

PART 1

West Dunbartonshire Licensing Board

Consultation on Licensing Policy Statement

Introduction

West Dunbartonshire Licensing Board's Statement of Licensing Policy runs from 30 November 2010 to 29 November 2013.

The Board is obliged to review its Policy prior to 29 November 2013 and is committed to consulting widely on it. This consultation is in two parts:-

- 1) General parts of the Licensing Policy Statement; and
- 2) Overprovision.

The Board has identified certain issues which it would wish to address as part of this review in terms of Part 1 of this paper. These are set out in the report to the Board on 11 June 2013, entitled "Review of Statement of Licensing Policy" the link to such report can be accessed under Further Information below at page 9 of this paper.

Responses to this consultation along with any relevant evidence should be sent either by e-mail to:-

Licensing@west-dunbartonshire.gov.uk or by post to the Clerk to West Dunbartonshire Licensing Board, Council Offices, Garshake Road, Dumbarton, G82 3PU to be received no later than **1 October 2013** in order that they may be considered when reviewing the Policy. Responses received after this date will not be considered.

The Board's Licensing Policy Statement needs to promote the licensing objectives of:-

Guidance for Consultees -

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

In responding to this consultation, Consultees are asked to consider these licensing objectives and the extent to which the proposed changes promote the licensing objectives. Reasons for responses should be provided in the appropriate boxes.

Part 1 - General Parts of the Licensing Policy Statement

Issues

The issues are:-

1 Occasional Licences - limit on number that can be applied for by any one premise

The Board's present policy, and the terms of the Licensing (Scotland) Act 2005, does not restrict the number of occasional licenses that can be applied for by any one premises (except for voluntary organisations that are subject to a quota). It is the Board's wish to consult upon whether repeated applications for occasional licences are appropriate, where in effect the premises are being operated as a business and a premises licence could be applied for. Consideration is to be given as to whether the Board, in such circumstances, requires to be addressed on why a premises licence has not been applied for given the matters that require to be established before a premises licence is granted. It is not the intention of the Board to seek to restrict the normal process of occasional licences made by charitable organisations, schools and youth groups etc.

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? Yes/No (Delete as 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?

Yes and No.....

The on trade can abuse the occasional licence provisions and apply for occasionals rather than pay for a variation (which would automatically go in front of a board). There are seldom occasions where premises will use occasional licences prior to the confirmation of a premises licence.

The registered clubs have a habit of throwing their premises open to the public for private functions, yet their constitution doesn't form part of the operating plan, licence or conditions. I would recommend that registered clubs be exempted from the numerical quota for occasional licences, in order to encourage them to apply for them for private parties BUT we must ensure that the schedule 3 mandatory conditions are applied for such occasional licences (making them public houses for the night) therefore staff need to be trained, etc etc

It is a matter for the board to ask questions of an applicant as to whether or not

they wish to apply for a licence.

2. Occasional Licences - Training Requirement

Currently, the Clerk to the Board can impose training requirements (Licensing (Training of Staff) Regulations 2007) on persons that apply for occasional licences where there is deemed to be a high risk to the Licensing Objectives. If a blanket training requirement were imposed for all persons to be trained to this standard, it would apply to events that are high risk and also low risk events.

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?

The application of risk management strategy is not quantified and it is to be assumed that a generic view is considered. It is our view that any person who sells / supplies alcohol should be trained. There are other factors which should be mandatory; including decanting alcohol into polycarbonate tumblers, SIA stewards, trained staff at every point of sale etc....

3. National and International Events and Festivals and Special Events -
Extended Hours Applications

Currently, the Board in its policy do not formally recognise any specific international events and festivals which the Board will, in its policy, automatically grant extended licensing hours to if applicants apply and meet specific conditions. The Board have, however, delegated authority to the Clerk to grant applications for extended hours on St Patrick's Day/night.

Applicants, accordingly, (other than in respect of St Patrick's Day) need to have applications considered by the Board at a Hearing rather than by the Clerk under delegated powers. It is sought to provide certainty in its policy to applicants as to what specific events the Board would automatically consider as a 'national and international event and festival'.

The Board currently has a wide definition of 'special events'. Events that do not provide significant entertainment are generally not considered to fall within the policy. 'Special events' are currently defined in the Board's policy as activities such as dances, discos and dinner dances, wedding receptions and parties where a disco or band is provided generally fall within the description of a special event. Events where there is no 'significant entertainment' such as darts, dominoes or pool competitions, karaoke evenings or private parties etc would generally not be considered to fall within the definition.

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?*
Yes/No (Delete as appropriate).

*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.*

Police Scotland has no view to whatever days should be considered

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?*

b) The board should take cognisance of events which are specifically for childrens activities, where children will be in attendance e.g. football team under 12's presentation ceremony, school awards ceremony within the school.

4. Responsibility of Landlords/Parties/Persons that hold Premises Licences

Over the duration of the current Statement of Licensing Policy, a number of issues with regard to the question of the responsibility of the Landlord (or person or party) who hold premises licences have been raised. These include premises (that have been leased out) where utilities such as gas and electricity have been bypassed.

It is asked as part of this Policy Consultation whether the Board in its policy wish to specify that if a Premises Licence Holder appears in front of a Licensing Board, either because alleged conditions have been breached, or due to any other ground relevant to one or more of the licensing objectives, that the Board will require to be satisfied as to the steps taken by the Premises Licence Holder to ensure the premises are run in accordance with conditions and licensing objectives i.e., steps may include periodic checks on the premises, including, for example, verifying that safe utility supplies are in place.

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? Yes/No (Delete as appropriate).

