

# **WEST DUNBARTONSHIRE LICENSING BOARD**

## **Report by the Clerk to the Licensing Board**

**Licensing Board : 29 October 2013**

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**Subject:      Licensing Policy Statement 2013**

### **1.      Purpose**

- 1.1**      The purpose of this report is to consider consultation responses received in relation to Part 1 of the Board's review of its Licensing Policy Statement.
- 1.2**      Thereafter to agree the terms of a new Licensing Policy Statement to run from 30 November 2013 to 29 November 2016.

### **2.      Recommendations**

- 2.1**      It is recommended that the Board determines its views on the nine issues previously identified by the Board at its meeting in June 2013.
- 2.2**      Thereafter, the Board remits to the Clerk to draft the detailed wording of the new Licensing Policy Statement to include:-
- The decision of the Board on the nine issues;
  - The terms of the Overprovision Policy as agreed by the Board today; and
  - Minor typographical changes to bring the Policy up to date (e.g. a new foreword, current population figures etc) and also miscellaneous changes as referred to at point 4.1.9;

which policy is to come into effect on 30 November 2013, subject to the equalities impact screening disclosing no significant adverse impact, and the Chair of this meeting being satisfied that the detailed wording reflects the decisions of the Board today.

### **3.      Background**

- 3.1**      Section 6 of the Licensing (Scotland) Act 2005 provides that:-
- “every Licensing Board must, before the beginning of each three year period publish a statement of their policy with respect to the exercise of their functions under the Act during that period.”
- 3.2**      The Act allows a Board to publish a Supplementary Policy Statement during a three year period.
- 3.3**      Prior to publishing any Licensing Policy Statement a Board is obliged to consult:-

- a) The Local Licensing Forum
- b) If the membership of the Forum is not representative of the interests of the relevant groups, such persons as appear to the Board to represent such groups,
- c) Such other persons as the Board deems appropriate.

**3.4** On 11 June 2013, the Board agreed to consult regarding the terms of the new Licensing Policy Statement 2013 - 2016. Whilst it is open to consultees to respond on any matter relevant to the new Licensing Policy Statement. Part 1 of the consultation questionnaire sought views on the Licensing Policy Statement and nine specific issues whilst Part 2 of the consultation questionnaire sought views on Overprovision of Licensed Premises. The responses to overprovision are contained in a separate report to this Board.

**3.5** A copy of the consultation document, reflecting the minute of the Board's decision on 11 June 2013 is attached as Appendix 1.

**3.6** The consultation questionnaire was the subject of a public consultation from 1 July to 1 October 2013. The consultation document was included on the Board's website and a list of the parties consulted regarding its terms is listed at Appendix 2.

Consultation responses were received from the following:-

- Strathclyde Fire and Rescue – Appendix 3.
- Scottish Enterprise (“SE”) – Appendix 4.
- West Dunbartonshire Licensing Forum (“The Forum”) – Appendix 5.
- Castle Leisure Group (“CLG”) – Appendix 6.
- Police Scotland”) – Appendix 7.
- West Dunbartonshire Community Health Care Partnership (“CHCP”) – Appendix 8.
- West Dunbartonshire Alcohol and Drug Partnership (“ADP”) – Appendix 9.
- Response from unknown party – Appendix 10.
- NHS Greater Glasgow and Clyde (“NHS GG & C”) – Appendix 11.
- Response from an unknown party – Appendix 12.
- Co-Operative Retail Trading Group (“The Co-op”) – Appendix 13.
- Alcohol Focus Scotland (“AFS”) – Appendix 14.

**3.7** As nine specific issues were raised in Part 1 of the consultation questionnaire, comments are grouped under the particular question and very broadly summarised as follows. Members of the Board should read the specific responses as attached.

**3.5.1** Question 1 – Occasional Licences – Limit on the number that can be applied for by any one premises

- (i) West Dunbartonshire Licensing Forum and CLG believed that the Board should restrict the number of occasional licence applications that any one premise can apply for and that a “cap” should apply where the premises are in

effect being run as a business. In such circumstances, the applicant should require to address the Board on the applications.

- (ii) Alcohol Focus agreed that parties making repeated applications for occasional licences to appear before the Board to explain their position. AFS believed that Licensing Boards should closely monitor the number of occasional licences that it grants.
- (iii) Police Scotland agreed that for applicants acting as premises that they should require to come in front of Board. However, in relation to members clubs there should be encouragement for them to apply for such and meet training requirements.
- (iv) CHCP and ADP considered that there should be a “cap” on such occasional applications. Consideration should be given, to high risk events too.
- (v) The response from the members of the public agreed that closer scrutiny of occasional licence applications should occur.
- (vi) NHS & GG & C agreed with the proposal.

