

To: Renfrewshire Licensing Board

On: 11th May 2018

Report by Clerk to the Licensing Board

Review of Statement of Licensing Policy for 2018-2022: Responses to Initial Consultation and Further Procedure

1. Introduction

1.1 The purpose of this report is:

- (i) To advise the Board of responses received to the initial, informal consultation in relation to the Board's Statement of Licensing Policy and to seek the Board's agreement on the terms of a proposed draft Statement of Licensing Policy and other documentation for the purposes of formal consultation; and
- (ii) To request the Board identify localities for the purposes of formal consultation on its required assessment of overprovision in terms of section 7 of the Licensing (Scotland) Act 2005 ("the Act"), in order to enable the Board to seek the views of consultees as to whether there may be overprovision, in those localities, of all licensed premises or premises of a particular description.

2. Background

2.1 The Board considered a report by the Clerk to the Licensing Board on 18th December 2017 in relation to the arrangements for preparation of a new Statement of Licensing Policy. The Board agreed at that meeting to carry out an initial, informal consultation on the terms of the Board's existing Statement of Licensing Policy. The existing Statement of Licensing Policy is attached at Appendix 1. This policy was published in 2013, with a supplementary statement published in 2015, to cover the period to November 2016. However, a subsequent change in legislation extended the duration of this policy statement to November 2018. The new legislation aligns the review of policies to local government election cycles.

2.2 The Board consulted with a wide range of stakeholders between December 2017 and 2nd February 2018. A list of the parties initially consulted is attached at Appendix 2. In response to this initial, informal consultation, responses were received from the following persons and organisations:

- Mary McElhinney, Linwood Community Council and Renfrewshire Community Council Forum
- Shaziah Latif, for Dr Catherine Chiang, Consultant in Public Health Medicine, NHS Greater Glasgow and Clyde

- Hazel McGuire, Jaybees Bar
- Billy Gold, Scottish Licensed Trade Association
- Hillington Estate Bowling Club
- Johnstone Bowling Club
- Police Scotland
- Margaret Dymond
- Aidan Collins, for Alcohol Focus Scotland (AFS)
- Renfrewshire Health and Social Care Partnership
- ALDI Bathgate

2.3 A copy of these initial responses is attached at Appendix 3, together with comments on each response from the Clerk.

2.4 The Board is invited to consider the terms of these responses and the Clerk's comments. The terms of the existing Statement of Licensing Policy have meantime been revised in draft, for the purpose of formal consultation. This proposed revised draft is attached at Appendix 6. The revised version at this stage takes account of changes to licensing legislation and necessary changes to the Scheme of Delegation at Section A, Paragraph 5, as well as other changes by way of update, including some changes suggested in the initial consultation responses. Given the detailed suggestions made in response to the initial, informal consultation, however, a separate "Issues Paper" has also been prepared for the purposes of the formal consultation. This is attached at Appendix 7. The proposed Issues Paper seeks views from consultees on various matters raised in responses to the initial, informal consultation, to assist the Board to agree the final terms of its new Statement of Licensing Policy. The Board is asked to agree the terms of the proposed draft Statement of Licensing Policy and Issues Paper for the purposes of the formal consultation.

3. Overprovision

3.1 The Board's Statement of Licensing Policy must, in particular, include a statement as to the extent to which the Board considers there to be overprovision of licensed premises, or licensed premises of a particular description, in any locality within the Board's area. This may now include the whole of the Board's area. It is for the Licensing Board to determine the localities for the purpose of assessing overprovision.

3.2 The existing Statement of Licensing Policy, at Section A, Paragraph 16, declares an area in Paisley Town Centre as overprovided, in respect of "Liquor or Pub Type Premises", which includes Pub Type Premises used exclusively or predominantly for the sale of alcohol and, as such, does not include restaurant, hotel or nightclub premises. This Paragraph has not been updated at this stage in the draft, revised Statement of Licensing Policy at Appendix 6, except as relates to legislative changes. This section will be updated when, following the formal consultation, the final version of the Statement of Licensing Policy is reported to the Board for its approval.

