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RESPONSE FROM NHS GREATER GLASGOW AND CLYDE, WEST DUNBARTONSHIRE HEALTH AND SOCIAL CARE PARTNERSHIP, AND WEST DUNBARTONSHIRE ALCOHOL AND DRUG PARTNERSHIP

Part 1, Introduction

This part of the [Policy](#) introduces the Licensing Board and sets out the background to the policy. At paragraph 7, the Licensing Board has explained in some detail as to how it has developed this new policy.

1. Do you have any comments on this part of the policy?

Yes – Making the language used more accessible would benefit the public and partners (rebuttable; abortive etc). This is relevant to the full policy, there is legal terminology throughout.

The addition of sections 7, 9.1, 12.5 and 12.6 is welcomed.

7.2 – meeting link might be useful/accessible. 7.3(2) [note there are two 7.3's] suggest removing reference to Daniel Carter – add link to meeting of same and/or stating a representative of NHSGGC attended.

2. Should the Licensing Board refer to any other matters in its introduction?

Yes – Paragraph 10 Tourism – whilst recognising the needs of the local tourism industry, this section would be enhanced if the same was true of the local population who reside in these tourist areas. eg *“Arrangements will be made for the Licensing Board to receive, when appropriate, reports on the needs of the local tourist economy for the area to ensure that these are reflected in their consideration....alongside the needs of local residents”*

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Part 2, The Licensing Objectives

This part of the [Policy](#) outlines the Board's general approach to promoting the licensing objectives. In so doing the Policy narrates matters that it expects licence holders to have regard to when operating their premises.

3. To what extent do you think these measures promote the licensing objectives?

Very effectively: It is noted the new draft policy has strengthened its commitment to the Public Health and Children and Young Persons objectives. Sections 17.1, 17.2, 17.3, 18.3, 18.4 and 18.5 are welcomed.

Very effectively

Fairly effectively

Only a little

Not at all

4. Do you have any other comments on this section?

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Part 3, Licences

This part of the [Policy](#) sets out the Licensing Board's expectations around the terms of a premises licence (with the exception of licensed hours), for example, this part addresses the Licensing Board's thoughts on Children and Young Person's access, control measures around home deliveries of alcohol and the terms of occasional licences and extended hours certificates.

5. Do you consider the access arrangements for Children and Young Persons to be suitable?

Yes – however it could go further with the following suggestions

Paragraph 18.1 states 'The Licensing Board welcomes applications' we believe the word 'welcome' gives the impression the policy wishes to encourage applications from premises that accommodate children and young people. Therefore, we would recommend replacing 'welcomes' with 'will consider'.

6. The terms of the access of children to pre-booked functions has been tightened, with the Licensing Board proposing that such functions would need to be private. Do you consider that this change promotes the licensing objectives?

Yes.

7. The Licensing Board proposes to permit Young Persons unattended in licensed premises until 10pm (unless attending a private pre-booked function). Do you think this is appropriate?

No – Whilst young persons, 16-18 years, are legally allowed unattended in licensed premises until 10pm, we strongly believe this should not be explicitly supported by the policy. This only serves to promote this legality rather than consider the impact the policy will have on the normalisation of young persons in licensed premises.

8. The Licensing Board has codified the conditions that it would usually attach to premises licences where Children and Young Persons are permitted on the premises at appendix 1 part A. Do you consider these conditions promote the licensing objectives?

Yes. Please note items 4 and 8 are repetitive. We suggest the deletion of 4 and inclusion of 8 as this point is stronger.

9. The Licensing Board at paragraph 21 has introduced the requirement for off-sale type premises to have a refusal book. Do you consider this to be an appropriate and reasonable requirement?

Yes.

10. The Licensing Board, having regard to feedback received through its pre-consultation exercise, has set out that it will usually attach conditions to premises licences where home deliveries of alcohol

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are authorised. These conditions can be found appendix 1, part C.

