

PART 4

OVERPROVISION

29. Pro-active assessment of overprovision

- 29.1 Section 7 of the Act requires the Licensing Board to include in its Statement of Licensing Policy a statement as to the extent to which the Licensing Board considers there to be overprovision of licensed premises, or licensed premises of a particular description, in any locality within the Licensing Board's area.
- 29.2 The Licensing Board is of the view that its assessment of overprovision is a key tool in tackling alcohol-related health harms within West Dunbartonshire. In particular, the information submitted by the NHS Greater Glasgow and Clyde is of particular importance. The Licensing Board hopes that a robust overprovision assessment underpinned by probative evidence as well as whole population measures such as minimum unit pricing can help address the foregoing health harms.
- 29.3 The Licensing Board notes that setting out a clear and transparent Assessment of Overprovision will offer a clear indication to potential applicants within the localities identified as areas of overprovision that, depending on the nature of their application, they may face abortive costs should they not rebut the presumption against the granting of the application whilst always treating each application on its own merits. The Assessment further clearly narrates the factors that the Licensing Board will have regard to when considering whether to grant an application in a locality designated as being overprovided for.
- 29.3 It is for the Licensing Board to determine which localities within the Licensing Board's area are considered for the assessment of overprovision. In identifying the localities the Licensing Board has had regard to the material gathered as part of its pre-consultation exercise (see paragraph 7 for further information).
- 29.4 In its Assessment of Overprovision, the Licensing Board has continued its established approach of utilising the Scottish Neighbourhood Statistics intermediate data zone geographies as the localities for this purpose. A number of agencies use intermediate data zone geographies to collate and publish statistics. Using these geographies allows the analysis of statistics and the number, capacities and hours of licensed premises.
- 29.5 The West Dunbartonshire area can be broken up in to 18 distinct IDZ localities. These intermediate data zones represent small geographical sections of the West Dunbartonshire Council area equivalent to an average of 4,000 household residents.
- 29.6 The Licensing Board, having examined data regarding:-
- Alcohol Related Hospital Admissions;
 - Alcohol Related Death Rate ;
 - Alcohol Related Mental Health;

- the Scottish Index of Multiple Deprivation;
- police incidents including assaults, domestic incidents, disorder & alcohol specific crimes; and
- information regarding the number, capacity and licensed hours of licensed premises;

as well as its own local knowledge and having regard to its duty to promote the licensing objectives the Licensing Board is of the view that there is overprovision of certain types of the licensed premises as detailed at paragraph 29.9 within several localities in the Licensing Board area.

- 29.7 When considering the material outlined at paragraph 29.6 the Licensing Board had regard to the impact of Minimum Unit Pricing and considering all the information before it was of the view that the information presented to it justified an approach being taken on a local level. This allows the Licensing Board to address the issues presented by the number, capacity, and hours of licensed premises in several localities within West Dunbartonshire.
- 29.8 A summary of the evidence considered by the Board in assessing overprovision can be found on the Licensing Board's [webpage](#)¹.]
- 29.9 The Licensing Board considers there to be overprovision of the following types of licensed premises namely:-
- public houses;
 - nightclubs;
 - off-sales and local convenience stores; and
 - supermarkets.
- 29.10 The Licensing Board will determine as a matter of fact whether the subject premises in an application fits within one of the foregoing categories of licensed premises. The Licensing Board will come to a view on a premises category based on the consideration of any evidence presented to it and having regard to the information disclosed within the application (including but not limited to the description of premises narrated), the operating plan and the layout plan.
- 29.11 The Licensing Board having regard to the forementioned information at paragraph 29.6 is satisfied that there is sufficient evidence to establish a dependable causal link between alcohol related harm and the number, hours and capacity of licensed premises at the level of an intermediate data zone and in order to promote the licensing objective of Protecting and Improving Public Health considers there to be overprovision of the foregoing types of licensed premises within West Dunbartonshire in the following 15 localities:-
- IZ01 Clydebank East inc. Whitecrook (part);
 - IZ02 Clydebank Central inc. Dalmuir (part) & Whitecrook (part);

¹ <https://www.west-dunbarton.gov.uk/business/licences-permits-and-permissions/west-dunbartonshire-licensing-board/>

- IZ03 Drumry & Linnvale;
- IZ04 Parkhall South, Radnor Park and North Kilbowie;
- IZ06 Faifley & Hardgate East;
- IZ08 Mountblow, Parkhall West and Dalmuir Central;
- IZ10 Barnhill, High Overtoun, Milton & Bowling;
- IZ11 Dumbarton North East – Bellsmyre & Silverton East;
- IZ12 Dumbarton Central, Dumbarton East & Townend;
- IZ13 Dumbarton West;
- IZ14 (Renton, Old Bonhill & Loch Lomond);
- IZ15 Bonhill, Lomondgate & Renton North;
- IZ16 Alexandria Central, Rosshead & Dalmonach;
- IZ17 Balloch & Alexandria North; and
- IZ18 Jamestown, Balloch North East, Haldane & Gartocharn.

