



## REPORT TO GARIOCH AREA COMMITTEE – 28 AUGUST 2018

### LICENSING (SCOTLAND) ACT 2005

### SECTION 6 & SECTION 7 – REVIEW OF ABERDEENSHIRE NORTH, CENTRAL AND SOUTH DIVISIONAL LICENSING BOARDS' LICENSING POLICY STATEMENTS AND OVERPROVISION POLICY STATEMENTS

#### 1 Recommendations

The Garioch Area Committee is asked to consider the terms of the Aberdeenshire Divisional Licensing Boards' draft Policy Statement in its entirety and, in particular, the changes that are being made as highlighted at Section 2.4 of this report and determine whether to make comments to the appropriate divisional licensing board(s) in relation thereto.

#### 2 Background/Discussion

##### Formal Consultation on draft Licensing Policy Statement

2.1 The Aberdeenshire North, Central and South Aberdeenshire Licensing Boards are formally consulting on their draft Policy Statement between 2<sup>nd</sup> July and 13<sup>th</sup> September 2019.

2.2 The draft Policy Statement can be found at:

<https://www.aberdeenshire.gov.uk/media/22825/licensing-policy-statement-final-consultation-version.pdf>

2.3 The Boards are asking the Area Committee to consider and comment on the draft Policy Statement as a whole, the changes to the Policy Statement highlighted at paragraph 2.4 below and the impact it will have on their local Area.

##### What is Changing?

2.4 Currently, each Board has a Policy Statement in relation to its divisional area. Moving forward, the Boards are considering the following changes:

##### **All Boards**

- There will be one, conjoined Policy Statement moving forward which highlights the local variations in policy between the Boards, where appropriate.
- The new policy document brings the Boards' main policy and supplementary policies into one, easily accessible, document, rather than have separate policies in almost identical terms and having multiple documents for people to make reference to.
- Each Board has separately determined that there is a finding of no overprovision in each of their respective areas [pages45-53]
- The Boards are introducing a requirement for all Licence Holders to produce a vulnerability policy [page 11]
- The Boards have determined that certain types of events, which primarily focus on children and young persons will not be deemed to be suitable for occasional licences [page 62]

- The Boards are reviewing their pool conditions for occasional licences
- The Boards are discouraging the use of end of aisle displays of alcohol in off sale premises [page 21]
- The Boards are discouraging the provision of rounds of high ABV shots in licensed premises which encourage patrons to consume high strength alcohol in a short space of time. [page 20]

### **The North Divisional Licensing Board – shown in pink in the policy**

- has put forward **two options** in terms of how they include their hours policy within the statement and wish to consider the views of the public in this regard prior to their final determination [pages 54-58 (page 54 – Existing wording and page 57 – simplified wording)]
- is removing the ability for licence holders to obtain early morning opening from 7.00a.m., restricting opening hours to 9.00am for on sale premises [pages 54 and 57]
- is removing the ability for on sale premises to operate for 24 hours on Hogmanay [pages 56 and 58]
- is working on guidance for licence holders and operators in relation to the responsible operation of bus runs within the Board's area [page 69]
- is reviewing its pool conditions for premises licences and is seeking views on the revised conditions [pages 25-31]

### **The Central Divisional Licensing Board – shown in green in the policy**

- is requiring all beer gardens and outside drinking areas to be included as part of the premises licence. [page 18] (already in place in North)
- is adopting a policy restricting successive occasional licence applications [page 64] (already in place in North)
- Is permitting members of registered clubs to sign in up to 5 guests [page 81] (already in place in North)

### **The South Divisional Licensing Board – shown in blue in the policy**

- is requiring all beer gardens and outside drinking areas to be included as part of the premises licence. [page 18] (already in place in North)
- is adopting a policy restricting successive occasional licence applications [page 64] (already in place in North)
- Is permitting members of registered clubs to sign in up to 5 guests [page 81] (already in place in North)

### **Other Changes**

The policy is also being updated as follows:

- To reflect the introduction of the Local Improvement Outcomes Plan (“the LOIP”) [page 22]
- To reflect the introduction of the requirement for a Disability Access and Facilities Statement [pages 16 and 73]
- To reflect the introduction of Minimum Unit Pricing [page 21]
- To reflect the introduction of GDPR [pages 8 and 68]
- There will be a foreword by the Board Convenors [page 1]
- To reflect the introduction of a Glossary to be included at the end of the finalised policy document
- The final policy will be hyperlinked wherever possible

- The introduction of colour, picture and icons to make the document more appealing and easier to read.

### **Legal Requirements**

2.5 Alcohol licensing is administered in terms of the Licensing (Scotland) Act 2005 [“the Act”]. The Act sets out a two tier system of licensing:

1. For premises that sell or supply alcohol, and
2. A system of personal licences for the people who work in licensed premises, particularly in a managerial role.

2.6 The Act provides that the licensing system is to be administered by Licensing Boards. Aberdeenshire has three divisional Licensing Boards – North, Central and South. Each divisional Board is responsible for liquor licensing in respect of its divisional area. The divisional board areas cover the old district council boundaries as follows:

- North – Banff and Buchan District Council Area (Banff and Buchan, Buchan and North Formartine areas)
- Central – Gordon District Council Area (South Formartine, Garioch and part of Marr areas)
- South – Kincardine and Deeside District Council Area (the remainder of Marr and Kincardine & Mearns areas)

2.7 The Licensing Boards are quasi-judicial bodies, each being independent of the other and of Aberdeenshire Council. Board Members are local Councillors appointed to the Boards at the First Full Council Meeting after a local government election.

### **The Licensing Objectives**

2.8 There are five licensing objectives underpinning the Act which Licensing Boards, the Licensed Trade and Licensing Forums are expected to promote. These are set out at section 4 of the Act and are:

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

### **Requirement for Licensing Policy Statements**

2.9 Section 6 of the Act requires that every Licensing Board **must**, before the beginning of each licensing policy period, publish a statement of their policy with respect to the exercise of their functions under this Act during that period.

2.10 Previously, Licensing Boards required to review their policy statements every three years. This has now changed and the “relevant date” by which the policy is to be published is the date occurring 18 months after an ordinary election of councillors for local government areas takes place under Section 5 of the Local Government etc. (Scotland) Act 1994.

The first relevant date is 1<sup>st</sup> November 2018. Policy Statements will now be in place for approximately 5 years instead of 3 years.

2.11 In preparing policy statements, Licensing Boards **must** ensure that the policy seeks to promote the five licensing objectives and consult with:

- The Local Licensing Forum for the Board's area (if the membership of the Forum is not fully representative, such person or persons as appear to the Board to be representative of those interests not represented on the Forum)
- The relevant Health Board, and
- Such other persons as the Board thinks appropriate.

Further information on who the Licensing Boards are consulting with can be found within Supplementary Policy Statement 2 in the draft policy statement. [pages 42-44]

2.12 Section 7 of the Act provides that each licensing policy statement published by a Licensing Board **must**, in particular, include a statement as to the extent to which the Board considers there to be overprovision of (a) Licensed premises, or (b) licensed premises of a particular description, in any locality within the Board's area.

2.13 In preparing an overprovision policy statement, the Boards:

- Must have regard to the number and capacity of licensed premises in the locality;
- May have regard to such other matters as the Board thinks fit including, in particular, the licensed hours of licensed premises in the locality; and
- Must consult with:
  - The Chief Constable
  - Such persons as appear to the Board to be representative of the interests of (i) Holders of premises licences in respect of premises within the locality, (ii) persons resident in the locality, and
  - Such other persons as the Board thinks fit.

