

LICENSING FORUM RECOMMENDATIONS TO LICENSING BOARD

DEVELOPMENT OF LICENSING BOARD'S NEW POLICY

1 Background

- 1.1** The Licensing Board's current Policy is effective until November 2023. A new Policy will require to be published before the expiry of the existing Policy.
- 1.2** The Licensing Board, when developing its new Policy must make sure that it promotes the five licensing objectives.
- 1.3** At the Licensing Board's meeting of 1 November 2022, the Licensing Board requested that the Licensing Forum consider information ingathered as part of the Licensing Board's pre-consultation exercise and thereafter make recommendations to it. These recommendations are to include what the Licensing Board should consider when preparing its new Policy and what localities should be considered in terms of overprovision.
- 1.4** The Licensing Forum, at its meeting of 29 November 2022 agreed to delegate this task to a working group.

2 Membership of the Working Group

- 2.1** The Sub-Group Membership is as follows:
 - Paul Smith, Representative for Entertainment Section of the Licensed Trade, Chair
 - Sergeant David Holmes, Police Scotland
 - Chris Kelly, West Dunbartonshire Health and Social Care Partnership
 - Pauline Larkin, community resident
 - Ronnie McCall, Pubwatch and trade
 - Peter Clyde, Licensing Standards
 - Michael McDougall providing secretariat support

3 Material considered by the Working Group

- 3.1** Working Group members agreed that its recommendations should be evidence-based. The Working Group had regard to the following information when preparing its recommendations:-
 - Report from NHS and West Dunbartonshire HSCP, i.e. health statistics relating to West Dunbartonshire and alcohol harm;
 - Results from a survey carried out by West Dunbartonshire HSCP about alcohol purchasing;
 - Report from Police Scotland relating to alcohol-related crime statistics in West Dunbartonshire;
 - Statistics from Licensing Standards relating to the number of licensed premises and their capacities and hours; and
 - Responses to the Licensing Board's pre-consultation exercise that included responses from trade, health organisations, and the local community.

3.2 The working group also had regard to the views of its members, who come from diverse backgrounds ranging from trade to health.

4 Response

4.1 Members agreed to review overprovision and the terms of the Policy separately. In relation to the terms of the policy Members agreed to focus on:

- Children and Young Persons' access;
- Approach to licensed hours;
- Operation of outdoor areas including their terminal hour;
- Approach to occasional licences and extended hours certificates;
- Home deliveries of alcohol; and
- Safe home requirements.

4.2 Members further agreed that it was important that their recommendations to the Licensing Board are evidence-based.

4.3 The Working Group met on two separate occasions and also discussed views via email.

5 Discussions

Overprovision - consideration of health benefits

5.1 Material submitted to the Working Group highlighted the harm that alcohol consumption causes in West Dunbartonshire. It was noted that the Licensing Board's current policy at paragraph 23.10 narrates that "*[t]he 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 [the presumption against the grant of an application].*"

5.2 The Health representative drew the Group's attention to the pre-consultation response from the West Dunbartonshire Health and Social Care Partnership and others. In particular, the statement that "*[the respondents] do not consider the employment benefits to offset the significant alcohol related health harms within West Dunbartonshire.*" It was noted that studies show that the societal costs cancel any economic benefit.¹ It was clarified that there is literature to support the contention that employment is associated with health benefits (with reference being made to Waddell and Burton, "Is work good for your health and well-being").² All members of the Working Group recognised that the opening of a licensed premises may bring benefits to a local area. However, both health and trade representatives voiced concerns that this should not necessarily follow that the Licensing Board should look favourably upon such applications. It was agreed that the Licensing Board should carefully consider the balancing of possible health benefits through employment against the health harms.

¹ Pardoe, L., 2023. Getting in the spirit?-Alcohol and the Scottish economy-Aveek Bhattacharya.

² Also see Roelfs, D.J., Shor, E., Davidson, K.W. and Schwartz, J.E., 2011. Losing life and livelihood: a systematic review and meta-analysis of unemployment and all-cause mortality. *Social science & medicine*, 72(6), pp.840-854.