Of particular relevancy to the Licensing Board is that when looking at Alcohol Related Hospital Admissions, Alcohol Related Death Rate, and Alcohol Related Mental Health, the above noted intermediate data zones have two or more indicators worse than the Scottish average.

For the avoidance of doubt, the Licensing Board considers, subject to the terms of paragraph 30, that there is currently no overprovision in the following localities:-

- IZ05 Goldenhill, Parkhall North, East Kilbowie & Hardgate Central;
- IZ07 Duntocher & Concho; and
- IZ09 Old Kilpatrick.

Maps of all 18 localities which make up the West Dunbartonshire area can be found in the appendices section of this policy.

29.12 The effect of this policy is to create a rebuttable presumption against the grant of an application within these localities for types of licensed premises noted at paragraph 23.9. 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. The Licensing Board will expect applicants who are seeking the grant of a new premises licence within the foregoing categories of premises and locality to provide robust and reliable evidence to the Board demonstrating why the benefit to the licensing objectives through the grant of their application outweighs the detriment to the licensing objectives and this policy. In particular, the Licensing Board recognises the positive health

benefits associated with increased employment opportunities as a factor that applicants may use in support of their application and a factor that may in appropriate circumstances rebut such a presumption. In particular, the Board will expect to be addressed on the benefits of granting the application in terms of each licensing objective.

- 29.13 As part of the Licensing Board's Assessment of Overprovision it has considered the number, capacity, and licensed hours of licensed premises of the types specified within each locality. The Licensing Board is aware that the capacity and hours of a premises can increase by the grant of a variation application in terms of section 29(5) of the Act. The Licensing Board considers that an application seeking an increase in capacity and/or hours will activate a rebuttable presumption against the grant of the application.
- 29.14 If an existing licence ceases to be in force this does not necessarily mean that there is capacity for a new licence of a similar capacity. The material considered by the Licensing Board evidences that there is presently an overprovision of licensed premises in particular localities within West Dunbartonshire but does not quantify the extent of that overprovision in numerical terms. In these circumstances any application seeking to replace capacity relinquished by other premises will be subject this policy. This will have particular regard to the data relating to the intermediate data zone to which the new application or application for increased capacity relates. It will also have regard to the type of premises capacity relinquished compared to the type of premises applied for.
- 29.15 The Licensing Board is aware that most of the 18 sub localities are in close proximity to areas with significant alcohol related health, crime and disorder problems. The Licensing Board is also aware that there is local evidence to suggest that persons in West Dunbartonshire, wishing to obtain alcohol from off-licences will travel up to two miles across sub-localities to purchase alcohol. Similarly persons will travel across the whole of West Dunbartonshire to attend nightclubs. Accordingly any application outwith the overprovision locality for new premises or increased capacity of existing premises of the type specified at paragraph 29.9 may be subject to an overprovision assessment. This assessment will have regard to the alcohol related crime, disorder and health data relating to both the sub locality in which the application premises are located and the sub localities from where the customers are likely to be drawn.

30. Reactive overprovision assessment

- 30.1 Sections 23(5)(e) and 30(5)(d) of the Act respectively allows the Licensing Board to refuse an application for the grant or variation of a premises licence where the Licensing Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises, in the locality.
- 30.2 It is, in the view of the Licensing Board, important to make sure that the grant of a premises licence or variation to increase the capacity or hours of a

premises licence does not result in there being an overprovision of licensed premises in a particular locality. The Licensing Board will therefore carefully consider overprovision on a reactive basis by having regard to the ground of refusal for overprovision on a case by case basis.

- 30.3 The Licensing Board recognises the value in giving potential applicants an indication of how it will approach the foregoing ground of refusal. Where a relevant application is considered by the Board it will consider the locality to be the intermediate data zone in which the premises is located. Accordingly, the Board will have regard to the number, capacities and hours of licensed premises within the relevant intermediate zone as well as any other material submitted to it as part of the application process, including but not limited to, objections, representations, anti-social behaviour reports from Police Scotland, and the Board's own local knowledge.
- 30.4 Applicants will be provided with details of premises including their type, capacity, and hours in advance of any hearing. The Licensing Board will expect to be addressed on whether the grant of the premises licence or variation will not result in an overprovision of licensed premises in that locality.