2.14 A Licensing Board must have regard to its policy statement in exercising its functions under the Act.

2.15 Policy Statements should be evidence based, SMART and reviewable.

### **What have the Licensing Boards Done so far?**

2.16 The Boards have:

- Gathered statistical evidence from Police Scotland, Licensing Standards Officers and Public Health;
- Considered the terms of the Annual Reviews of the Action Plans attached to current policy statements;
- Collated information on the number of licensed premises in North, Central and South Aberdeenshire, the capacity of those premises and the hours operated in those premises;
- Identified issues that need to be addressed and conducted a public survey monkey exercise on those issues;
- Held engagement sessions with Police Scotland, Licensing Standards Officers and Public Health representatives;
- Considered the terms of the CRESH document published by Alcohol Focus Scotland in relation to the evidence provided for Aberdeenshire;

- Determined that the localities for the purpose of overprovision will be the ward areas for all of the divisional boards;
- Agreed that, moving forward, the Boards would have one policy document for all of the divisional Boards which highlight local variations in policy as appropriate;
- Approved the terms of a draft policy document for the purposes of a formal consultation exercise.

2.17 The Council's Head of Finance and the Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments have been incorporated.

### **3 Scheme of Governance**

3.1 The Area Committee is able to consider and take a decision on this item in terms of paragraph B1.2 of the Committee Powers section of the Scheme of Governance which allows Area Committees to consider and to comment on any matter or policy which impacts their Area.

### **Implications and Risk**

- 4.1 The Licensing Boards have prepared a draft Equality Impact Assessment which will be finalised at the end of the consultation period, a copy of which is attached as Appendix 1 to this report. It is expected that there will be positive outcomes, particularly in regard to persons with disabilities with the introduction of the requirement for the Disabled Access and Facilities Statement and policies protecting children and young persons from harm.
- 4.2 There are no staffing and financial implications arising from this report.
- 4.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as these documents do not apply to the Licensing Boards.
- 4.4 The Boards have prepared a draft Town Centre Impact Assessment which will be finalised at the end of the consultation period, a copy of which is attached as Appendix 2 to this report. It is expected that there will be positive impacts across all towns in Aberdeenshire.

**Ritchie Johnson**  
**Director of Business Services**

**Report prepared by:- Fiona M. Stewart, Senior Solicitor (Democratic Services), Depute Clerk to the Licensing Board**

**Date: 25<sup>th</sup> July 2018**

**References: Office365/teams/licensing policy review/files/area committee reports/Garioch Area Committee**

EQUALITY IMPACT ASSESSMENT

Stage 1: Title and aims of the activity (“activity” is an umbrella term covering policies, procedures, guidance and decisions).	
Service	Business Services
Section	Legal & Governance
Title of the activity etc.	Licensing Policy Statement
Aims of the activity	To review and publish revised Liquor Licensing Policy Statement
Author(s) & Title(s)	Fiona Stewart, Senior Solicitor (Democratic Services)

Stage 2: List the evidence that has been used in this assessment.	
Internal data (customer satisfaction surveys; equality monitoring data; customer complaints).	Licensing Board Statistics
Internal consultation with staff and other services affected.	
External consultation (partner organisations, community groups, and councils).	Survey Monkey and meetings with external consultees: Police Scotland, NHS Grampian, Aberdeenshire Alcohol and Drug Partnership,
External data (census, available statistics).	Government statistics, NHS Scotland statistics, Police Scotland statistics.

Other (general information as appropriate).	The review is statutory under the Licensing (Scotland) Act 2005 and related Regulations. The policy, once approved, will be in place until November 2022 when we will revise the policy however should new evidence be brought to the Board at any point during the life of the Policy that warrants revision, this assessment will be updated to reflect those changes. All information used in compiling the policy will be made available on our website. We specifically asked for equalities information during our information gathering part of our strategic assessment.
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Stage 3: Evidence Gaps.	
Are there any gaps in the information you currently hold?	

