six Food stores within West Dunbartonshire; it is very engaged within the local area and its Chief Executive sits on the West Dunbartonshire Licensing Forum. The Co-operative Group likewise operates six stores in West Dunbartonshire, and Scotmid (Scottish Midland) Co-operative Society operates five. Whilst day-to-day operations of all three societies are managed independently we wish to jointly submit our opinion on some of the proposals contained within the current consultation.

1) General Parts of the Licensing Policy Statement

Q1. *Should the Board in its policy restrict the number of occasional licence applications that any one premise can apply for in circumstances where, in effect, the premises are being operated as a business and a premises licence application would be appropriate?*

Should the Board in respect of repeated occasional applications for the same premises require that the application be heard by the Board who will require to be addressed on why a premises licence has not been applied for?

While these questions have no bearing upon the operation of Co-operative Food stores the proposals seem sensible.

Q.2 *Should the Board extend this training requirement to all events that require an occasional licence, or should the Board continue to impose training requirements only for events that are viewed to be a high risk to the licensing objectives?*

We do not propose to answer this question.

Q.3 *Should the Board in its policy formally recognise certain national and international events and festivals such as St Patrick's Day and St Andrews Day?*

If so, what national and international events and festivals should it recognise? For example, St Patrick's Day/St Andrew's Day/Burns' night etc.

As these questions would affect the on-trade only we do not propose to answer.

Q.4. (a) *What should the Board recognise in its policy as 'special events'?*

Q.4 (b) *Does the current definition of 'special events' need to be amended at all? If so, to what?*

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We do not propose to answer these questions.

Q5. *Should premises where the licence is held by another party, and not in direct control of the management of the premises on a day to day basis, have to exhibit and satisfy to the Board (where they are subject to a review of the Premises Licence) that on an ongoing basis they are ensuring that the premises are being run in a manner consistent with the licensing objectives, in particular protecting public safety and preventing crime and disorder?*

No.

If so, what measures of compliance by the Premises Licence Holder should the Board suggest in the policy?

CRTG believes that a realistic appreciation of the responsibilities incumbent upon premises licence holders must be taken.

We understand why the question is being asked. It is made quite clear from the consultation document that the concern relates to tampering with utility supplies. We understand from the minutes of the June Licensing Forum meeting that there have been six premises reported to the Procurator Fiscal for theft of electricity / by-pass of an electricity meter. This activity is clearly criminal. However we wonder how realistic it is to expect premises licence holders, who are not in direct control of the day-to-day management of the premises, to police the activities of tenants. This is especially the case when the activities in question do not directly relate to the sale of alcohol. We would think that providing clear tenancy agreements specifying that such behaviour is in contravention of both the law and the tenancy agreement and outlining the consequences of such activity would probably be the most that could be hoped for.

We believe that the six premises referred to in the Licensing Forum minutes are all on-sales premises. We are only able to think of two possible scenarios where this could impact premises owned by a Co-operative society:

- Scenario 1 is where a Co-operative society owns a shop unit which it does not wish to trade out of itself. For instance Clydebank Co-operative owns adjoining shop units next to its stores in Hardgate and Faifley, and leases them out to independent business tenants. It is conceivable that the tenant may wish to operate a business selling alcohol. However, in all such cases the premises licence would have to be applied for and held by the tenant business and not the landlord (Clydebank Co-operative). Any criminal activity by the tenant business would then impact back upon the premises licence it personally holds. Clydebank Co-operative, as landlord, would not operate the licence for that premises and could not be held legally responsible for criminal activity which it could not reasonably be expected to know about.
- Scenario 2 is where a Co-operative society leases out a flat above a shop as accommodation to a private tenant. The society would still be the landlord of the property and would still be the holder of the premises licence. Criminal activity by the private tenant – which has nothing to do with the operation of the store or the sale of alcohol – should not cause a review of the society's premises licence. The upper floor flat would not normally be included within the licensed area of the building. We would hope that – should an upper floor mistakenly be included within the perimeter of the licensed area upon application or still be historically classed as such following renovation of the property – authorities would understand that there is a limit to how much a landlord could be held responsible for the actions of a private tenant. The police must be required to prove a more direct link between the criminal behaviour and the sale of alcohol other than the fact that the two activities occurred in close proximity to each other.

Q.6 Are the categories of licensed premises proposed by the Board in its 11 June 2013 report appropriate and sufficiently clear?

No.

If not, how should premises be categorised for the purposes of their definition for overprovision assessment purposes?

