

Licensing Policy Pre-Consultation

Introduction

The West Dunbartonshire Licensing Board is preparing its new statement of licensing policy. This document describes how the Board will consider applications relating to the sale of alcohol and its general expectations around how licence holders will operate alcohol licensed premises. We would like your views how the current policy operates and what areas the Board should look at moving forward.

The Board must make sure that the policy promotes the licensing objectives which are:

- Preventing crime and disorder;
- Securing public safety;
- Preventing public nuisance;
- Protecting and improving public health; and
- Protecting children and young persons from harm.

The policy addresses a wide range of issues that will impact the operation of licensed premises. These include but are not limited to: licensed hours, children and young persons' access, management of outdoor areas, use of occasional (i.e. temporary) licences and extended hours certificates, and whether there is an overprovision of licensed premises of a particular type in a locality of West Dunbartonshire, for example pubs, bars, supermarkets, or convenience stores.

The closing date for responding is 24/02/2023.

Should you have any questions, please contact Michael McDougall, Depute Clerk to the Licensing Board at michael.mcdougall@west-dunbarton.gov.uk

Next

Powered by

 **SurveyMonkey**
See how easy it is to [create a survey](#).

Licensing Policy Pre-Consultation

What is the purpose of this consultation?

The Board adopted the current statement of licensing policy in November 2018. It will apply this until a new policy is published.

A new policy must be agreed upon and published by the Licensing Board by November 2023. It is a statutory requirement that the Board consult before agreeing on the terms of its policy. As part of the development of the policy, the Board is carrying out a pre-consultation with key stakeholders. This will help inform what matters will be part of the public consultation later in 2023.

The Board wants to hear your views on the impact of the Board's policy over the past five years and what could be improved. In particular, the Board is keen to listen to any evidence around the impact of COVID-19 on the licensed trade and invites comments on whether there are any areas in particular that the Board should look at as part of the development of its new policy.

The Board is committed to engaging in a robust and thorough process to develop its new policy. Therefore, it hopes to hear from a wide range of voices.

You may find it useful to have read the Board's policy prior to completing this questionnaire. You can find the policy [here](#).

1. In what capacity are you responding?

As a member of the public

On behalf on organisation

2. If responding on behalf of an organisation please state which

Joint response on behalf of NHS Greater Glasgow & Clyde, West Dunbartonshire Health & Social Care Partnership and West Dunbartonshire Alcohol & Drug Partnership

 SurveyMonkey®
See how easy it is to create a survey.

Licensing Policy Pre-Consultation

Part 1: Introduction

This part of the policy introduces the reader to its purpose and background. You can view this part of the policy [here](#).

3. At paragraph 7, the policy refers to national strategies or local policies that the Board may have regard to. Are there any of these that are no longer relevant or any not named that the Board should consider including here?

Changing Scotland's Relationship with Alcohol: A Framework for Action (2009), replaced by Alcohol Framework 2018. In addition, there is Rights, Respect and Recovery 2018 and 2020 update, Scotland's Public Health Priorities (priority 4), West Dunbartonshire Alcohol and Drug Strategy 2020-25, West Dunbartonshire Community Planning Substance Use Prevention Strategy, Public Health Scotland Strategic Plan 2022-2025, Fairer Scotland Duty, Ministerial Priorities (reduce the attractiveness, affordability and availability of alcohol).

4. At paragraph 8, the policy notes that the Board recognises that tourism is a major contributor to parts of its area, particularly the Local Lomond area. How does the Board's current policy impact on tourism?

The current policy is worded (and implemented) in a manner that is pro alcohol related tourism. There is evidence to show alcohol availability and its subsequent exposure is greater in areas where there are more tourists. Consideration must be given to local residents, particularly where there is higher than average alcohol related harm and in deprived areas, to not favour tourism to the detriment of residents.

5. Is there anything the Board can consider doing to support the local tourist economy through its policy?

In our view, it is out with the scope of this policy to support the tourist economy and question if 'tourism' should continue to have its own heading within a new updated policy. It would be more favourable to broaden this heading to 'economy', which would recognise the wider impact the alcohol industry has on the local economy (positive and negative) beyond tourism.

6. Do you have any general comments in relation to Part 1 of the Board's policy?

Whilst it is welcomed to see a section dedicated to equalities, an updated statement including the following would enhance this section further

- an ongoing commitment to being aware of and responding to new evidence throughout the life of the new policy, in relation to protected characteristics
- demonstrating an understanding/awareness that alcohol harm affects individuals differently, regardless of protected characteristics
- commitment to publishing an Equalities Impact Assessment

Currently there is no mention of inequalities within this section. The association between inequalities and alcohol harm is well documented and the policy should recognise its role in regards to alcohol availability in deprived areas. In addition, the introduction of the Fairer Scotland Duty places a legal responsibility on public bodies to actively consider how they can reduce inequalities, including during policy development.