### **3.5.2 Question 2 – Occasional Licences –Training Requirement**

- (i) Strathclyde Fire and Rescue were in favour of extending training requirement to all events in particular, with regard to the relevant Fire regulations. The Forum and CHCP believed that where Premises are running as a business and applying for such or high risk events then training requirements should be in place.
- (ii) CLG, Police Scotland and NHS GG & C all believed that in all situations where alcohol is sold there should be training requirements imposed.
- (iii) One of the anonymous respondents stated that training should be restricted to high risk events only whereas the other anonymous respondent stated that training should be required wherever an event is low risk.

### **3.5.3 Question 3 and 4 – National and International Events and Special Events – Extended Hours Applications**

- (i) The Forum and CLG’s view is that the current policy should remain in place. Both suggested additional wording to allow provision for a Special Meeting to enable events to go ahead at short notice.
- (ii) The CHCP and ADP stated that they considered the current definition in the policy adequately covered matters.
- (iii) NHS GG & C stated that they considered that no special status should be accorded to such events. AFS stated that the current policy was sufficient and there should not routinely be regarded a need for extended licensing hours.

- (iv) The anonymous respondents differed in that one responded stating that the current definition was sufficient and events should be recognised, whilst the other anonymous respondent stated that certain events shouldn't be recognised with a special status.

#### **3.5.4 Question 5 – Responsibility of Landlord/Parties that hold Premises Licences**

- (i) Strathclyde Fire and Rescue outlined in its response the relevant Fire Safety Regulations and documentation that should be produced by the premises. Police Scotland's response, which is referred to fully for its terms, and in addition referred to the requirement for exhibiting compliance in this regard and to the annual inspection of utilities.
- (ii) The Forum's view is that the policy should include measures of compliance by the Premises Licence Holder ("PLH") who does not have direct control of the day to day running of the Premises. It suggested the control measure of an annual checklist and also suggested that spot checks are carried out to ensure compliance. These comments were largely mirrored in the responses by the ADP, CHCP and NHS GG & C.
- (iii) CLG was concerned that such a condition may not be enforceable. The Co-Op responded fully, outlining concerns as to whether this would be workable in practice and that a realistic appreciation of the responsibilities incumbent upon PHL's must be taken.
- (iv) One of the anonymous respondents agreed broadly with the issue raised.

#### **3.5.5 Question 6 – Categories of Licensed Premises**

- (i) SE welcomed the change in terminology from "vertical drinking establishments" to "public houses" which was proposed for ease of clarity
- (ii) The Forum, CLG, CHCP, ADP, NHS GG & C agreed with the categories as outlined in the report to Board on the 11 June 2013. Police Scotland believed that there should be a further categorisation of premises to take cognisance of the capacity of a premises particular, in off sales premises.
- (iii) The member of the public and the unknown party responded that they agreed with such.
- (iv) The Co-Op in a full response questioned whether, there should be a split definition between local "convenience" stores and "off licences". In respect of large supermarkets too the Co-Op would like to see a clear definition of the cut-off point between "large supermarkets" and "local convenience stores".

#### **3.5.6 Question 7 – Home Deliveries**

- (i) The Forum, CLG, CHCP, ADP, AFS, NHS GG & C and the Co-Op (in a full response) all agreed with the proposal that persons doing home deliveries are trained formally to "Challenge 25 requirements".

- (ii) Police Scotland requested further additional wording and recognition of the terms of Section 119 of the Act. Such terms are with regard to the delivery of alcohol from vehicles and the conditions requiring day books and delivery books to be completed before the delivery of alcohol.
- (iii) One anonymous respondent agreed with the terms of this proposal.

### **3.5.7 Question 8 – Licensed Hours/Licensed Hours of Trading**

- (i) The Forum, CLG, Police, CHCP and ADP agreed with the current hours specified. NHS GG & C queried the current hours and urged the Board to consider reducing closing hours in off sales premises by an hour or two.
- (ii) Alcohol Focus believed there was scope for the Board to review its policy to consider reducing off sales by one hour, allowing for extensions of one hour for special events, and reducing standard hours for off sales.
- (iii) The Co-op responded fully, with regard to off sales and queried the enhanced control measures position in the Board's current policy albeit the Co-Op already exhibit such measures routinely anyway. Hours that are specified by government of 10:00 am – 10:00 pm should only be varied/not granted where there is specific credible evidence of anti-social behaviour. On the one hand the Co-Op believes that there should be no requirement for enhanced control measures after 8:00 pm however, on the other hand stated that if there are to be then why are they not extended to all hours of the licence?