- 5.3** Trade representatives of the Working Group explained that while the grant of a new licence may create employment opportunities, it may also see employment lost in other existing premises. The Working Group agreed that the Licensing Board must be cognisant of the likelihood that for every job that the grant of a licence may create, there is a real risk that another job is lost and equal weight ought to be given to jobs lost as to jobs created. For example, where an application is for a type of premises that does not replicate existing provision in the area then the Board may be of the view that the grant of the application may well create jobs however, where the application mirrors existing provision, the Board should have regard to the jobs that may be lost as a result of the grant.

Overprovision – types of premises and areas of overprovision

- 5.4** The Working Group reviewed the number and type of premises in West Dunbartonshire (see Appendix A).
- 5.5** All members agreed that the Board's current Policy whereby reliance was placed on intermediate data zones as localities, continued to be fit for purpose and allowed for statistics to be reviewed across West Dunbartonshire.
- 5.6** The Working Group agreed that it was important that they satisfy themselves that there is a dependable causal link between the availability of alcohol and an inconsistency with the licensing objectives.
- 5.7** Members were concerned at the level of alcohol-related harm evidenced by the statistics provided by NHS Greater Glasgow and Clyde. The Working Group noted that 15 of the 18 intermediate data zones had two or more indicators that met or exceeded the Scottish average. Moreover, Members noted that the Scottish average for the indicators had increased from when the Licensing Board had last considered the matter of overprovision albeit the Working Group were of the view that it was welcome that three of the 18 localities had two out of three indicators under the Scottish average (IZ05, IZ07, and IZ09). The Working Group noted that the Licensing Board has previously utilised the Scottish average as a tool to, in part, identify those areas where overprovision exists. This seemed to the Working Group to be a reasonable and proportionate way to proceed.
- 5.8** The Working Group had continued to have real concern at the levels of alcohol-related in all intermediate zones and was of the view that the Licensing Board should keep these areas under review throughout the currency of the Board's policy and through the Licensing Forum invite updates from the NHS and other partner agencies.

Occasional licences

- 5.9** Members of the Working Group were made aware of the recent case of *Keasim Ltd -v- City of Glasgow Licensing Board*. Members were concerned at the continued high level of occasional licences being issued in West Dunbartonshire.
- 5.10** The Working Group noted the high use of occasional licences and the range of events and premises licensed. For example, the working group was aware that occasional licences are used for pop-up bars and shops, festivals, and "bridging the gap", i.e. where premises have

not yet had their premises licence confirmed. The Group further noted that occasional licences are not subject to the same scrutiny as premises licence applications. They noted that this was at times appropriate but that the Licensing Board should take steps to make sure that the operation of the occasional licences promotes the licensing objectives.

Extended hours certificates

- 5.11** The Working Group agreed that while extended hours certificates were useful in allowing licensed premises with permission for on-sales to stay open longer for special events, it concluded that the current Policy of permitting one-hour additional trading to be dealt with by way of delegated authority remained reasonable and proportionate. There was a concern that a more permissive approach to extended hours certificates would place an additional burden on police resources.

Licensed hours - on-sales

- 5.12** When considering the issue of licensed hours the working group had regard to the statistics presented by Police Scotland. It was noted that statistics had been provided for the past three years. Members further noted that the covid-19 pandemic will have had an impact on these statistics. The level of alcohol-related crimes and disorder remained a concern for members. Separately, members discussed the benefits of a differential terminal hour between public house-type operations and nightclub-type operations in terms of the dispersal of persons and differential pressure on late-night transport.

Licensed hours - off-sales

- 5.13** Given the level of alcohol harm in West Dunbartonshire, members of the Working Group were supportive of the Licensing Board's current policy whereby the terminal hour for off-sales type premises is restricted to 2000 hours with a 2200 hours only granted where the Licensing Board is satisfied that enhanced control measures are in place.

Children and Young Persons' access

- 5.14** Members of the Working Group expressed a diverse range of views about the nature and extent of Children and Young Persons' access to licensed premises. Some members expressed concern concerning the wording of the Licensing Board's current Policy, which could be seen as overly permissive. Concern was also expressed regarding the normalisation of alcohol drinking and its impact on Children and Young Persons. Others members highlighted the importance of family-friendly premises and, in particular, the need to cater for tourists and visitors to West Dunbartonshire.
- 5.15** The Working Group noted the importance of ensuring that Children and Young Persons are only permitted access to suitable and appropriate premises.

