

The Highland Licensing Board

Meeting – 7 October 2014

Agenda Item	6
Report No	HLB/113/14

Review of Statements of Licensing Policy

Report by the Clerk to the Licensing Board

Summary

This Report invites the Board (a) to note the findings of the recent review by Alcohol Focus Scotland of the statements of licensing policy introduced by Licensing Boards in Scotland for the period 2013 to 2016, and (b) consider what, if any, lessons can be learned to inform the development of future policy statements.

1. Background

1.1 Alcohol Focus Scotland have carried out a review of licensing policy statements published by Licensing Boards for the period 2013 to 2014 to assess the extent to which these fulfil their legal purpose and whether there are any lessons to be learned from current policy statements to inform the development of future statements. A copy of the review is attached.

1.2 The due date for publication of policy statements for 2013 to 2016 was 30 November 2013. All policy statements published by the end of April 2014 were included in the review.

1.3 Statements were examined in relation to criteria such as presentation and readability, use of evidence, process of consultation, licensed hours, overprovision, children's access, occasional licences and operating conditions.

2.0 Summary of findings in relation to the Highland Licensing Policy Statement 2013 to 2016

2.1 The Highland Board is shown to be one of only 25 of the 36 Licensing Boards in Scotland which had published its 2013 to 2016 policy statement by the end of April 2014. It is also shown to be one of only 19 Boards which have included a statement on overprovision, despite this being a statutory requirement. Of those 19, Highland is one of the few to have determined that there is, in fact, overprovision of certain categories of premises.

2.2 With regard to "presentation and readability", no specific comment (positive or negative) is made in relation to the Highland policy statement. Alcohol Focus express general concern, however, that most policy statements include

information on matters which cannot really be regarded as policy. Examples given are repetition of matters already laid out in law, regulations or guidance or explanation of administrative procedures.

- 2.3** It is conceded that the Highland policy statement does, to some extent, include such non-policy matters. However, where these have been included, this has been done to provide clarity and to ensure that persons seeking information on the Board's policies and related matters need generally consult only one document. The desirability of including all relevant matters within the one document was something which came through in consultation responses, including the response of the Highland Licensing Forum. The policy statement, though consequently longer than strictly necessary, is nevertheless user-friendly. It is well-indexed for ease of reference and it is also clear from the text which parts are genuine statements of policy and which are merely explanation or related information. It is not considered that this approach requires to be altered, but if adverse comment is received from users during the lifetime of the statement this issue can be revisited.
- 2.4** With regard to "use of evidence", the Highland Board's policy statement is one of only four found by Alcohol Focus to stand out for presenting licensing policy in context, summarising the evidence and providing meaningful explanation for a particular policy approach.
- 2.5** The assessment of "process of consultation" finds that while all policy statements were subject to consultation, many simply state that consultation views had been taken into account without demonstrating within the statement how the views of consultees had been reflected. The Highland Board's policy statement was found to be one of the few which had, to some extent, referred to the views of consultees and explained how they had been taken into account. This is particularly so of the "Overprovision" section of the statement. Consideration can be given to extending this practice in future statements,
- 2.6** With regard to "licensed hours", it is noted by Alcohol Focus that since policy statements were first produced in 2007, most of the changes to standard operating hours have been to extend overall licensed hours. This has been true of changes in Highland which have included extending Sunday hours to bring them in line with the rest of the week. Alcohol Focus have expressed general concern that the impact of such increased hours on the licensing objectives is generally not considered and the reasons for extending licensing hours in policy statements are often not fully explained. In particular, they are concerned that these extensions of licensed hours in Scotland have occurred at a time when rates of alcohol-related harm have been high and national strategy has been aimed at reducing overall availability of alcohol.
- 2.7** Licensed hours in Highland are currently on a par with those in most other Board areas and the Highland Board has already taken steps to reduce alcohol availability in Highland through its overprovision policy. However, when developing future policy statements, Members may wish to look again at core licensed hours to consider whether further curtailment of alcohol availability, through reduction in core hours, is merited, having regard to

evidence available at that time. Scope is also likely to exist in future to include licensed hours in the matters to which regard may be had in assessing overprovision. This is currently proposed in the Air Weapons and Licensing (Scotland) Bill.