Do you think these conditions promote the licensing objectives?

Yes. However, this could be strengthened if point 1 set the expectation delivery staff must have appropriate mandatory training to ensure Challenge 25 is adhered to; and if point 5 stated no deliveries should be left unattended, including in safe spaces.

11. Do you have any comments as to these conditions, especially from a practical point of view?

The proposed conditions are welcomed and would be beneficial if adopted and enforced. Unfortunately, in practice, deliveries from warehouses out with West Dunbartonshire or from neighbouring local authorities (Yoker/Drumchapel to Clydebank etc) will not operate to these standards, thus they are likely to have limited impact unless introduced as national measures.

12. Following feedback obtained through the pre-consultation exercise, the Licensing Board has developed a standard set of conditions to be attached to occasional licences to promote licensing objectives. These conditions can be found at appendix 1 part E. Are these conditions appropriate for an occasional licence?

Only a little

13. Do you have any further comments about part 3 of the Policy?

Yes. In regard to item 5 and baby changing facilities, we feel this should be expanded and used only where appropriate, to avoid potentially promoting the use of alcohol around babies eg. Baby facilities for an occasional licence if needed for a venue hosting a wedding as opposed to a venue hosting a baby shower. Also, for item 6, we believe staff training should apply to both voluntary and non-voluntary organisations with no exceptions.

Item 12 - these measures alone are unlikely to be sufficient to offset the risk that occasional licenses may generate harms in terms of the licensing objectives (particularly if they are used recurrently and are subject to less scrutiny).

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Part 5, Licensed hours of trading

14. The Licensing Board, having had regard to feedback through its preconsultation exercise, is not proposing to amend its standard licensed hours or exceptions to licensed hours. Do you support this position?

Yes.

15. Please describe any impact the current licensed hours have on you.

No response.

16. If you think that the Licensing Board should consider any additional conditions for when an exception from standard licensed hours is sought, i.e. for restaurants or premises offering significant entertainment facilities, please describe these.

As noted in our pre-consultation response, there is evidence to show the impact of policies regulating alcohol trading times on alcohol related harm. Sanchez-Ramirez and Voaklander (2018) say that laws limiting when people can buy and sell alcohol can help lower the number of injuries, homicides and crimes related to alcohol. As such, we believe extended licensed hours will lead to increased alcohol consumption and in turn increased alcohol harm. This will place increasing pressure on the health and social care system, particularly hospitals, during certain times of the year that attract extended hours, such as Christmas and New Year and we ask that this be taken into consideration.

Part 6, Board procedure

- 17. This part of the Policy has been expanded to give both applicants and members of the public an understanding of how the Licensing Board will conduct its business. Is this useful?**

Very useful – The transparency of this section will support public and partner participation in the licensing process by enhancing understanding, while setting expectations.

- 18. Is there anything else that should be covered in this section?**

No.

- 19. Do you have any other comments about the proposed statement of licensing policy?**

We welcome many of the new additions and believe the draft policy, with a few slight revisions, is fit for purpose for the years ahead.

- 20. Do you agree with the new proposed overprovision localities and the data used to support them being identified as such?**

Yes

- 21. What impact do you think the current Assessment of Overprovision has had on the existing overprovision localities?**

To date the Licensing Board has not rejected a single application on the grounds of overprovision.

- 22. Do you think the Licensing Board should take into account the licensed hours of premises when considering whether there is an overprovision of licensed premises, or licensed premises of a particular description, in a locality?**

Yes – Given that licensed hours are considered by the Board when assessing overprovision, any applications for additional hours should not be granted in areas deemed as overprovided. Increased hours allow alcohol to be available for a longer period of time which will inevitably increase alcohol consumption and subsequent harms (see our response to Q16).