1) Off-licences

'Large supermarkets' have been split off from the previous off-trade category. We therefore wonder whether it would be wiser to split local convenience stores and 'off-licences' (i.e. premises principally devoted to selling alcohol) into separate categories. Whilst a convenience store and an 'off-licence' may be the same size they have very different business models. In an off-licence the entire store will generally be designated as the alcohol display area and the premises will concentrate on selling alcoholic products to the exclusion of most others. In contrast a convenience store provides a full retail offering, where alcohol counts for a much smaller proportion of sales, with chilled and ambient food, household goods and newspapers and magazines comprising the bulk of turnover. Their alcohol display area would hence be much smaller than that in a similarly-sized 'off-licence' as a result. This makes the two types of business very different and they cater for very different customer shopping missions. As convenience retailers we believe that responsibly-run convenience stores benefit the local community. We would therefore suggest that the Licensing Board consider whether it is appropriate for 'local convenience stores' and 'off-licences' to be split into different categories much as has already happened with 'Large supermarkets'.

2) Large Supermarkets

The Co-operative Retail Trading Group would like to see a clear definition of the cut-off point between 'Large Supermarkets' and 'local convenience stores'. Having looked through the current statement of licensing policy we are unable to find any definition for either of the terms used.

The usual rule-of-thumb used within the retail trade to determine whether a store is a supermarket or a convenience store is 280m² (3,014 sq ft). This is the cut-off applied under Sunday Trading legislation in England and Wales. In Scotland it is also the cut-off applied in the Tobacco Display Ban legislation: stores over this size limit had to cover up their displays by 29th April 2013, but those under have until 6th April 2015 to do so.

However, the category proposed by the Licensing Board is not 'Supermarket' but 'Large supermarket'. What difference does the additional descriptor of 'large' make? The Food stores operated by all three Co-operative societies predominantly cater for a local convenience market, though four do exceed 3,014 sq ft. Clydebank Co-operative would class its 6,508 sq ft store in Dalmuir as a 'supermarket' rather than a convenience store for example. However, compared to the 87,000 sq ft Tesco that has just been approved in the centre of Clydebank (see [here](#)) it is certainly not a 'large' supermarket. It would share many more characteristics with a 'typical' convenience store such as The Co-operative Group's 1,480 sq ft High Street Dumbarton branch.

As will be noted in our response to the proposed Overprovision Statement (see Section 2), many interested parties are concerned that a disproportionately large amount of the alcohol consumed within West Dunbartonshire comes from a very small number of very large supermarkets. We would therefore like to see a clearer definition of what counts as a 'large supermarket' as opposed to a convenience store. Whilst the industry-standard convenience / supermarket cut-off stands at 3,014 sq ft we would suggest that the start point for 'large' supermarkets should be much higher – probably 20,000 sq ft at least. Large supermarkets are likely to have alcohol display areas larger than the entire shop floor of convenience stores (see our response to Part 2 of the consultation, on overprovision). Alternatively, the Board may wish to follow the example

of The Highland Licensing Board who propose that the cut-off should be dependent not on store size but on size of alcohol display area. They have proposed that any off-licensed premises with an alcohol display area of over 40m² should be treated differently. This would capture off-licences though it would have the effect of bringing the start point of 'large supermarkets' down to a store size somewhere between 3,000 and 5,000 sq ft depending on the model / retail offer.

Q7. Should the Board require that persons doing home deliveries are trained formally to 'Challenge 25' requirements?

Yes

We strongly agree that all individuals offering home delivery services of any age-restricted product must be formally trained to 'Challenge 25' requirements.

Retailers have done great work at introducing and driving forward the Challenge 25 process. The Co-operative Retail Trading Group and other retailers in the Retail of Alcohol Standards Group were already operating a Challenge 25 policy across their Scottish estates even before this became a mandatory condition following the Alcohol etc (Scotland) Act 2010. These policies have reduced the amount of alcohol bought from retailers by underage individuals. Off-trade retailers are now rated as the very last places from which under-aged drinkers would attempt to acquire alcohol according to the June 2012 Serve Legal and Plymouth University 'Checked Out' report (section 7). This is backed up by the July 2012 NHS Health Scotland report into Scottish test purchasing exercises which confirmed the reduction in direct sales of alcohol to young people.

