

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

April 2023

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 2023 and will apply until 2027, when a further, update policy is due to be prepared for later publication.

The formal consultation is now open and responses are required by **Friday 21st July 2023**.

Prior to the current consultation, the Licensing Board undertook an initial, informal consultation exercise between December 2022 and February 2023 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, with some necessary updating, has been prepared for the purposes of consultation. A link to this draft is available at

<https://www.renfrewshire.gov.uk/article/3207/Statement-of-Licensing-Policy-Alcohol-Licensing>

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 requires to have regard to statutory guidance in exercising its functions. This statutory guidance can be accessed at the link below. Chapters 4 and 5 of this guidance relate to licensing policy statements and overprovision assessments (which form part of licensing policy statements). The Board is now consulting on both matters in tandem.

<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2023/01/licensing-scotland-act-2005-section-142-guidance-licensing-boards/documents/licensing-scotland-act-2005-section-142-guidance-licensing-boards/licensing-scotland-act-2005-section-142-guidance-licensing-boards/govscot%3Adocument/licensing-scotland-act-2005-section-142-guidance-licensing-boards.pdf>

The Board will welcome views on all aspects of its existing Statement of Licensing Policy, but would welcome views on the below matters which have been highlighted in its initial consultation exercise. Consultees should note that the Board's policy requires to seek to promote the five licensing objectives, which are: preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health, and protecting children and young persons from harm.

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 the locality listed below for the purposes 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: e.g., off-sales only premises (where alcohol is sold for consumption off the premises) or on-sales premises. Consultees should state which types of premises they consider overprovided: this may be more specific to the type of operation provided at any premises, for example: pub type premises; nightclubs; supermarkets; convenience stores, 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 whether there may be overprovision, of all licensed premises or of particular type(s) 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.

In this regard, consultees may wish to consider the information set out in the statutory guidance at the above link, particularly at Paragraphs 5.26 to 5.30 which

may assist them. The Board seeks to gather robust evidence from consultees during this process to inform its new overprovision assessment.

A plan showing the locality agreed for this consultation with information on numbers of premises, capacities and licensed hours may be viewed at

<https://www.renfrewshire.gov.uk/article/3207/Statement-of-Licensing-Policy-Alcohol-Licensing>

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 application 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

<https://www.renfrewshire.gov.uk/article/3207/Statement-of-Licensing-Policy-Alcohol-Licensing>

The Board has decided to consult on the existing Paisley Town Centre declared overprovision area. A plan of this area is available at the link above.

Children's Access

In response to the initial, informal consultation, Renfrewshire Health and Social Care Partnership have suggested that clear and explicit guidance should be provided within the new policy as to when alcohol should be excluded within premises used by "young people", such as libraries, hairdressers and sports facilities.

The Licensing Board considers applications for the sale of alcohol. Unless alcohol is to be sold, within the meaning of the Licensing (Scotland) Act 2005, the Board is unable to regulate these matters. Consultees should note that any application for a licence requires to be considered against the grounds set out in the licensing legislation and on the basis of the information before the Board. However, consultees may wish to provide views on what measures licensed premises should take to promote the licensing objective of protecting children and young persons from harm in premises where children (0-15 years) and young persons (16-17 years) may be present.

Equally, consultees may wish to set out any proposed changes in relation to when children and young persons should be able to access licensed premises and the hours during which they may do so and the parts of premises they may access. Any such change would however not amend the children and young person's access to existing licensed premises.

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 for any exception to that policy that an applicant is able to seek hours until 10pm if they can persuade the Board this is not inconsistent with the licensing objectives (having regard to factors such as the control measures in place at the premises to promote the licensing objectives)?

Alcohol Deliveries

The Board's current Statement of Licensing Policy, when agreed and published in 2018, introduced new conditions for premises providing home deliveries of alcohol. These conditions are in the following terms:

1. A robust age verification policy requires to be in place for deliveries that include alcohol and must be 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. An order register must be kept on the premises containing details of the items ordered/ despatched, with details of when the order was placed and when the alcohol was despatched.

3. A delivery/refusal register requires to be maintained by the delivery driver containing details of the person accepting delivery or, if delivery was refused, the reason for any refusals.

4. No delivery of alcohol should be left unattended or with children or young persons where there is no adult available to accept delivery.