- 2.8** With regard to “overprovision”, Highland is one of few Boards which has determined there to be overprovision of certain types of licensed premises in their area. Seventeen Boards had still not published an overprovision statement by April 2014. Of those which had published a statement, 13 had determined that there was no overprovision in their area. Alcohol Focus is critical of those Boards which appeared to question the link between numbers of licensed premises and alcohol-related problems when there is a well-established body of scientific evidence showing that increasing alcohol outlets can impact on a range of alcohol-related harms. This criticism cannot be levelled at the Highland Licensing Board which worked closely with NHS Highland and Police Scotland in assessing overprovision in 2013 and which accepted the case put forward that sufficient evidence existed to link the number and capacity of off-sales premises in Highland with alcohol-related harm in the area.
- 2.9** No specific findings are made in connection with the Highland Board’s policies in relation to children’s access, occasional licences and operating conditions. The Board may wish, however, to consider the general comments and suggestions made in sections 6, 7 and 8 of the review in connection with these matters.
- 2.10** In conclusion, Alcohol Focus Scotland are clearly looking for policy statements to support a more strategic approach to promoting the licensing objectives. To this end, they would wish to see policies placed in context, with explanations for policy positions, reference to supporting evidence and acknowledgement of how the views of consultees have been reflected in the formulation of policy. Policy statements, they feel, should contain less emphasis on the administration of the system and more emphasis on what policy statements are there to achieve, namely, promotion of the five licensing objectives. While it is considered that parts of the Highland policy statement already achieve this, the review highlights areas where there is room for improvement and should be used to inform development of the next policy statement or any supplementary policy statements which the Board wishes to adopt in the interim.

3.0 Recommendation

- 4.1** It is recommended that the Board (a) note the findings of the recent review by Alcohol Focus Scotland of the statements of licensing policy introduced by Licensing Boards in Scotland for the period 2013 to 2016, and (b) consider what, if any, lessons can be learned to inform the development of future policy statements.

Date: 16 September 2014

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Designation: Principal Solicitor – Regulatory Services

Appendix: Alcohol Focus Scotland review of statements of licensing policy 2013 to 2016



Invergordon Community Council

C/O Invergordon Service Point, 62 High Street, Invergordon,
Ross-shire, IV18 0DH



Gilmorehill,
Northfield,
Invergordon
IV18 0LF

9th September 2014

Alaisdair H MacKenzie
Clerk to the Highland Licensing Board
Council Offices
Girnigoe Street
Wick
KW1 4HW

Dear Sir,

Application for Variation of Premises Licence
Caledonian Bar 28 – 30 King Street Invergordon

I am writing on behalf of Invergordon Community Council to submit our representations about the above application.

