

Renfrewshire Licensing Board
Formal Consultation on Statement of Licensing Policy
Issues Paper for Formal Consultation

May 2018

Renfrewshire Licensing Board requires to carry out a detailed consultation exercise in relation to review of its Statement of Licensing Policy. The Statement of Licensing Policy will set out the policy on which the Licensing Board will base their decisions on how they regulate the sale of alcohol in Renfrewshire. The policy will have to be published by early November 2018 and will apply until 2022, when a further, update policy is due to be published.

The formal consultation is now open and responses are required by 3rd August 2018.

Prior to the current consultation, the Licensing Board undertook an initial, informal consultation exercise between December 2017 and February 2018 to obtain a range of views as to what should be included in their new licensing policy. Following that initial, informal consultation, a draft Statement of Licensing Policy has been prepared for the purposes of consultation. A link to this draft is available at <http://www.renfrewshire.gov.uk/Review-Licensing-Policy-Statement-2018-2022>

In addition, the Board have approved this consultation document to assist consultees in responding. The Board would welcome comments from those who wish to respond in relation to the issues set out below. However, consultees may wish to comment on other matters contained in, or which they believe should be covered by, the policy statement, in addition to the matters below.

The Board would welcome views on the following matters-

Overprovision Assessment in relation to Licensed Premises

In response to the initial, informal consultation, responses were received from a number of parties as to whether overprovision of licensed premises exists in any locality in Renfrewshire. The Board in its existing policy declares an area in Paisley Town Centre overprovided, in respect of pub type premises used predominantly or exclusively for the sale of alcohol (this does not include restaurant, hotel or nightclub premises).

Following consideration of responses to the initial, informal consultation, the Board decided to select a locality in Paisley Town Centre (being the area declared overprovided in the current Statement of Licensing Policy) for the purpose of this formal consultation. The Board therefore is seeking views as to whether this area is overprovided in terms of licensed premises and, if so, whether it is overprovided in terms of all licensed premises or premises of a particular type, eg off-sales only premises (where alcohol is sold for consumption off the premises), supermarkets, pubs, nightclubs, etc. If you are responding as a local resident, or on behalf of particular local residents, the Board would welcome your views in relation to overprovision, of all licensed premises or type of licensed premises, within the area listed below in which you live.

Consultees should note that, when the Board decides whether overprovision exists in any locality, it must have regard to the number and capacity of licensed premises there and now may also consider other matters, such as the licensed hours of those premises.

A plan showing the locality agreed for this consultation with information on numbers of premises, capacities and licensed hours may be viewed at <http://www.renfrewshire.gov.uk/Review-Licensing-Policy-Statement-2018-2022>

The Board would also welcome views from any consultees on whether any exceptions should be provided within the terms of its policy, should it find overprovision, to allow potential applicants for a licence to consider what information would assist the Board in deciding whether to make an exception to any overprovision policy. Consultees should note that the effect of an overprovision policy is to create a rebuttable presumption against the grant of a licence in a locality. It would remain open to an applicant for a licence, in an area considered overprovided, to seek to persuade the Licensing Board that their application should still be granted, as an exception to the policy.

The full responses to the initial, informal consultation may be viewed at <http://www.renfrewshire.gov.uk/Review-Licensing-Policy-Statement-2018-2022>

Licensing Objectives

It has been proposed by Police Scotland that the Board consider attaching a condition of licence to new premises licences, whether for on-sales or off-sales premises, requiring installation of CCTV. They suggest that the condition would require a member of staff fully trained on the operation of the CCTV system to be present on the premises during their licensed hours. The Board will require to consider whether it should attach such a condition to all new licences. It should be noted that the condition would not normally apply to existing premises already

licensed. The Board would appreciate views from consultees on this proposal from Police Scotland and on whether the existing 'control measures' set out in the current Statement of Licensing Policy should be amended to promote the licensing objectives, ie- preventing crime and disorder, securing public safety, preventing public nuisance, protecting and improving public health and protecting children and young persons from harm.