Renfrewshire Health and Social Care Partnership have suggested possible changes to these conditions. The Board would therefore welcome views from consultees as follows:

- Should condition 1 above in relation to alcohol deliveries be extended to state: (i) that drivers employed at licensed premises should be trained in relation to the Challenge 25 age verification process to the same level as staff who require to be trained to sell alcohol on the premises, and required to undertake this process when delivering alcohol; and (ii) that, if a third party provides the delivery service, it is the premises licence holder's responsibility to ensure that the third party follows the Challenge 25 age verification process when delivering items including alcohol?
- Should condition 4 in relation to alcohol deliveries be extended to state that alcohol must also not be left with any person who is visibly intoxicated?

Occasional Licences

In their response to the initial, informal consultation, Renfrewshire Health and Social Care Partnership request that governance around events should be strengthened to encourage "no alcohol events" where an event involves children and young persons such as football award ceremonies, school fetes and sporting events. The views of consultees are sought as to whether the current policy should be reviewed to set out how the Board may approach any application for the licensing of such events and, if so, what that approach should be. (Consultees should note that, in the absence of representation on an application received, the Board is required to grant an occasional licence).

Renfrewshire Health and Social Care Partnership also state that they support an approach that any applicant who repeatedly applies for occasional licences should submit an application for a premises licence after a period of 13 weeks.

While limits on the number and duration of occasional licences have been consulted upon at a national level, no statutory limits on these have yet been introduced.

Views are sought however as to whether repeated applications, which are not in relation to specific events and which relate to activities occurring on premises in similar or identical terms regularly over a period of at least 3 months, should be referred to the Licensing Board for a decision. Consultees may also wish to comment on how any change to the policy in this regard should be introduced for premises which have already been operating on a series of occasional licences and whether any latitude should be allowed to premises who can demonstrate that they have required to continue applying for occasional licences for a longer period due to circumstances outwith their control.

Separately, while not raised directly during the initial consultation, views are sought from consultees in relation to the licensing of external drinking areas, which are usually licensed in Renfrewshire by way of an application for an occasional licence. A practice has arisen where a number of additional conditions of licence have been requested by Licensing Standards Officers and attached to many of these licences. The conditions of licence usually applied are as follows:

1. *That the occasional licence be prominently displayed at point of sale.*
2. *That staff are either personal licence holders or have completed the 2 hours statutory staff training and staff training records are available on the premises for inspection.*
3. *That a Notice at point of entry to the premises clearly states the access policy in relation to children and young persons in relation to the sale or supply of alcohol.*
4. *Where deliveries of alcohol are provided the following requirements must be met:-*
 - (a) A robust age verification policy is required to be in place for deliveries that include alcohol and must strictly be 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 the Act as suitable for that purpose.*
 - (b) An order register must be kept on the premises containing details of the items ordered/despached, with details of when the order was placed and when the alcohol was despatched.*
 - (c) A delivery/refusal register requires to be maintained by the delivery driver containing details of the person accepting delivery or, if delivery was refused, the reason for the refusals.*
 - (d) No delivery of alcohol should be left unattended or with children or young persons where there is no adult available to accept delivery.*
5. *That all alcohol is consumed by patrons in the outside drinking area agreed in the layout plan as supplied by the applicant.*

6. *That all drinks must be sold in plastic or toughened glass receptacles. All bottled drinks must be decanted into such receptacles.*
7. *That no alcohol is to be removed from the designated outside drinking area as outlined in the plan attached to the licence. The area boundary must be clearly defined by a physical barrier, with clear signage indicating that no alcohol may be removed. The designated outside drinking area shall be supervised by staff at all times.*
8. *That all customers must be seated. No vertical drinking shall be allowed.*
9. *That a notice to be easily legible located at point of exit to remind customers to be respectful of neighbouring residents / property on leaving the area to reduce noise and litter to prevent nuisance of anti-social behaviour.*

In addition, in relation to a number of external drinking areas, again licensed usually by way of an occasional licence, a condition of licence is often requested by Police Scotland restricting the terminal hour relating to the external licensed area, usually until 9pm, particularly in town centre areas. Such a condition has been attached to numerous occasional licences for the purpose of preventing public nuisance.

The views of consultees in relation to whether any or all of the above additional conditions should now be formally introduced within the new policy would be welcomed. The Board would welcome any explanation from consultees as to why these conditions should be adopted as a matter of policy with reference to the above licensing objectives.

Miscellaneous

The views of consultees more generally on the Board's current Statement of Licensing Policy will be welcomed. Other general comments received during the informal consultation were to suggest that the new policy might, in addition to the above matters, provide further information about joint working initiatives involving the Licensing Board and provide information about wider strategies. Consultees should feel free to comment further on these and any other relevant matters.

The Licensing Board would welcome any comments from consultees by Friday 21st July 2023.

Mark Conaghan
Clerk to the Licensing Board
27 April 2023