Safe home requirements

- 5.16** Having considered detail around the policy concept of “Safe Home”, all members agreed it was, of course, important that members of staff working in licensed premises are safe. Members discussed practical difficulties around imposing requirements on licensed premises in this regard and also noted that the safety of workers in this context applied to a wide range of industries. Regard was had to whether such a requirement was legal under the Licensing (Scotland) Act 2005.

Home deliveries

- 5.17** The Members of the Working Group discussed the rapid growth of home deliveries. There was a concern as to how the purchase and delivery of this alcohol takes place. It was noted that alcohol is increasingly purchased and consumed at home. Reference was made to the survey carried out by the West Dunbartonshire Health and Social Care Partnership (it was noted that the sample was small). Members expressed a general concern around home deliveries and were of the view that the Licensing Board should satisfy itself that premises delivered alcohol in a manner consistent with the licensing objectives.

Licensed outdoor areas

- 5.18** Members of the Working Group noted concerns expressed through the pre-consultation exercise around the visibility of alcohol drinking and its impact on children and young persons as well as the vulnerable. Differing views were expressed around the relevant factors for determining the suitability of an outdoor area. All agreed that the Licensing Board should carefully examine applications that seek permission for outdoor drinking. Regarding a suitable terminal hour, the Group agreed that 2200 hours remained appropriate to protect residential amenity. However, the Board should listen to arguments for exceptions where it can be demonstrated that the licensing objective of preventing public nuisance will not be compromised.

6 Recommendations

- 6.1** The Working Group agree to make the following recommendations to the Licensing Board:
- The Licensing Board consider the following in relation to its overprovision assessment: (1) satisfy itself that it is appropriate in all the circumstances to grant a licence bearing in mind the significant health harms being seen in areas of overprovision and whether the health benefits from employment support that; and (2) have cognisance of the wider impact that a grant of a licence in overprovision locality may have.
 - That the Licensing Board should retain its evidence-led overprovision assessment. With this in mind the Working Group was of the view that the material satisfies it that all localities are overprovided for the exception of IZ05, IZ07 and IZ09.
 - The occasional licence part of the policy should be kept under review pending any legislative developments.
 - The Licensing Board should develop a pool of licence conditions that can be attached to the occasional licence depending on its purpose. These conditions should ensure that the licensing objectives are complied with by the licence holder. Trade representatives on the group noted that a pool of conditions would allow applicants to know what conditions may be attached to the licence.

- The terms of the current Policy in relation to extended hours certificates should be retained.
- That licensed hours for on-sales type premises remain unchanged.
- The licensed hours for off-sale type premises remain unchanged and the requirement for additional control measures for premises opening past 2000 hours should be retained.
- After detailed discussion whereby a range of differing views were heard in full, the Working Group concluded to recommend that the policy should allow for access where the purpose is the consumption of food or attendance at a pre-booked function and that terminal hour for Children and Young Persons should remain at 2200 hours provided that the Licensing Board consider exemptions on a case by case where the premises are catering for tourists.
- The Licensing Board consider, where appropriate, attaching conditions setting out its requirements around Children and Young Persons access (provided that the conditions are lawful and enforceable).
- The Licensing Board should develop a robust policy around home deliveries of alcohol including a suite of conditions that the Board will consider attaching to licences where permission for home deliveries is sought.
- The Group recommends that the Licensing Board review applications that seek permission for outdoor drinking carefully, having cognisance of local geography. It also recommends that a 2200 hours terminal hour remains appropriate in most cases.