- 23. Are there any other matters you think that the Licensing Board should take into account when considering whether there is an overprovision of licensed premises, or licensed premises of a particular description, in a locality?**

Yes. Patron capacity should be considered, particularly for variations adding outdoor areas or extensions to premises. Display capacity should also be considered if being increased, including additional capacity at festive periods,

especially in intermediate zones where there are supermarkets which already have significant alcohol capacity.

24. Do you agree with the Licensing Board's approach to capturing variations to increase capacity or hours as part of the Overprovision Assessment?

Strongly agree.

25. Do you have any comments on this aspect?

No.

26. Do you agree with the Licensing Board's approach to overprovision on a case by case basis (outwith its proactive assessment)? For example, it is proposed that the Licensing Board utilises intermediate zones. Is this is the best way to determine locality

Strongly agree.

27. Do you have any comments on this aspect?

No.

28. Do you have any other comments about overprovision?

Yes. Overprovision policies are only effective if Licensing Boards uphold them. It is anticipated during the life cycle of the new policy we observe successful local application of its use: to protect the communities of West Dunbartonshire.

In relation to the following statement "*The Licensing Board proposes that where an applicant can demonstrate that the grant of an application would create increased employment opportunities, then that may be a factor that rebuts the presumption against grant of an application.*" We do not consider the employment benefits to offset the significant alcohol related health harms within West Dunbartonshire. Furthermore, we strongly believe that having the above statement within the policy contradicts the boards aim of utilising the assessment of overprovision in addressing health harms. It is our view that the board can take cognisance of this factor without it being specifically stated within the policy.

Response from Police Scotland

Do you have any comments on this part of the policy?

Appears relevant and pertinent to the work carried out in developing the licensing policy during the pre-consultation phase.

Should the Licensing Board refer to any other matters in its introduction?

No - appears straight forward and to the point.

To what extent do you think these measures promote the licensing objectives?

Very effectively

Do you have any other comments on this section?

Appears appropriate and relevant, providing a general overview of the considerations that should and/or would be required, without being too exhaustive or trying to cover every eventuality in respect of the licensing objectives.

Do you consider the access arrangements for Children and Young Persons to be suitable?

Yes

The terms of the access of children to pre-booked functions has been tightened, with the Licensing Board proposing that such functions would need to be private. Do you consider that this change promotes the licensing objectives?

Yes

The Licensing Board proposes to permit Young Persons unattended in licensed premises until 10pm (unless attending a private pre-booked function). Do you think this is appropriate?

Yes

The Licensing Board has codified the conditions that it would usually attach to premises licences where Children and Young Persons are permitted on the premises at appendix 1 part A. Do you consider these conditions promote the licensing objectives?

Fairly effectively

The Licensing Board at paragraph 21 has introduced the requirement for off-sale type premises to have a refusal book. Do you consider this to be an appropriate and reasonable requirement?

Yes

The Licensing Board, having regard to feedback received through its pre-consultation exercise, has set out that it will usually attach conditions to premises licences where home deliveries of alcohol are authorised. These conditions can be found appendix 1, part C. Do you think these conditions promote the licensing objectives?

Yes

Following feedback obtained through the pre-consultation exercise, the Licensing Board has developed a standard set of conditions to be attached to occasional licences to promote licensing objectives. These conditions can be found at appendix 1 part E. Are these conditions appropriate for an occasional licence?

Very effectively

Do you have any further comments about part 3 of the Policy?

No

The Licensing Board, having had regard to feedback through its pre-consultation exercise, is not proposing to amend its standard licensed hours or exceptions to licensed hours. Do you support this position?

Yes

This part of the Policy has been expanded to give both applicants and members of the public an understanding of how the Licensing Board will conduct its business. Is this useful?

Very useful

Is there anything else that should be covered in this section?

No

Do you have any other comments about the proposed statement of licensing policy?

No

Do you agree with the new proposed overprovision localities and the data used to support them being identified as such?

Very effectively

What impact do you think the current Assessment of Overprovision has had on the existing overprovision localities?

Not a great deal in respect of the current financial climate.