### **3.5.8 Question 9 –Tourism**

- (i) All parties that responded on this matter viewed the current statement in Licensing Policy to be sufficient.
- (ii) In addition SE recommends that the Board considers issuing positive statements from time to time on the type of provision it would encourage in particular locations to strengthen the tourism market.

### **3.5.9 Miscellaneous and other Matters**

- (i) The CHCP and the ADP raised that member clubs significantly increase the availability of alcohol and has significant health impacts.
- (ii) One of the anonymous respondents raised some general points regarding consumption and concerns with preventing crime and disorder.

## **4. Main Issues**

- 4.1** The main issues evident from the consultation, in relation to each question, are as follows:-

#### **4.1.1 Question 1 – Occasional Licences-limit on the number that can be applied for by any one premises**

The responses broadly supported a limit placed on the number of occasional licences that can be applied for by any one premises. It is recommended that in repeated applications for the same premises, applicants should require to address the Board on why an application for a premise licence has not been submitted to the Board. There should be no “cap” placed on the number of occasional licences as suggested by some consultees given, that the terms of the Act only places a formal restriction on numbers for voluntary organisations.

#### **4.1.2 Question 2 – Occasional Licences-Training Requirement**

There was a mixed response on this matter with some consultees wanting training to apply to all situations where alcohol is sold whereas other consultees wanted a requirement for high risk events or where the premises were effectively running as a business. It is recommended that the Board, on balance, continue with its current policy to restrict training requirements to events that are identified as “high risk” or where the premises are effectively being run as a business. This would not disadvantage small scale one off events from applying by adding a layer of training requirements. It is also noted that the Board has no evidence before it outlining problems with such occasional licences, however if such evidence is produced that such risks are present then this may be a matter that the Board could consider in a supplementary statement of licensing policy.

#### **4.1.3 Question 3 and 4 – National and International Events and Special Events – Extended Hours Applications**

The responses to the consultation were mixed on this question. It is recommended that the Board continue with the current definition of “special events”. It is recommended that the Board follows the Forum and CLG’s suggestion that the following additional wording should be inserted to enable an event to be organised at short notice:

*“Should the need for a special event arise at short notice, the Board will endeavour to hold a Special Meeting to enable the event to go ahead (should it be granted).”*

It is a matter for the Board as to whether they believe that any other events should have an automatic status similar to St Patrick Day which is now delegated to the Clerk to grant under delegated powers. No further events were suggested as part of the consultation.

#### **4.1.4 Question 5 – Responsibility of Landlord/Parties that hold Premises Licences**

Two parties in response to the consultation questioned the effectiveness of any such wording in policy and the practical enforcement of such. All other parties that responded seemed enthusiastic that such was included. Given the responses and the issues that the Board has seen in front of it over the

duration of the current Licensing Policy, it is proposed that the PLH should be able to demonstrate due diligence in this regard with annual checks of utilities and regular checks to ensure that the premises are being run in a manner consistent with the licensing objectives. The Board would expect, on review of any premises licence that, regardless of whether the premises is tenanted out, the PLH can exhibit such due diligence as far as possible. The concerns of CLG and the Co-Op are noted however, the Board will view each matter in front of it on its own facts and hear submissions thereon as to what measures have and could be reasonably taken by the PLH. It is recommended that Board does not seek to be prescriptive as to what the PLH requires to do but flag up clearly, in its policy its area of concerns and what it expects to be addressed on should such matters come to a review hearing.

#### **4.1.5 Question 6 – Categories of Licensed Premises**

It is recommended that the Board adopt the categories specified in the report dated 11 June 2013. There was suggestion in the responses of looking at capacity figures and further splitting the definitions. It is submitted to the Board that the categories suggested provide the clearest available mechanisms of assessing matters taking into account current guidance, correlation with planning categories and practical experience of officers dealing with such categories of licensed premises.

#### **4.1.6 Question 7 – Home Deliveries**

It seemed universally welcomed in responses that the “Challenge 25” reference for home deliveries be incorporated. Further, wording was suggested by Police Scotland and Board Members should consider whether, the Policy needs further amplified in this regard. It is not recommended that further references to the terms of the Act are required in policy.