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

We agree that the burden of proof should lie with the licence holder to evidence what steps they are taking to manage a premises and ensure the objectives are adhered to. Whilst they hold vicarious liability, it is clear that some licence holders maintain a position of ignorance when it comes down to the day to day issues that fuel a premises licence review.

In terms of responsibilities of the licence holder we would like to see annual inspections of utilities, by trained staff (staff trained to recognise where any illegal and potentially unsafe adjustments have been made and not just meter readers). This should be at the licence holders expense with appropriate certification issued and made available for inspection. Any failure of adherence to this condition, the board reserves the right to increase the frequency of these inspections. Our interventions methodology goes some way to addressing this, as we insist on the premises licence holder and DPM being present to agree to a joint working action plan.....

Steps could ensure the countersigning of training records, the keeping of an accurate incident book, which can record any times that the licence holder is in attendance etc

We seek financial transparency in the running of licensed premises and submission of accounts to Companies House, VAT returns, utilities bills, cash and carry correspondence etc are all examples where 'compliance' can be evidenced in the safe running of a responsible licensed premise. A licence holder should be in a position to demonstrate financial transparency, without any need for compromising commercial sensitivity. Companies House accounts become public record, therefore this should be a mainstay of the boards overview of licences within its jurisdiction, ensuring that licence holders comply with Companies House law and financial statutory instruments.

5. Categories of Licensed Premises

The Board wishes to formally clarify in its policy the categories of licensed premises that it will consider and this is relevant also to the assessment of overprovision that is contained within Part 2 of this consultation document. The categories are as defined in the report to the Board dated 11 June entitled "Licensing Policy Statement - Overprovision" at points 4.10 and 4.11. The categories are:-

- Public Houses ("Pubs");
- Restaurants;
- Nightclubs;
- Town Hotel;
- Large Supermarkets;
- Off Sales and local convenience stores; and
- In relation to mixed use or hybrid premises these will be considered by reference to their underlying use.

The definition is changing to refer to public houses rather than 'vertical drinking establishments' which is not helpful or reflective of the current on-sale trade in the area which is currently specified in the policy as including public houses.

Q.6 *Are the categories of licensed premises proposed by the Board in its 11 June 2013 report appropriate and sufficiently clear? Yes/No (Delete as appropriate).*

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

There should be further categorisation of premises to take cognisance of the capacity of a premises, particularly off-sales and the percentage of a floor space taken up with alcohol. What is the definition of an off sales / local convenience and a large supermarket – is this measured in m² ?

6. Home Deliveries

The Board's current policy specifies that home deliveries need to be specified in the premises operating plan however:-

Q7. *Should the Board require that persons doing home deliveries are trained formally to 'Challenge 25' requirements? Yes/No (Delete as appropriate). If no, please state why?*

Yes. Also – we would seek local conditions to ensure deliveries of alcohol were conducted as per Sec 119, and;

On no account will any supply of alcohol be delivered and left for collection in any place (front porch, garage), alcohol will only be supplied to an individual named person, the details of which will be entered into a delivery book or recorded invoice.

7. Licensed Hours/Hours of Trading

There are no formal proposals in this regard and the hours of Licensed Hours/Hours of Trading are specified at Part 5 of the Board's current policy.

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

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

8. Tourism

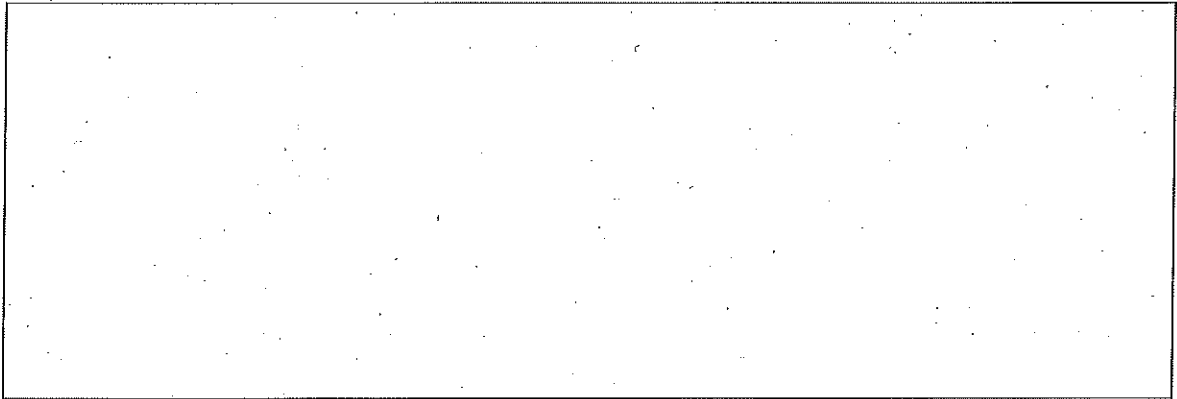
The Board's current policy recognises the position of tourism at point 8.1 of its Statement of Licensing Policy as being a major contributor to parts of the Board's area and the ability for reports on the needs of the local tourist area to be put in front of the Board as required. There are no proposals to change this.

Q.9 *Is the current Board Policy Statement in its policy with regard to tourism sufficient? **Yes** (Delete as appropriate).*

If not, what should be reflected further in the Board's Policy Statement with regard to tourism and the needs of the local tourist economy?

9 Miscellaneous Matters

A number of miscellaneous changes which do not change the substance of the Board's Policy are made in the referred to report to the Licensing Board on 11 June 2013 entitled "Review of Licensing Policy Statement". The link is on page 9 below. Reference should be made to the report and any comments inserted below.



Other matters

Whilst intending to focus on the issues described above, the Board welcomes all comments and proposals in relation to its Licensing Policy Statement and will give these due consideration.