Police Scotland also propose that the Board consider suggesting further control measures within licensed premises, including the wearing of high visibility clothing by door stewards and the effective dispersal by door stewards of patrons. The control measures suggested could read as follows-

- "Door supervisors to be easily identifiable by wearing high-visibility clothing"
- "Door supervisors to be instructed to encourage persons leaving the premises to do so in an orderly fashion without causing disturbance"

The Board would welcome responses from consultees in relation to the above comments from Police Scotland.

Children's Access

Police Scotland, Alcohol Focus Scotland and Renfrewshire Health and Social Care Partnership have suggested that a change be made to the terms of the Statement of Licensing Policy specifying the hours during which children should be allowed access to licensed premises. This could cover occasional licences, as well as those premises licences allowing the sale of alcohol for consumption on the premises.

Views from consultees are sought in relation to whether hours for children (0-15 years) or young persons (16-17 years) should be specified. Until now, applications have been made to the Board and considered on their own merits. Should the Board agree to introduce a policy detailing access by children and/or young persons, that policy would normally apply only to new premises seeking a licence, or events for which an occasional licence is sought.

Where consultees wish to respond in relation to this issue, the Board would welcome views as to whether any policy on access hours ought to differentiate between children and young persons, or the age of the children or young persons.

In this regard, Renfrewshire Health and Social Care Partnership have suggest that the Board may wish to consider whether access by children of all ages (0-15) should cease at 11pm and whether young persons should require to leave at 1pm, which may be before the end of functions which they are attending. The Board may wish also to consider whether children (and young persons) should be allowed "general

access” to all premises, which may include those considered “vertical drinking establishments”, used predominantly or exclusively for the sale of alcohol.

The Board would also welcome views on whether any such change to children and young person’s access in terms of the policy should cover their access to sporting events. It would be open to the Board to specify hours of access by children and young persons in relation to such events, and other occasions covered by occasional licences.

Licensed Hours

The following issues have been raised in response to the initial, informal consultation, upon which the views of consultees are sought:-

- Should the commencement of off sales hours on a Sunday be restricted to 11am in relation to future licensing applications? (currently, premises can enjoy the statutory commencement hour of 10am).
- Should a policy be introduced restricting the licensed hours for new off-sales licensing applications until an earlier hour than 10pm (if so, please specify what suitable policy hours would be). In the event of such a change of policy, should the policy provide that an applicant is able to seek hours until 10pm if he can persuade the Board this is not inconsistent with the licensing objectives, having regard to factors such as whether there is CCTV on the premises and other control measures?

Licence Conditions

Police Scotland have suggested a local licence condition be introduced in relation to CCTV for new premises licence applications. The Board would be interested, in view of the initial response from Alcohol Focus Scotland, as to what other licensing conditions should be considered. Any conditions require to be relevant to the licensing objectives (ie- preventing crime and disorder, securing public safety, preventing public nuisance, protecting and improving public health and protecting children and young persons from harm). The Board would welcome, as with any suggestions, the views of consultees as to why these conditions should be applied for these licensing objectives.

Enforcement

In response to the initial, informal consultation, it has been suggested that the policy statement be extended to explain the role of Licensing Standards Officers (LSOs). The existing policy statement contains a section on Enforcement, at Section C, Paragraph 30. Given the initial responses from consultees, the Board would

welcome views on how this section might be expanded. The Board is aware that members of the public, particularly those seeking to lodge an objection to an application for a licence or those who have concerns in relation to a particular licensed premises, as well as applicants for licences, are likely to contact the Licensing Standards Officers in the first instance. Given this, the Board considers that it would be of assistance to members of the public to provide more information on the role and remit of these officers within the terms of the Statement of Licensing Policy.

To assist consultees, a draft additional section is set out below, which, if agreed by the Board, could be inserted into the policy statement between existing Paragraphs 30.2 and 30.3, in the terms suggested below. The views of consultees would be welcomed on this proposal:-

“30.3 The Act provides that Licensing Standards Officers’ general functions include providing information and guidance; supervising compliance by licence holders with licensing legislation and their licence conditions and providing mediation. Premises covered by a premises licence are visited by Licensing Standards Officers for their compliance with licensing legislation and licence conditions. Where a premises licence has recently been issued, or where a variation (other than a minor variation) has been granted, Licensing Standards Officers will visit those premises as a priority to ensure compliance with the above requirements.