Underage individuals are still managing to get hold of alcohol. This is rarely through direct purchase from retailers. As the July 2013 Office of National Statistics and Health and Social Care Information Centre Report into Smoking, Drinking and Drug Use Among Young People showed, the most common ways for young people in England to obtain alcohol is from parents, guardians of friends (section 3.4.1). Out of all underage drinkers only 44% buy alcohol, and of that percentage only 11% were likely to buy directly from a shop of supermarket, as opposed to 38% who would buy it from friends, relatives or someone else (section 3.4.2). As an association of responsible retailers, CRTG is committed to enforcing the law around underage sales rigorously. For example, since May 2009 there have been 93 police test purchase exercises in stores operated by Scotmid Co-operative Society. Scotmid have passed every one.

There are concerns that young people can use online purchase and home delivery services to obtain alcohol or other age-restricted products. In June Alcohol Concern Wales published a report found that, from an online survey of Welsh teenagers aged 14 to 17, 15% responded that they had successfully bought alcohol from the internet. If this is a true picture of underage sales then it is quite clear that the Licensing Objective of 'Preventing Children from Harm' is being breached. We believe that home delivery staff must be formally trained to Challenge 25 requirements to help prevent this sort of occurrence. This should not just apply to deliveries operated by established high street retailers however; police action is also needed to track down and prosecute rogue individuals operating outside the law by operating illegal 'van' or 'taxi' sales of alcohol and other age-restricted products.

Of the three Co-operative Societies operating in West Dunbartonshire only The Co-operative Group currently provides customers with a home delivery service. This is a service provided to customers at their stores in Alexandria and Balloch. The Co-operative Group has a rigorous internal policy which means that proof of age must be checked twice – once at purchase at store and once again at the delivery address before any restricted goods can be handed over. If the recipient cannot prove their age upon delivery the goods in question are returned to the store for the customer to arrange re-delivery. Clydebank Co-operative offers a home delivery service from a store in Glasgow, but this is limited to 'emergency' or 'distress' orders. No age-restricted products will be delivered.

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Q.8 (a) *Is the current position of the Board in its policy with regard to Licensed Hours/Hours of Trading appropriate?*

No.

(b) *If no, please specify what the hours should be changed to and why, attaching any available evidence.*

We wish to respond solely with regards to off-sales.

The Licensing etc (Scotland) Act of 2005 specified that off-sales will only be permitted between the hours of 10am to 10pm (section 65). Those designated times may be changed by Scottish Ministers. Licensing Boards are allowed to choose what hours they will grant for a premises licence after taking into account "the impact of anti-social behaviour".

West Dunbartonshire Licensing Board, however, only ordinarily allows sale of alcohol for consumption off the premises between 10am and 8pm. The Board will only consider extending the closing time to 10pm "if suitable enhanced control measures have been put into place to promote the licensing objectives". We would argue that the requirement for all off-sales retailers to have the enhanced control measures specified is an arbitrary one. It is not based on any specific intelligence about anti-social behaviour, but is a catch-all policy. In this regard it goes against the guidance on off-sales hours put forward by the Scottish Government. We believe that if the Scottish Government has deemed the 10am-10pm period suitable for off-sales no Licensing Board should be varying those hours further. As such we would argue that the Board amend its policy so that licences can, where appropriate, be granted from 10am to 10pm without the requirement for enhanced control measures.

We do not dispute that the enhanced control measures specified in the current Licensing Statement are useful tools in promoting the licensing objectives. Proof of age schemes help to protect children from harm. CCTV helps to not only prevent crime and disorder but also secure public safety – not least the safety and security of store staff. All three Co-operative societies operating in West Dunbartonshire operate these measures as a matter of course anyway – not because they are mandated by the Licensing Board but simply because it is best practice to ensure legal compliance, staff and customer safety and prevention of crime in and around our community stores. As a result all seventeen Co-operative stores in the Licensing Board area have licences permitting them to sell alcohol between 10am and 10pm. Even if the requirement for enhanced control measures was not there we would still operate these measures. We are not, therefore, advocating the removal of this requirement for selfish or cost-saving purposes. Our opposition is based upon the stated belief that the Licensing Board should not be varying the hours except on a case-by-case basis based on specific credible evidence of anti-social behaviour.

We might even go further and question why these enhanced control measures are only necessary for the hours of 8pm to 10pm. We regard them as fundamental good practice for all retailers whether they trade after 8pm or not. Rather than being requirements for sales after 8pm we believe that these measures should be general conditions for all premises selling alcohol. We believe that by introducing these enhanced control measures as general conditions on all alcohol licences, rather than just as a requirement for any retailers selling alcohol between 8pm and 10pm, the Board will be promoting the licensing objectives more effectively. We challenge the Board to investigate doing so.

Q.9 *Is the current Board Policy Statement in its policy with regard to tourism sufficient?*

Yes