Stage 4: Measures to fill the evidence gaps.		
What measures will be taken to fill the information gaps before the activity is implemented? These should be included in the action plan at the back of this form.	Measures:	Timescale:

Stage 5: Are there potential impacts on protected groups? Please complete for each protected group by inserting "yes" in the applicable box/boxes below.				
	Positive	Negative	Neutral	Unknown
Age – Younger	Yes			
Age – Older				
Disability	Yes			
Race – (includes Gypsy Travellers)			Yes	
Religion or Belief			Yes	
Gender – male/female			Yes	
Pregnancy and maternity			Yes	

Sexual orientation – (includes Lesbian/ Gay/Bisexual)			Yes	
Gender reassignment – (includes Transgender)			Yes	
Marriage and Civil Partnership			Yes	

**Stage 6: What are the positive and negative impacts?**

Impacts.	Positive (describe the impact for each of the protected characteristics affected)	Negative (describe the impact for each of the protected characteristics affected)
Please detail the potential positive and/or negative impacts on those with protected characteristics you have highlighted above. Detail the impacts and describe those affected.	Age – Younger – there will be a positive impact on young persons as one of the policy aims is protecting children and young persons. The Boards will work with the Trade and other partners to ensure that children and young persons are educated about alcohol and protected from its negative aspects	
	Disability – the new policy statement contains requirement for premises to prepare a Disability Access Statement as part of their application. This reflects recently introduced statutory requirements	

**Stage 7: Have any of the affected groups been consulted?**

<p>If yes, please give details of how this was done and what the results were. If no, how have you ensured that you can make an informed decision about mitigating steps?</p>	<p>Public consultation</p>
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**Stage 8: What mitigating steps will be taken to remove or reduce negative impacts?**

<p>These should be included in any action plan at the back of this form.</p>	<p>Mitigating Steps</p>	<p>Timescale</p>

**Stage 9: What steps can be taken to promote good relations between various groups?**

<p>These should be included in the action plan.</p>	
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**Stage 10: How does the policy/activity create opportunities for advancing equality of opportunity?**

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**Stage 11: What equality monitoring arrangements will be put in place?**

<p>These should be included in any action plan (for example customer satisfaction questionnaires).</p>	
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**Stage 12: What is the outcome of the Assessment?**

<p>Please</p>	<p>1</p>	<p>No negative impacts have been identified –please explain.</p>
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complete the appropriate box/boxes		
	2	Negative Impacts have been identified, these can be mitigated - please explain. * Please fill in Stage 13 if this option is chosen.
	3	The activity will have negative impacts which cannot be mitigated fully – please explain. * Please fill in Stage 13 if this option is chosen

\* Stage 13: Set out the justification that the activity can and should go ahead despite the negative impact.

Stage 14: Sign off and authorisation.

Sign off and authorisation.	Service and Team	Governance Team, Legal and Governance, Business Services	
	Title of Policy/Activity	<b>LICENSING (SCOTLAND) ACT 2005 SECTIONS 6 &amp; 7: REVIEW OF POLICY STATEMENTS AND OVERPROVISION POLICY STATEMENTS</b>	
	<b>Authors:</b> I/We have completed the equality impact assessment for this policy/activity.	Name: Iain Meredith Position: Solicitor (Governance) Date: 23 <sup>rd</sup> May 2018 Signature:	Name: Peter Robertson Position: Senior Solicitor (Governance) Date: 23 <sup>rd</sup> May 2018 Signature:

	Name: Fiona M. Stewart Position: Senior Solicitor (Democratic Services) Date: 23 <sup>rd</sup> May 2018 Signature:	Name: Position: Date: Signature:
Consultation with Service Manager	Name: Lauren Cowie Date:	
Authorisation by Director or Head of Service	Name: Geraldine Fraser Position: Acting Head of Legal and Governance Date:	Name: Position: Date:
If the EIA relates to a matter that has to go before a Committee, Committee report author sends the Committee Report and this form, and any supporting assessment documents, to the Officers responsible for monitoring and the Committee Officer of the relevant Committee. e.g. Social Work and Housing Committee.		South, North and Central Licensing Boards Date: 6 <sup>th</sup> , 22 <sup>nd</sup> and 27 <sup>th</sup> June 2018
EIA author sends a copy of the finalised form to: equalities@aberdeenshire.gov.uk		Date:
(Equalities team to complete) Has the completed form been published on the website? YES/NO		Date:



**APPENDIX 2**



**TOWN CENTRE FIRST IMPACT ASSESSMENT (TCFIA)**

Aberdeenshire Council recognises that town centres have an important role to play in the sustainable development of local economies.