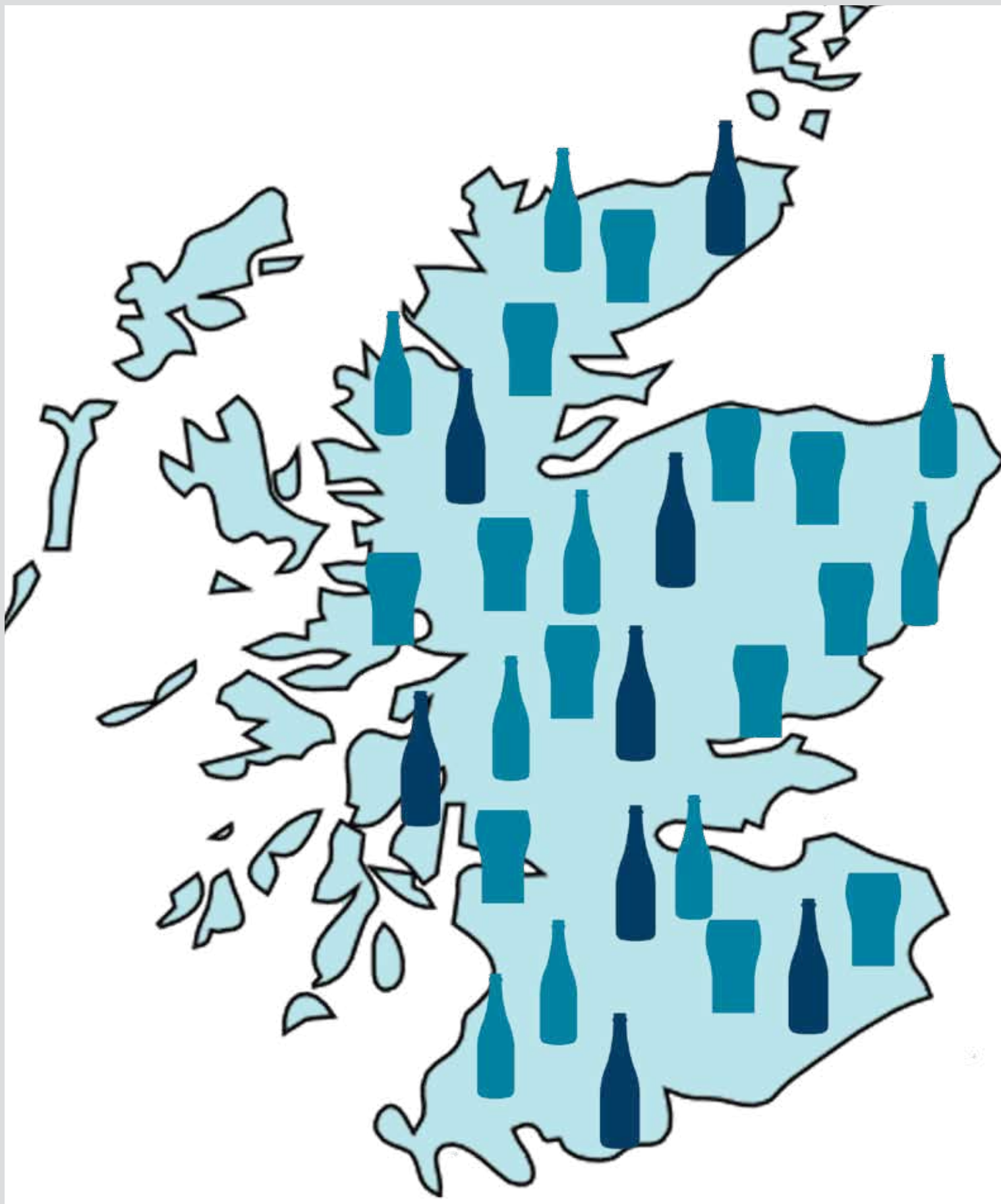
- We have no objection to the change of name to Caledonian Inn or the addition of accommodation as a service.
- We have no objection to the change in on-sales or off- sales hours.
- However we would like clarification about entry to 16 and 17 year olds. In what circumstances are they given entry? Do they have to be accompanied by an adult / having a meal etc?
- We would also like clarification about the term 'show catering' and what exactly this entails.
- **Conditions:-** If the Variation is granted we would want the following conditions in place.
- A Music Plan to be in place as the Caledonian Bar is in an area of the town where there are many elderly residents including sheltered accommodation.
- SIA trained stewards to be employed to control entry to and exit from the premises.

Thank you for your attention in this matter.

Yours sincerely

Fiona Porter [Secretary]

Please reply to: **Fiona Porter, Secretary, Gilmorehill, Tomich, Invergordon, Ross-shire, IV18 0LF**



Review of statements of licensing policy

2013 to 2016



Alcohol Focus
SCOTLAND

Introduction

Every three years, licensing boards in Scotland must prepare and publish a statement of licensing policy. The policy statement sets out the general approach a licensing board will take to regulating the sale of alcohol and licensed premises in its area. Latest policy statements were due for publication at the end of November 2013.