Licensing Policy Pre-Consultation

Part 2: The licensing objectives

This part of the policy sets out how the board will promote the licensing objectives. You can view this part of the policy [here](#).

7. To what extent do you agree that the Board's current policy promotes the licensing objectives?

Very significantly

Significantly

Slightly

Not at all

Please let us know why you agree or disagree with the policy.

The written policy does promote the licensing objectives. However, there is a lack of evidence of the policy in practice promoting the objectives eg. Applications have not been refused on the grounds of each of the five objectives.

Furthermore, only 5 applications were refused in the 5 years between November 2018 and 22 February 2023. Over the same period, 42 applications were granted. As of 31 March 2022, West Dunbartonshire has 229 alcohol outlets (on and off trade), which means there is approximately one outlet for every 385 residents.

8. Can the Board take any additional steps to help promote the licensing objectives?

It is recognised there is a desire to equally promote the five licensing objectives as outlined within the legislation. However, there is national evidence to demonstrate the lack of consideration given to and impact of the Public Health Objective since its introduction in Scotland, including in areas where there is active Public Health involvement as we have here in West Dunbartonshire. Since November 2018, Public Health have submitted 12 objections to licensing applications in West Dunbartonshire and none have been upheld on public health grounds.

Paragraph 15.3 offers suggested measures to promote the public health objective. It should be noted that these suggestions are not individually or combined, sufficient to offset the alcohol related harms experienced locally.

9. At paragraph 16.4, the policy sets out various recommendations around children and young persons' access. Do you think that these recommendations are sufficient to protect children and young persons from harm?

Yes

No

What are the reasons for your answer?

No, the recommendations offered are not sufficient to protect children and young people.

We recommend the following changes:

- Paragraph 16.1 states 'The Board welcomes applications' we believe the word welcome gives the impression the policy wishes to encourage applications from premises that accommodate children and young people. Therefore, we would recommend replacing 'welcomes' with 'will consider'
- Paragraph 16.2 states 'The Board encourages license holders to demonstrate both within their Operating Plan and in their everyday practice the measures which will be put in place to protect children and young people from harm'. We believe this language must be stronger and suggest replacing 'encourage' with 'requires'.
- Paragraph 16.3 uses 'appropriate' which is subjective and open to interpretation. This needs to be defined by the board, particularly in relation to staff checks in premises where children may be present.
- Paragraph 16.4 (b) in relation to the position of gaming machines uses 'preferably' which is optional for the premises. This paragraph would be stronger if 'preferably' was omitted and children and young people would be subjected to gaming machines at all when entering and leaving premises.
- Suggest introducing a new measure where children and not allowed to be in close proximity of the bar area

The policy does not acknowledge that children and young people who are exposed to visible alcohol consumption with their environment may experience a degree of harm. This is well documented in evidence provided by the Children's Parliament and Alcohol Focus Scotland. Visibility of alcohol consumption normalises drinking culture to young people as potential future drinkers with younger children being more affected.

Licensing Policy Pre-Consultation

Part 3: Licences

This part of the policy sets out how the board will consider various types of licence applications. You can view this part of the policy [here](#).

10. At paragraphs 18.2 to 18.4 the policy sets out the Board's approach to children and young persons' access to licensed premises, for example, the standard terminal hour for children and young persons' access and situations when children and young persons will be permitted on licensed premises.

Does this access promote the licensing objective of protecting children and young persons' from harm?

YES X NO

Please let us know why this access either promotes or does not promote this licensing objective.

We strongly support the goal of protecting children and young people, which we believe includes involving young people in discussions about the licensing system and shielding them from harm caused by alcohol and alcohol-related substances. According to a recent Scottish study, alcohol abuse is the leading cause of harm among young people and increases the likelihood of developing an alcohol dependence as an adult. The following were the study's key findings:

- 47% of children were exposed through off-label alcohol stores.
- Off-sale alcohol stores were almost five times more likely to expose children in the most deprived areas than in the least deprived ones.
- Compared to children in the least deprived areas, those in the most deprived communities were almost three times more likely to be exposed to alcohol sales outlets.
- Compared to children from less deprived areas, 31% of children in deprived areas were exposed to off-sale stores within 500 meters of their homes.
- Children from all areas received between 22% and 32% of their exposure within 500 meters of schools; however, the percentage of this education that came from off-sale outlets increased with area deprivation.

Because children have no control over what they are exposed to, limiting alcohol exposure is essential. We believe that the licensing policy should be primarily driven by this.

11. At paragraph 18.6, the policy discusses the Board's approach to home deliveries of alcohol. Does this approach deal with any issues that may arise in terms of the licensing objectives?

Yes No

If you have answered 'no', what other measures can the Board consider?