Appendix A – List of premises in West Dunbartonshire

IDZ	On-sales	Off-sales	Both on-sales and off-sales
IZ01 Clydebank East inc. Whitecreek (part)	0	6	1
IZ02 Clydebank Central inc. Dalmuir (part) & Whitecreek (part)	6	9	11
IZ03 Drumry & Linnvale	2	3	1
IZ04 South Parkhall, Radnor Park and North Kilbowie	2	3	2
IZ05 Goldenhill, Parkhall North, East Kilbowie & Hardgate Central	2	5	5
IZ06 Faifley & Hardgate East	0	3	1
IZ07 Duntocher & Concho	1	2	2
IZ08 Mountblow, Parkhall West and Dalmuir Central	2	5	2
IZ09 Old Kilpatrick	1	5	4
IZ10 Barnhill, High Overtoun, Milton & Bowling	0	5	6
IZ11 Dumbarton North East- Bellsmyre & Silverton East	0	4	0
IZ12 Dumbarton Central, Dumbarton East & Townend	6	12	11
IZ13 Dumbarton West	1	1	2
IZ14 Renton, Old Bonhill & Loch Lomond West	1	1	4
IZ15 Bonhill, Lomondgate & Renton North	0	4	2
IZ16 Alexandria Central, Rosshead & Dalmonach	0	9	4
IZ17 Balloch & Alexandria North	8	7	15
IZ18 Jamestown, Balloch North East, Haldane & Gartocharn	2	5	5

Appendix B – Police statistics as they relate to alcohol

IDZ	Violence per 10,000 head of population	Domestic abuse crimes & incidents per 10,000 head of population	Alcohol specific crimes per 10,000 head of population
IZ01 Clydebank East inc. Whitecrook (part)	6 th	3 rd	10 th
IZ02 Clydebank Central inc. Dalmuir (part) & Whitecrook (part)	4 th	2 nd	1 st
IZ03 Drumry & Linnvale	7 th	4 th	9 th
IZ04 South Parkhall, Radnor Park and North Kilbowie	18 th	10 th	18 th
IZ05 Goldenhill, Parkhall North, East Kilbowie & Hardgate Central	5 th	14 th	2 nd
IZ06 Faifley & Hardgate East	13 th	7 th	13 th
IZ07 Duntocher & Concho	8 th	16 th	17 th
IZ08 Mountblow, Parkhall West and Dalmuir Central	1 st	1 st	7 th
IZ09 Old Kilpatrick	15 th	18 th	16 th
IZ10 Barnhill, High Overtoun, Milton & Bowling	17 th	17 th	6 th
IZ11 Dumbarton North East- Bellsmyre & Silverton East	12 th	13 th	11 th
IZ12 Dumbarton Central, Dumbarton East & Townend	10 th	15 th	3 rd
IZ13 Dumbarton West	9 th	5 th	15 th
IZ14 Renton, Old Bonhill & Loch Lomond West	14 th	8 th	14 th
IZ15 Bonhill, Lomondgate & Renton North	16 th	12 th	12 th
IZ16 Alexandria Central, Rosshead & Dalmonach	3 rd	6 th	8 th
IZ17 Balloch & Alexandria North	11 th	9 th	4 th
IZ18 Jamestown, Balloch North East, Haldane & Gartocharn	2 nd	11 th	5 th

Appendix C – Deprivation in West Dunbartonshire

IDZ	Deprivation – percentage of population living in most deprived 40% data zones
IZ01 Clydebank East inc. Whitecreek (part)	100
IZ02 Clydebank Central inc. Dalmuir (part) & Whitecreek (part)	100
IZ03 Drumry & Linnvale	100
IZ04 South Parkhall, Radnor Park and North Kilbowie	100
IZ05 Goldenhill, Parkhall North, East Kilbowie & Hardgate Central	22
IZ06 Faifley & Hardgate East	100
IZ07 Duntocher & Concho	41
IZ08 Mountblow, Parkhall West and Dalmuir Central	85
IZ09 Old Kilpatrick	15
IZ10 Barnhill, High Overtoun, Milton & Bowling	17
IZ11 Dumbarton North East- Bellsmyre & Silvertown East	71
IZ12 Dumbarton Central, Dumbarton East & Townend	14
IZ13 Dumbarton West	86
IZ14 Renton, Old Bonhill & Loch Lomond West	68
IZ15 Bonhill, Lomondgate & Renton North	93
IZ16 Alexandria Central, Rosshead & Dalmonach	88
IZ17 Balloch & Alexandria North	58
IZ18 Jamestown, Balloch North East, Haldane & Gartocharn	52