The Town Centre First Impact Assessment (TCFIA) allows officers in all services to identify the detrimental and beneficial effects that decisions we take may have on our town centres. It will allow officers to consider any implications that council decisions may have on Aberdeenshire's key town centres. Examples of this include changes to: the provision of civic and community facilities, employment land, retail, residential buildings, cultural assets, transportation, leisure and tourism.

A Town Centre Ambassador has been nominated within your service, you can locate your Town Centre First Ambassador through the Town Centre First Principle Arcadia pages.

**Project Information**

Title of Committee Paper	LICENSING (SCOTLAND) ACT 2005 SECTIONS 6 & 7: REVIEW OF POLICY STATEMENTS AND OVERPROVISION POLICY STATEMENTS REPORT SEEKING APPROVAL OF DRAFT POLICY STATEMENTS
Service	Business Services
Department	Legal and Governance
Author	Fiona M. Stewart, Senior Solicitor (Democratic Services), Depute Clerk to the Board
Have you consulted your Town Centre First Ambassador?	NO



Could your Project Paper cause an impact in one (or more) of the identified town centres? – Peterhead, Fraserburgh, Inverurie, Westhill, Stonehaven, Ellon, Portlethen, Banchory, Turriff, Huntly, Banff, Macduff.

Yes - YES

All of the above

If approved would your project cause an impact (either positive or negative) with regards to the footfall of any of these town centres?

Yes – A positive impact

All of the town centres

3) Please describe the aims of the committee paper?

The Boards are reviewing their Policy Statements and Overprovision policy statements. These are designed to ensure compliance with and promotion of the five licensing objectives within Aberdeenshire. The report to the Boards seeks approval of the draft document and authorisation for formal consultation thereof between July and September 2018

4) What are positive and negative impacts?

Impact	Describe the positive impact?	Describe the negative impact?
Please detail any potential positive and negative impact the project may have on Aberdeenshire's Key Town Centre	Compliance with the Five Licensing objectives: Prevention of Crime and Disorder Securing Public Safety Preventing Public Nuisance Protecting and Improving Public Health Protecting Children and Young Persons from Harm will enhance our town centres by allowing local businesses to thrive while, at the same time, protecting our local communities from the adverse impacts associated with alcohol, encouraging tourism and promoting sensible and safe alcohol consumption	



What mitigating steps will be taken to reduce or remove negative impacts? If none see Q6.

Mitigating Steps

Timescale

Set out the justification that the activity can and should go ahead despite the negative impact.

Question 7: Sign off and Authorisation	
<p><b>Author:</b> I have completed the TCIA impact assessment for this policy/ activity.</p>	<p>Name: Fiona M. Stewart</p> <p>Position: Senior Solicitor (Democratic Services)</p> <p>Date: 21/05/2018</p> <p>Signature:</p>
<p>Consultation with Service Manager</p>	<p>Name: Lauren Cowie</p> <p>Position: Acting Service Manager (Governance)</p> <p>Date:</p>
<p>Authorisation by Director or Head of Service</p>	<p>Name: Geraldine Fraser</p> <p>Position: Acting Head of Legal and Governance</p> <p>Date:</p>
<p>6) Have you consulted with your Town Centre First Ambassador?</p>	<p>No</p>
<p>TCFIA author sends a copy of the finalised form to: ia@aberdeenshire.gov.uk</p>	<p>Date Sent:</p>