Licensing law, statutory guidance and regulations make up the broad legal framework for alcohol licensing. Some rules and conditions, such as the legal purchase age, are mandatory. However, the law gives licensing boards' considerable discretionary power on a range of actions to control the availability of alcohol. The policy statement is intended to provide licence applicants, community members, and other stakeholders with an indication of how a licensing board will exercise its discretion in managing the overall provision of licensed premises in its area; its views on opening hours; how it will deal with particular types of application; and the operating conditions it is likely to impose. Measures included in the policy statement must seek to promote the licensing objectives.

Policy statements are potentially a valuable tool in helping to make licensing decisions more strategic. Formulating a statement of licensing policy provides licensing boards with the opportunity to stand back from routine administrative practice and consider the bigger picture in relation to licensing in their area. Patterns and trends in alcohol problems can be examined with remedial and preventative licensing action identified. This is important because licensing is primarily a mechanism to reduce the risk of alcohol-related harm. Consulting on a draft policy statement gives local people a chance to have their say on the approach to alcohol licensing in their community. Using a published policy statement to guide licensing practice supports consistent and well-reasoned decision-making and can make licensing process more transparent.

For a policy statement to be effective, however; and for its preparation, consultation and publication to be a meaningful and worthwhile exercise; it needs to be evidence-based, focused on promoting the licensing objectives, be genuinely responsive to the views of consultees, and applied in practice. If not, the potential value of a policy statement is unlikely to be realised.

Alcohol Focus Scotland's work on alcohol licensing

Alcohol Focus Scotland is Scotland's national alcohol charity. We work with a wide range of partners to advocate for evidence-based policy interventions to reduce the burden of alcohol-related harm in Scotland. This includes effective regulation of the availability of alcohol through the licensing system.

Alcohol Focus Scotland provides training for newly-appointed licensing board members and we offer a range of courses for people working in the licensed trade. In 2011, we published *Rethinking Alcohol Licensing*, the report and recommendations of an expert workshop that examined how Scotland's licensing system could better promote the licensing objectives. In 2012, we hosted a series of regional events bringing together licensing stakeholders to debate issues relating to licensing policy and decision-making, and we developed a resource toolkit to facilitate and support good licensing practice.

This work has been supported by a grant from Alcohol Research UK.

For more information about our work, go to: www.alcohol-focus-scotland.org.uk

About this report

This report presents the findings of a review of statements of licensing policy for 2013 to 2016 carried out by Alcohol Focus Scotland. The review was undertaken to assess the extent to which published policy statements for 2013 to 2016 fulfil their legal purpose, and whether there are any lessons to be learned from current policy statements to inform the development of future statements.

Policy statements were examined in relation to the following criteria:

- Presentation and readability
- Use of evidence
- Process of consultation
- Licensed hours
- Overprovision
- Children's access
- Occasional licences
- Operating conditions

In evaluating presentation, evidence use and consultation, Alcohol Focus Scotland has applied commonly accepted principles and standards for public bodies performing a public service.¹ These standards include ensuring that information provided is accessible and easy to understand; being open and transparent about the reasons for adopting a particular course of action; publicising consultation responses and explaining how they have been used in the formulation of policy. Policy content, such as overprovision and licensed hours, has been considered in relation to the specific aims and purpose of licensing and the licensing objectives.

All licensing policy statements published by the end of April 2014 were included in the analysis. Twenty-five out of a total of 36 statements were available. Six of the 25 published statements did not include a statement on overprovision (see Appendix 1). Policy statements from 2007 and 2010 were also re-examined to enable an assessment of whether there has been any policy development over time.

Format of report

Each of the above criteria is examined in the report in terms of the legal requirements set out in licensing legislation or statutory guidance. A summary of key findings from the review of published policy statements is then presented (with more detail included in the appendices), followed by discussion and analysis of the findings. The report concludes with some general observations and recommendations for future licensing policy development.

For the most part, the report addresses what is presented in the policy statements. How statements are used in practice and whether they have a bearing on licensing decision-making are also key issues in determining policy effectiveness, but are largely outside the scope of this review.