- 3.3 During the initial, informal consultation, the Board sought views from consultees as to what localities should be identified as possibly overprovided, to assist the Board in selecting localities for the purpose of the formal consultation.
- 3.4 Several of the responses contained comments relevant to overprovision. However, specific information was provided in this regard by Police Scotland, Renfrewshire Health and Social Care Partnership, Dr Catherine Chiang and Mrs Margaret Dymond.
- 3.5 Police Scotland wish the Board to continue to declare the existing designated overprovision area in Paisley Town Centre as overprovided. They have not identified a need for any additional areas to be declared overprovided. They have produced information in relation to crime and antisocial behaviour occurring in that locality.
- 3.6 Renfrewshire Health and Social Care Partnership have not directly asked the Board to identify any additional areas as possibly overprovided at this stage. However, they have listed a number of areas, by intermediate geography, which they consider to show poor alcohol-related health statistics. The response from Dr Catherine Chiang provides further statistical evidence in relation to alcohol-related health harms in these intermediate geography areas.
- 3.7 Renfrewshire Health and Social Care Partnership also wish the Board to consider declaring the existing Paisley Town Centre area overprovided in terms of all licensed premises, and not restricted, as at present, to liquor or pub-type premises.
- 3.8 Mrs Dymond suggests in her response that the existing Paisley Town Centre area be expanded to include an area in the West End of Paisley.
- 3.9 The Board requires to identify localities upon which to focus at this stage, as suggested in existing statutory guidance, for the purpose of formal consultation as to whether overprovision exists in any or all of them, either in respect of all licensed premises or certain types of licensed premises. The Board is now able to choose its entire area as a locality. It is not, however, required to identify localities throughout its entire area. The selection of localities is a matter for the discretion of the Licensing Board. The choice of locality must, however it is done, be rational and capable of justification in the event of a legal challenge.
- 3.10 Appendix 4 provides plans of possible localities which the Board may identify for the purposes of formal consultation, as suggested by the respondents to the initial, informal consultation detailed in Paragraph 3.4 to 3.8. These plans are accompanied by details of the numbers and capacities of licensed premises in those possible localities, together with information as to the licensed hours of those premises. Under section 7 of the Act, as amended, the Board will require to have regard to the number and capacities of licensed premises in an identified locality and may have regard to such other matters

as the Board thinks fit including, in particular, the licensed hours of licensed premises in the locality, when it assesses overprovision in the identified localities. At that stage, the Board will wish to consider if there is a dependable causal link between the operation of licensed premises in a locality/ localities and alcohol-related harms. To provide an overall context in Renfrewshire, Appendix 9 provides a list of all licensed premises within Renfrewshire, together with details of their capacities.

3.11 The possible localities which have been identified for the purposes of formal consultation, and which are shown on Plans A to L in Appendix 4, are-

- A) Existing declared overprovision area in Paisley Town Centre
- B) Alternatively, an extended Paisley Town Centre overprovision area, as proposed by Mrs Dymond
- C) Paisley Central
- D) Paisley North West
- E) Paisley North
- F) Paisley South East
- G) Paisley Ferguslie
- H) Paisley Gallowhill and Hillington
- I) Paisley North East
- J) Johnstone North West
- K) Renfrew West
- L) Linwood South.

3.12 The Board is asked to consider which, if any, of these possible localities to identify as possibly overprovided for the purposes of formal consultation. This will enable consultees to address, in response to the formal consultation, whether any identified localities may be overprovided, either in terms of all licensed premises, or premises of a particular description.

3.13 The Board should note, however, in selecting the localities for further consultation, that the existing Paisley Town Centre overprovision area overlaps into the Paisley Central intermediate geography area and the extended overprovision area proposed by Mrs Dymond overlaps with the Paisley Central and Paisley North West intermediate geography areas.

4. Further Procedure

4.1 The draft Statement of Licensing Policy at Appendix 6 has been updated in relation to technical matters, in advance of the formal consultation which is now required. It is proposed that the Board seek views from consultees at the formal consultation stage in relation to the terms of the draft Statement and the matters highlighted in the Issues Paper at Appendix 7. It is proposed that the Board obtains as many views as possible in relation to these matters prior to agreeing the final terms of its Statement of Licensing Policy. Respondents will however be able to comment on the terms of the draft policy as they think fit, other than in relation to the matters highlighted in the "Issues Paper".

- 4.2 The Board is also requested to select localities at this stage to allow it to seek views in the formal consultation as to whether overprovision exists in those selected localities, in respect of all, or certain types, of licensed premises. This is also reflected within the terms of the Issues Paper.
- 4.3 A list of proposed consultees is attached at Appendix 9 and it is also recommended that the Board instruct officers to take steps to publicise the consultation. In preparing a licensing policy statement, a Licensing Board must consult the licensing forum (and certain representative people, if the Forum membership is not representative of specified people), the health board and such other persons as the Board thinks appropriate. Further, in relation to the assessment of overprovision, the Board is required to consult the chief constable, the health board, representatives of premises licences and residents and such other persons as the Board thinks fit.
- 4.4 The Issues Paper asks members of the public, as far as overprovision is concerned, to identify whether they live in one of the localities selected for the purposes of the formal consultation and, if they do, invites their comments in relation to whether they think their area is overprovided, either for all premises or certain types of premises. The proposed list of consultees for formal consultation includes a number of persons representative of people with protected characteristics. This will assist in the identification of any adverse equality impacts to be considered prior to agreement, and subsequent publication, of the policy.
- 4.5 It is proposed that the formal consultation commences as soon as possible upon the terms of this report being agreed, with a final date for responses to the consultation of 3rd August 2018. Once the formal consultation is complete, a further report will be brought back to the Board in August or September advising the Board of the responses received and requesting the Board to determine the terms of its Statement of Licensing Policy for the period to 2022. It is likely a further report will require to be brought to the Board thereafter to approve the final version of the policy for publication.
- 4.6 The Board is requested at this stage to agree publication of the responses to the initial, informal consultation and will be asked to agree to publish the responses also to the formal consultation in due course.