No, this approach does not deal with issues that may arise in regards to protecting public health and children and young people. The policy could require that orders cannot be left in designated safe locations and that delivery staff must receive the same level of training as those who sell or supply alcohol in licensed establishments. The Board could also look into the possibility of requiring online retailers to provide data on delivery refusal rates and sales and distribution areas.

12. At paragraph 18.7 to 18.13, the policy describes how the Board will licence outside drinking. Is the approach in the policy sufficient to promote the licensing objectives of preventing public nuisance or any other licensing objective you think relevant?

Yes No

If you have answered 'no', what other measures can the Board consider?

Covid-19 has resulted in an increase in the number of 'Outside Drinking' applications. Several temporary licenses were successfully submitted on 'Public Health' grounds to reduce airborne infection. However, the removal of social distancing legislation has not resulted in the suspension of these licenses. In fact, the contrary is true, and a number of these temporary licenses have now been made permanent. This in turn has led to a significant increase in capacity locally. To mitigate these circumstances, we propose variations to applications, both temporary and permanent, should be subject to the same overprovision as new policies i.e. "create a rebuttable presumption against the grant of an application within these localities.

In addition to concerns in relation to increased capacity we also wish to highlight the impact outside drinking has had on children and young people. As highlighted by the Scottish Government in Licensing (Scotland) Act 2005 Section 142 Guidance for Licensing Boards (paragraph 12.5) "Children and young persons can be impacted by the drinking behaviours they observe in adults as well as being exposed to the marketing and promotion of alcohol within a licensed premises." As such, we recommend the Licensing Board request the applicant demonstrate the measures which will be put in place to protect children and young people from harm, particularly where the venue for the outdoor license is in proximity of to a venue a young person would attend e.g. school, sports facility, community centre. The Licensing Board has adopted a similar approach to this suggestion with the WDC Gambling Policy.

13. Paragraph 20 sets out the Board's approach to occasional (i.e. temporary) licences. Is the Board's general approach to dealing with occasional licences fit for purpose?

Yes No

What are your reasons for your answer?

The Board could develop and implement an Occasional License Supplementary Information Form in order to guarantee that the sale of alcohol under occasional licenses is appropriately constrained to uphold the licensing objectives. In some Board areas, occasional license holders are already required to demonstrate how they will promote the five licensing objectives and provide concrete examples of how they plan to comply with each objective.

14. Paragraph 21 deals with how the Board will process and determine extended hours certificate applications. Does the Board's approach promote the licensing objectives?

Yes No

What are the reasons for your answer?

There is evidence to show the impact of policies regulating alcohol trading times on alcohol related harm. Sanchez-Ramirez and Voaklander (2018) say that laws limiting when people can buy and sell alcohol can help lower the number of injuries, homicides and crimes related to alcohol. As such, we believe extended licensed hours will lead to increased alcohol consumption and in turn increased alcohol harm. This will place increasing pressure on the health and social care system, particularly hospitals, during certain times of the year that attract extended hours, such as Christmas and New Year and we ask that this be taken into consideration.

15. At paragraph 22 of the policy, the Board addresses those premises that are tenanted out and where the premises licence holder is the landlord. Do you have any comments on the Board's approach here?

No comments.

16. In light of Unite's "[Get me Home Safely campaign](#)", the Board welcomes comments on how best the Board can support licence holders in making sure that workers in the late night economy get home safely.

We have no suggestions on how best to support the campaign but we believe this should be extended to patrons, who may be vulnerable.

Licensing Policy Pre-Consultation

Part 4: Overprovision

This part of the of the policy sets out the Board's approach to determining whether there is overprovision of licensed premises or licensed premises of a particular description in any locality within West Dunbartonshire. The policy can be viewed [here](#).

Historically the Board has utilised Scottish Neighbourhood Statistics intermediate data zone (IDZ) geographies as the localities for this purpose. These IDZs represent small geographical sections of the West Dunbartonshire area equivalent to an average of 4,000 household residents, and allow for the easy compilation of various data, in consideration of which the Board makes its assessment on the provision of licensed premises.

In considering whether there is overprovision, the Board must have regard to the number and capacity of licensed premises in a locality.

The effect of an overprovision policy is to create a rebuttable presumption against the grant of an application within these localities for the foregoing types of licensed premise. Each application still requires to be determined on its merits and there may be exceptional cases in which an applicant is able to demonstrate that the grant of the application would not undermine the licensing objectives, or the objectives would not be undermined if the applicants operating plan were to be modified.

17. Should the Board continue to include the current localities within its assessment on overprovision? Please see the Board's policy at paragraph 23.9 for details of these localities.

Yes No

What are the reasons for your answer?