#### **4.1.7 Question 8 – Licensed Hours/Licensed Hours of Trading**

- (i) A number of consultees suggested no proposals to change such hours. It is noted that government specifies the maximum off sales licensed hours (10:00 am to 10:00 pm) that may be sought by the applicant and that these are commonly in place throughout licensed premises in Scotland with regard to off sales. West Dunbartonshire Licensing Board specifies enhanced control measures that require to be in place for extended hours for off sales between 8:00 p.m. and 10:00 p.m. In respect of on sales the Board’s current hours are as at point 20.2 of its policy. It is recommended that this is sufficient with regard to on and off sales and no proposals for change are recommended to the Board.
- (ii) The Consultation invited evidence in this regard and received the following responses:-

AFS suggested that the Board could look at reducing hours especially with regard to on sales whereby allowing extensions for one off events and reduce standard hours for off-sales by one hour. AFS stated that long licensing hours

should be the exception not the norm. NHS GG & C suggested that the closing hours of 1:00 a.m. at weekends for non food based premises is late and the Board could look at a reduction of such hours. For the Board to look at reducing hours it would require clear evidence in front of it with regard to such and an impact assessment of such. The Board would require to undertake a wide consultation on this matter and having clear evidence in front of it to move away from its current policy on hours, in particular, any changes with regard to off sales hours.

#### **4.1.8 Question 9 – Tourism**

It is recommended that the current statement in policy is sufficient in relation to tourism and remains. It would not be appropriate for the Board as suggested by SE to issue positive statements on what type of provision/applications it would welcome to strengthen the tourist market. Each application requires to be dealt with by the Board on its own merits and without prior indication of what it may grant.

#### **4.1.9 Miscellaneous and other Matters**

- (i) There are no further matters of a specific nature to consider from the responses.
- (ii) It is recommended that the Board make the changes suggested in the report to the Board from 11 June 2013 at point 4.15 which outlined a number of minor and miscellaneous changes.
- (iii) The Board are further requested to amend the existing policy to include a reference to children being accompanied by an adult whilst on the premises. This commonly features in most operating plans and is the practice of most premises (members' clubs have separate criteria) and the Board should reflect this clearly in its policy with the relevant licensing objectives considered.

### **5. People Implications**

- 5.1** There are no staffing or people implications for the Board in this review and implementation of the Licensing Policy Statement.

### **6. Financial Implications**

- 6.1** There are no financial issues other than the relatively minor costs of publicising and consulting on the Licensing Policy Statement.

### **7. Risk Analysis**

- 7.1** It is important that the Licensing Policy is in place by 30 November 2013 to provide clear guidance to applicants and members of the public in relation to the policies of the Board.



## **8. Equalities Impact Assessment (EIA)**

- 8.1** An equalities impact screening will be carried out in respect of the Board's decision with regard to the Statement of Licensing Policy.

## **9. Consultation**

- 9.1** The Board as narrated at point 3.4 has undertaken a wide and extensive consultation.

## **10. Strategic Assessment**

- 10.1** The Statement of Licensing Policy has a direct impact on the following Council strategic priorities:

**10.2** Improve the Well-being of Communities and Protect the Welfare of Vulnerable People

The Licensing Policy requires to support the licensing objectives, all of which are related to this strategic priority of improving the well-being of communities.

**10.3** Improve Life Chances for Children and Young People

The specific licensing objective of protecting children and young people from harm in the Licensing (Scotland) Act 2005 is accordingly related to this strategic priority.



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**Appendices:** **Appendix 1** – Part 1 Consultation Document – 1 July – 1 October 2013  
**Appendix 2** – List of Consultees written out to by the Board  
**Appendix 3** – Strathclyde Fire and Rescue

**Appendix 4** – Scottish Enterprise  
**Appendix 5** – West Dunbartonshire Licensing Forum  
**Appendix 6** – Castle Leisure Group  
**Appendix 7** – Police Scotland  
**Appendix 8** – West Dunbartonshire Community Health  
Care Partnership  
**Appendix 9** – West Dunbartonshire Alcohol and Drug  
Partnership  
**Appendix 10** – Anonymous response 1  
**Appendix 11** – NHS Greater Glasgow and Clyde  
**Appendix 12** – Anonymous response 2  
**Appendix 13** – Co-operative Retail Trading Group  
**Appendix 14** – Alcohol Focus Scotland

**Background Papers:** Statement of Licensing Policy 2010-2013

**Wards Affected:** All