

WEST DUNBARTONSHIRE LICENSING BOARD

Report by the Clerk to the Licensing Board

10 January 2023

Subject: Consultation on Restricting Alcohol Advertising and Promotion

1 Purpose

- 1.1 To inform the Licensing Board (“the Board”) about a Scottish government consultation that partly relates to alcohol licensing and to ask the Board to approve a response.

2 Recommendations

- 2.1 It is recommended that the Board:-
- (a) notes the terms of the Scottish government consultation; and
 - (b) approves the attached response.

3 Background

- 3.1 In November 2022, the Scottish government published a consultation document entitled: “Consultation on Restricting Alcohol Advertising and Promotion” (“the Consultation Document”). The closing date for responses is 7 March 2023.
- 3.2 The Consultation Document refers to Scotland’s *“deep, longstanding and troubled relationship with alcohol”* and notes that *“[a]lcohol-related harm is one of the most pressing public health challenges that we face in Scotland”*. The stated aim of the proposal is to consider options around restricting alcohol marketing to protect children and young people, heavy drinkers, and those in recovery.
- 3.3 The Consultation Document seeks views on various matters, some of which are outwith the remit and/or knowledge of the Licensing Board. There are, however, a number of questions within the consultation that deal with matters relevant to the Licensing Board and its powers under the Licensing (Scotland) Act 2005 (“the Act”). These areas are as follows:
- outdoor and public spaces marketing;
 - in-store alcohol marketing; and
 - enforcement.

- 3.4 It is recognised that the proposals in the Consultation Document are at an early stage. Further detail will be required from the Scottish government regarding how the restrictions will operate in practice and, in particular, how restrictions and prohibitions around alcohol marketing will affect existing licence holders. Any further consultations documents or government responses will be brought to the attention of the Licensing Board.
- 3.5 A draft response is contained in the Appendix to this report. Most of the answers are self-explanatory. Some additional explanation is set out below.

4 Main Issues

- 4.1 The Consultation Document covers a wide range of matters relating to the advertising of alcohol. As noted at paragraph 3.3 of this report, not all matters raised are relevant to the Licensing Board. It is suggested that the Board has regard to the questions that relate to outdoor and public space marketing, in-store alcohol marketing, and enforcement.

Outdoor and public spaces marketing

- 4.2 A prohibition on alcohol marketing outdoors and in public spaces may impact the exterior look and feel of licensed premises. Depending on the nature of the restrictions, premises may have to change how they present themselves to the public.
- 4.3 Such a prohibition may impact the management of outdoor areas that the Board licences for the sale and consumption of alcohol. It is unclear at this stage how such areas will be viewed, given that the public may be able to view them from the footway or, indeed, at times they form part of the public highway (subject to consent being given by the Roads Authority).

In-store alcohol marketing

- 4.4 The Act currently requires that the area utilised by a licensed premises for the sale of alcohol be agreed by them and the Board. In practice, the Board has little discretion in this matter as the location can be amended by way of a minor variation application. This type of application is subject to a “must grant” provision, i.e. the Board cannot refuse this type of application. The proposal at the moment would suggest that the Scottish government is considering legislating so that alcohol can only be displayed in certain parts of the premises. Such a change would require the Board to play a role in determining whether a proposal from an applicant is suitable. The draft response highlights the need for clarity in relation to existing operators.

Enforcement

- 4.5 The Consultation Document helpfully recognises that asking Licensing Standards Officers to take compliance action in relation to any new restrictions would be impractical. It is noted that the creation of a new regulatory body to monitor and enforce marketing restrictions will be

considered. Whether the Board will have a role in enforcing any new restrictions will depend on how the Scottish government implements any restrictions. If the restrictions are implemented by way of conditions, then the Board will have a role to play as it does with minimum unit pricing and irresponsible promotions.

5 Options Appraisal

5.1 No option appraisal was required for this report.

6 People Implications

6.1 There are no personnel issues at this stage.

7 Financial and Procurement Implications

7.1 There are no financial and procurement issues.

8 Equalities Impact Assessment (EIA)

8.1 There are no equalities impacts through considering and noting this report and approving the response to the consultation.

9 Consultation

9.1 This report will be submitted to Members of the Licensing Forum for information.

10 Strategic Assessment

10.1 Liquor licensing plays a key role to make sure our communities are resilient and thriving. It is also closely related to the Council's other strategic priority of making sure our economy is strong and flourishing. West Dunbartonshire Licensing Board will closely monitor the consultation responses and the governmental process thereafter. Any measures that improve the effectiveness of liquor licensing and address the concerns of persons within the alcohol licensing regime are to be welcomed. It remains to be seen what proposals will be adopted as law.

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Clerk to the Licensing Board
19 December 2022

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Appendices: Draft response to consultation

Background Papers: Consultation on Restricting Alcohol Advertising and Promotion

Wards Affected: All