Current health data shows that alcohol related harm and alcohol specific deaths continue to be above the national average for West Dunbartonshire as a local authority. West Dunbartonshire has the 3rd highest alcohol specific deaths across Scotland's council area. Furthermore, when alcohol specific deaths were analysed for the year (2016-2020) against the baseline year (2002-2006) for each area. West Dunbartonshire has the second greatest increase in Alcohol Specific Deaths in Scotland.

Additionally, all intermediate zones within West Dunbartonshire have at least 1 alcohol related health harm indicators (Alcohol Related Hospital Admissions; Alcohol Specific Deaths; Alcohol Related Mental Health Admissions) above the national average with 16 of the 18 intermediate zones having 2 or more,

18. What impact, if any, do you think the Board's overprovision policy has had on any of these localities?

Unfortunately, to date, the Board has not rejected a single application on the grounds of its overprovision policy.

Alcohol harms remain significant in WD and continue to rise. In addition circumstances (C19) have arisen throughout the life of the current policy that meant availability/access and visibility of alcohol consumption has increased (more outdoor areas with increased patron capacity, capacity increasing within off sales).

19. Should the Board consider identifying any other localities as being overprovided for in terms of licensed premises, and if so, why?

IZ14

Data shows that IZ14 now has all 3 alcohol related harm indicators above the Scottish average.

20. The Board considers there to be overprovision of the following types of licensed premises within 16 of the 18 localities that make up West Dunbartonshire:

- public houses;
- nightclubs;
- off-sales and local convenience stores; and
- supermarkets.

Does this approach to overprovision continue to be appropriate?

Yes No

Please let us know why you think this.

The overprovision policy needs to take cognisance of the increase in provision through variation applications for additional capacity of patrons, square meterage, outdoor space and additional hours as noted in the Licensing Act (Scotland) 2005 7.3 (aa) which states boards may give regards to other matters it deems fit.

21. The Board's policy in relation to overprovision recognises the positive health benefits associated with increased employment opportunities. This may be a factor that the Board has regard to when determining an application in an area of overprovision.

Does it remain appropriate for the Board to continue to have regard to these benefits?

Yes No

Please let us know why you think this.

We do not consider the employment benefits to offset the significant alcohol related health harms within West Dunbartonshire.

22. Should the Board consider licensed hours when considering if there is an overprovision of licensed premises, or licensed premises of a particular description, in a locality?

Yes No

Please let us know why you think this.

Yes as this has an impact on access and availability. As per answer to Q14

23. Are there any other matters that the Board should consider when considering matters relating to overprovision?

Having a robust overprovision statement is imperative given the Alcohol related health harm within West Dunbartonshire.

Licensing Policy Pre-Consultation

Part 5: Licensed hours

This part of the policy narrates the Board's general policy about licensed hours for both off-sales and on-sales premises. You can view this part of the policy [here](#).

24. The Board will generally consider 10am to 8pm as appropriate licensed hours for off-sales with the additional hours of 8pm to 10pm only given where the applicant can demonstrate suitable enhanced control measures are in place. Does this approach promote the licensing objectives?

Yes

No

Please let us know why you support or oppose this policy position.

We note and support the enhanced control measures within the policy. However, this could be strengthened for all measures to be listed as a requirement, as opposed to 'should have'. Furthermore, we would like to reflect our response to Q14 that additional trading hours will increase alcohol consumption and in turn increase harm.

25. In relation to premises offering no significant entertainment facilities, such as public houses, hotel bars, and members clubs, the Board considers a terminal hours of 12midnight on Sunday to Thursday and 1am on Friday and Saturday to be appropriate. Do you agree?

Yes

No

Please let us know why you either support or oppose these policy hours.

It may be worth the board assessing data from Scottish Ambulance Service and Police Scotland to determine if there is an increase in call outs or anti-social behavior at later closing times of premises.

26. In relation to premises offering significant entertainment facilities, such as nightclubs, the Board considers a terminal hour of 1am on Monday to Wednesday and 3am on Thursday to Sunday to be appropriate. Do you agree?

Yes

No

Please let us know why you either support or oppose these policy hours.

It may be worth the board assessing data from Scottish Ambulance Service and Police Scotland to determine if there is an increase in call outs or anti-social behavior at later closing times of premises.

Licensing Policy Pre-Consultation

Additional comments

We welcome any additional comments you may have.

27. Do you have any other comments about the licensing policy that you want to make, for example, are there any areas of policy you would like us to look at as part of this exercise?

28. Do you have any other comments about the Board's policy?

Licensing Policy Pre-Consultation

Survey completed

Thank you for completing this survey. Your input into the development of the West Dunbartonshire Licensing Board's new policy statement is much appreciated. Your response will be considered by Licensing Board members at a future Licensing Board meeting when considering next steps in the development of the policy.

Should you have any questions, please contact Michael McDougall, Depute Clerk to the Licensing Board by [email](#).