5. Additional Information

- 5.1 The Board, in exercising its functions, requires to have regard to the terms of statutory guidance published under section 142 of the Act. The current Statutory Guidance can be viewed at the following link-

<http://www.gov.scot/Resource/Doc/175487/0049459.pdf>


The Scottish Government are currently reviewing the terms of the statutory guidance and issued to Licensing Boards new Chapters in relation to licensing policy statements and overprovision assessments, on a non-statutory basis, in February 2018. This, non-statutory, Guidance was reported to the Board at its meeting on 5th March 2018.

- 5.2 The Board will note that its Statement of Licensing Policy should seek to promote the five licensing objectives set out in the Act. In setting its policy, a Licensing Board must have regard to the above statutory guidance and also give appropriate weight to the views of those consulted. A Statement of Licensing Policy may set out a general approach to the making of decisions but must not ignore, or be inconsistent with, the provisions in the Act.
- 5.3 By way of additional information, Appendix 5 contains details of the number and capacities of licensed premises within the existing declared overprovision locality in Paisley Town Centre over the period from March 2013 to March 2018. It also provides numbers of licensed premises, both on and off sales, within Renfrewshire over the same period.
- 5.4 The Board will also be aware that minimum unit pricing was introduced with effect from 1st May 2018

6. Recommendations

- 6.1 It is recommended that the Board:-
 - 6.1.1 Agree to publish the responses received during the initial, informal consultation;
 - 6.1.2 Consider the terms of the draft proposed Statement of Licensing Policy for formal consultation at Appendix 6, the responses to the informal consultation and accompanying Clerk's comments at Appendix 3 and the information provided at Appendix 4 detailing the numbers and capacities of licensed premises and information on current licensed hours in relation to those premises;
 - 6.1.3 Approve the terms of the proposed draft Statement of Licensing Policy attached at Appendix 6 and the proposed "Issues Paper" attached at Appendix 7, for the purposes of the formal consultation;
 - 6.1.4 Authorise officers to consult formally, as required by section 6 of the Licensing (Scotland) Act 2005, in relation to the said proposed draft Statement of Licensing Policy and "Issues Paper";
 - 6.1.5 Consider the possible localities listed at Paragraph 3.11 of the report and identify such localities as the Board thinks fit for the purpose of formal consultation on assessment of overprovision in terms of section 7 of the Licensing (Scotland) Act 2005;

- 6.1.6 Authorise officers to consult formally in relation to the identified localities, as to whether overprovision of all licensed premises or premises of a particular type, exists in respect of any of those localities, in accordance with section 7 of the Licensing (Scotland) Act 2005;
- 6.1.7 Agree that the formal consultation should commence forthwith and end on 3rd August 2018;
- 6.1.8 Instruct officers to take steps to publicise the consultation; and
- 6.1.9 Authorise officers, following the formal consultation, to report the responses to that formal consultation to the Board to enable the Board to agree the terms of the Board's new Statement of Licensing Policy, including its assessment of overprovision.

A handwritten signature in black ink, appearing to read 'Kenneth Graham', is written over a horizontal dotted line.

Kenneth Graham
Clerk to the Licensing Board

LIST OF APPENDICES

Appendix 1- Renfrewshire Licensing Board Statement of Licensing Policy 2013-2016

Appendix 2- List of Consultees at Initial, Informal Consultation

Appendix 3- Responses to informal Consultation with Clerk's Comments

Appendix 4- Plans of Localities Proposed in Response to Initial, Informal Consultation with Numbers, Capacities and Licensed Hours of Premises

Appendix 5- Table showing Numbers and Capacities of Licensed Premises in Existing Declared Overprovision Area and Numbers of Licensed Premises within Renfrewshire: March 2013 to March 2018

Appendix 6- Proposed Statement of Licensing Policy for Purposes of Formal Consultation

Appendix 7- Proposed Issues Paper for Purposes of Formal Consultation

Appendix 8- Proposed List of Consultees for Formal Consultation

Appendix 9- List of licensed premises within Renfrewshire, including capacities.