30.4 The Board recognises that, for members of the public who do not deal with the complexities of the licensing legislation on a daily basis, lodging objections or representations to a licence application (or an application for a review hearing) is likely to be a daunting experience. The Board also recognises that, for those people, the Licensing Standards Officers may be the first contact they have with the licensing authority. The role of Licensing Standards Officers is not to make applications, or objections, on behalf of members of the public, but they are available to offer appropriate support to all parties seeking to be involved in the Board’s licensing processes. They will also be able to provide information as to application procedures and may be able to signpost members of the public to helpful resources, such as the Toolkit Resource published by Alcohol Focus Scotland.

30.5 The Licensing Standards Officers may be contacted by email at enforcement.licensing.cs@renfrewshire.gov.uk and by telephone at 0141-618-7084. Where issues are raised with the Licensing Standards Officers which do not relate wholly to licensing matters, the Licensing Standards Officers will be able to provide contact details for other Council Services who may be suitably placed to assist.”

Alcohol Deliveries

The Board would welcome views from consultees as to any particular local licence conditions might be attached to new premises licences seeking to provide an alcohol delivery service. Previous applications have resulted in conditions being attached on the recommendation of Police Scotland. The Board would welcome the views of consultees on the suitability of the suggested conditions below and any other conditions which consultees may consider should be attached to such premises licences:-

- “1. A robust age verification policy requires to be in place for deliveries that include alcohol and is strictly adhered to by all delivery staff, incorporating a Challenge 25 approach. Documentation presented as verification of age requires to be of a type prescribed in the Licensing (Scotland) Act 2005 or Regulations under that Act as suitable for that purpose.*
- 2. Deliveries of alcohol must accompany a delivery of food.*
- 3. An order register to be kept on the premises containing details of the items ordered/ despatched, details of when the order was placed and when the alcohol was despatched.*
- 4. A delivery/refusal register requires to be maintained by the delivery driver containing details of person accepting delivery or, if delivery was refused, the reason for any refusals.”*

Extended Use of Occasional Licences

In their response to the initial, informal consultation, Alcohol Focus Scotland expressed concern that occasional licences may currently be used to circumvent the need to have a premises licence. The revised draft Statement of Licensing Policy agreed by the Board for the purposes of formal consultation proposes that applications for occasional licences, where it is appropriate for a premises licence to be obtained, are referred to two Members of the Licensing Board for consideration.

An alternative approach to this is followed in another Licensing Board area, where such applications may not be considered under delegated authority where premises have been repeatedly operating on the basis of occasional licences. This alternative approach is set out below:-

“Repeated applications for Occasional licence for the same unlicensed premises, and which are:-

- Not for detailed specific events; and/or*
- For activities that have been occurring (either in identical or largely similar terms) on the premises regularly over a period of at least 3 months;*

will not generally be considered to be suitable for the grant of an Occasional Licence and will not be granted by the Board under delegated authority but will require a hearing before the Board. The Board expects such premises to be operating under a Premises Licence.

Section 59(6) of the Act specifies the grounds for refusal of an application for an Occasional Licence. These grounds include “that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives”. These licensing objectives include:-

- *Securing public safety.*
- *Protecting and improving public health.*

The degree of scrutiny afforded by an application for a Premises Licence is not present where premises operate under a series of consecutive Occasional Licences. Accordingly, in the interests of better securing public safety and/or for better protecting and improving public health, the Board considers that it is not generally appropriate for a premises to operate on a series of consecutive Occasional Licences rather than apply for a Premises Licence and, in these circumstances, the Board will require an applicant to explain why an application for a Premises Licence is not being made.”

The views of consultees would be welcomed in relation to how the Board should approach these applications in future.

The Licensing Board would welcome any comments from consultees prior to 3rd August 2018.

Kenneth A. Graham
Clerk to the Licensing Board
May 2018