Do you think the Licensing Board should take into account the licensed hours of premises when considering whether there is an overprovision of licensed premises, or licensed premises of a particular description, in a locality?

Yes

Are there any other matters you think that the Licensing Board should take into account when considering whether there is an overprovision of licensed premises, or licensed premises of a particular description, in a locality?

Existing considerations seem appropriate.

Do you agree with the Licensing Board's approach to capturing variations to increase capacity or hours as part of the Overprovision Assessment?

Agree

Do you have any comments on this aspect?

No

Do you agree with the Licensing Board's approach to overprovision on a case by case basis (outwith its proactive assessment)? For example, it is proposed that the Licensing Board utilises intermediate zones. Is this is the best way to determine locality

Agree

Do you have any comments on this aspect?

No

Do you have any other comments about overprovision?

No

EH response to West Dunbartonshire Licensing Board's consultation on its statement of licensing policy and assessment of overprovision

Michael,

Some comments/questions from EH in response on the Licensing Policy review;

Section 15.3 . No mention of EH consultation in this section. EH are the enforcing authority for the regulation of health and safety standards in relation to staff and public safety standards within such licensed establishments therefore it is felt that EH should also be noted as one of the consultees on this aspect in addition to Building Standards.

Section 24.2. Change single use plastics “should” be avoided to “must” be avoided as this is now a legal requirement from 1 June 2022. (The Environmental Protection(Single-use Plastic Products) (Scotland) Regulations 2021. Enforced by EH.

Section 26.3: Typo. Environment Health. Change to Environmental Health.

Section 27.3. Refers to Festive Period being defined in Section 26. It should refer to Section 33 for this.

Section 43.3: Refers to the “new” legislation regime.

Noise Specific Issues:

- One of the key licensing objectives is ‘preventing public nuisance’. Although this is expanded on somewhat in section 16 there is still no definition of what constitutes a public nuisance to make it distinct from a private nuisance or a statutory nuisance. Could this be clarified?
- Section 16.1 states that the ‘Licensing Board intends to protect local communities from *any* negative impact from the operation of licensed premises.’ Recent cases and discussions between licensing and EH have resulted in a requirement for EH to demonstrate that a statutory noise nuisance exists before any action can be taken by licensing against the licensed premises. The gap between ‘any negative impact’ and a statutory noise nuisance is quite significant. Could this section be clarified, or reworded if necessary to reflect the actual position that the Board will take on noise impact.
- Section 23.4 refers to the requirement to follow the guidance contained within the ‘good practice guide on the control of noise for pubs and clubs’. Does this only apply to outside drinking areas or to the premises in general?
- Section 7.8 of the IOA good practice guide states that ‘careful consideration should always be given when siting beer gardens in order to minimise the risk of disturbance to neighbours’. Can you advise what the Licensing Board would determine would constitute ‘careful consideration’ in relation to this?

Thanks

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[Redacted]

[Redacted]

Subject: Fw: West Dunbartonshire Licensing Board's consultation on its statement of licensing policy and assessment of overprovision

Good afternoon

For information, the West Dunbartonshire Licensing Board is consulting on new statement of licensing policy and assessment of overprovision. The Health and Social Care Partnership suggested that it be useful to make sure you are aware of this consultation.

Following an extensive pre-consultation exercise with key stakeholders, the Licensing Board has prepared a draft statement of licensing policy and assessment of overprovision. These documents have regard to the information ingathered and comments received.

The Licensing Board now wants to hear comments on the terms of the draft statement of licensing policy and assessment of overprovision. It is hoped that responses received will be considered at the Licensing Board meeting of 11 October 2023.

The survey can be accessed at <https://arcg.is/11PCPa> or comments can be emailed directly to me.

The deadline is **Friday 8 September 2023**.

Please do get in touch with any questions.

Regards
Michael

Michael McDougall
Section Head - Licensing
West Dunbartonshire Council