¹ See, for example, Councillors Code of Conduct <http://www.scotland.gov.uk/Publications/2010/12/10145144/0>

Background

History of licensing policy statements in Scotland

The duty to prepare and publish a statement of licensing policy is a relatively new requirement for licensing boards, introduced by the Licensing (Scotland) Act 2005.²

The 2005 licensing legislation was enacted following a review of the licensing system by a government-appointed committee.³ The Nicholson Committee was set up in 2001 with a remit to “review all aspects of liquor licensing law and practice in Scotland, with particular reference to the implications for health and public order; and to recommend changes in the public interest.” One of the recommendations of the Nicholson Committee was that licensing boards be placed under a statutory duty to issue policy statements. The Nicholson Committee believed that policy statements could be highly beneficial for all those involved in the licensing process. It anticipated policy statements being used to “reflect any views or suggestions made to licensing boards by local licensing forums”, “give a broad indication of special terms and conditions which a board might consider appropriate in relation to particular forms of licensed business”, and be a useful means of “indicating a board’s approach to licensing hours”.

The legal requirement to publish a statement of licensing policy came into force in November 2007.⁴ Policy statements for 2013 to 2016 are therefore the third policy statement that licensing boards have produced.

The content of a policy statement

Licensing legislation and the accompanying statutory guidance specify a number of conditions for the preparation and content of policy statements. In addition to the duty to publish a statement of licensing policy every three years, the Licensing (Scotland) Act 2005 also states that:

- A licensing board must consult in the preparation of its statement of licensing policy;
- Measures contained in the policy statement must seek to promote the licensing objectives. These objectives are: preventing crime and disorder; securing public safety; preventing public nuisance; protecting children from harm; and protecting and improving public health;
- The policy statement must include a statement as to the extent to which a board considers there to be overprovision of licensed premises in any locality within its area;
- A licensing board must have regard to the content of its policy statement when making licensing decisions.

Licensing boards must have regard to the both the legislation and statutory guidance in preparing and publishing policy statements. However, much of the detail and substance of a policy statement is left to a licensing board to decide.

² <http://www.legislation.gov.uk/asp/2005/16/contents>

³ The Nicholson Committee: Review of liquor licensing law in Scotland, Scottish Executive 2003. <http://www.scotland.gov.uk/Publications/2003/08/17590/22947>

⁴ SSI 2007 No. 128 The licensing (Appointed Day and Transitional Provisions) (Scotland) Order 2007. This statutory instrument lays down 30th November 2007 as the appointed day for the beginning of the period of 3 years referred to in section 6 (7) of the Licensing (Scotland) Act 2005.

Review of statements of licensing policy 2013 to 2016

1. Presentation and readability

Legislation does not specify how a policy statement should be organised and presented and the 2013 published policy statements vary considerably in structure and length.

Findings

- The shortest policy statement is 15 pages.
- The longest policy statement is 123 pages, including appendices.
- Most policy statements include information on matters that cannot really be regarded as policy.
- Some policy statements, but not all, are written in legalistic language and provide exhaustive detail of administrative processes and procedures, making them laborious and difficult to read.

Discussion

The policy statement serves a different purpose to licensing law, statutory guidance and regulations. Ideally, therefore, it should not repeat at length what is already laid out in law, regulations, or guidance. The aim of the policy statement, as envisaged by the Nicholson Committee, is to provide a broad indication of how a licensing board will exercise its discretionary power.

Statutory guidance directs licensing boards to include information on non-policy matters, such as how licensing standard officers can be contacted and the agreed procedures a board has developed for handling applications. Consequently many of the published 2013 policy statements include a wealth of information on the administration of the system. Although licensing boards are following statutory guidance, the inclusion of a lot of administrative information results in policy statements that are arguably longer than they need to be. Lengthy policy statements written in legalistic and bureaucratic language can be off-putting for some stakeholders and potentially act as a barrier to community engagement in the licensing process. Furthermore, consultation on a draft policy statement that contains extensive repetition of the law and guidance, which licensing boards have no power to change, could be misleading for respondents.⁶

Typical writing style of many policy statements:

“The Board will, where it considers it necessary or expedient for the purposes of securing public safety, impose conditions requiring anything to be done or prohibiting or restricting anything from being done in connection with the sale of alcohol on the premises or in connection with any of the other activities carried on in the premises. To this end, applicants will, where appropriate, be expected to demonstrate in their operating plan in respect of activities listed in section 5 that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and the specified activities”

⁶ Consultation principles guidance published by the UK Government Cabinet Office recommends that public bodies be clear about the areas of policy on which views are sought and what aspects of the policy being consulted on are open to change to avoid creating unrealistic expectations. <https://www.gov.uk/government/publications/consultation-principles-guidance>

Accessible information describing how the licensing process works is undoubtedly important; but it is questionable whether the policy statement is the best place to make this available. Instead, licensing boards could publish information of this type online and/or in a booklet, or series of booklets, written in clear and simple terms and in plain English. Information could be tailored for different stakeholders. Step-by-step guides could be produced explaining how to apply for a licence and objecting to a licence, for example, enabling stakeholders to obtain the most relevant information when they need it, leaving the policy statement to focus on policy issues.

2. Use of evidence

Licensing boards have a statutory duty to ensure that measures included in their policy statements seek to promote the licensing objectives. It is therefore incumbent on licensing boards to gather sufficient information on each of the licensing objectives to enable them to ensure that the policy measures they adopt serve to promote the licensing objectives. Sources of evidence can include consultation responses as well as the local knowledge of licensing board members.

Evidence must be considered in the formulation of policy, but it is also important that the evidence used to develop policy positions is demonstrated and explained in a policy statement, in order that a particular policy approach can be understood.

In proposing the mandatory publication of policy statements, the Nicholson Committee expected that any such statement would be "...framed in the context of local circumstances within a licensing area." Contextual information includes local licensing statistics, population size, tourist/visitor numbers, and evidence relating to the licensing objectives. Statutory guidance also recommends that licensing boards provide a clear indication of how their policy statement relates to other local strategies, such as community safety and crime prevention, as well as the national alcohol strategy.

Findings

- In the majority of 2013 policy statements looked at, the evidence base for the policy approach is not demonstrated. Little or sometimes no explanation is provided for why particular policy positions are adopted.
- Four policy statements stand out for presenting licensing policy in context, summarising the evidence, and providing meaningful explanation for a particular policy approach. These are: Glasgow City, Aberdeen City, Dumfries and Galloway, and Highland.
- Nearly all policy statements state they will have regard to other local strategies, but with the exception of Glasgow City fail to demonstrate how. Two policy statements make reference to the national Plan for Action on Alcohol Problems, which was superseded in 2008 by Changing Scotland's Relationship with Alcohol: a framework for action.
- More policy statements highlight the contribution of the licensed trade to the economy and tourism of a local area, than mention any adverse health and social consequences linked to alcohol, which the licensing system is there to address.

- Although most policy statements include some relevant contextual information, it is often not sufficiently detailed to illuminate policy decisions.
- 15 policy statements provide basic licensing statistics. 21 contain some population information. However, the relevance of this information to the formulation of licensing policy is generally not made clear.
- Three policy statements do not include any contextual information or supporting evidence.

Discussion

If the purpose of the licensing system is to manage the retail provision of alcohol to promote the licensing objectives, then it seems appropriate that licensing policy is presented in the context of how the system currently operates and the nature and extent of alcohol problems in an area. That way an assessment can be made of whether any changes in licensing practice are necessary or possible to better promote the licensing objectives. In considering overprovision, for example, it is pertinent to know the number of premises licences in force, the number of licences of a particular type (supermarket, independent retailer, pub, nightclub etc.); whether this number has increased or decreased over previous years, and extensions/reductions in capacity. It is also relevant to know the population size of an area and localities within an area, such as towns and cities, as well as visitor numbers, and whether these have changed over time. An expanding population or visitor numbers may explain increased demand for licensed premises or licensed premises of a particular type.

Evidence considered by licensing boards in formulating their policy positions should be referenced or included in an appendix; but it is also important for accessibility, transparency and accountability that evidence is summarised within the policy statement, along with an explanation of how it has been interpreted by a licensing board and used to inform policy positions. In three licensing board areas, Alcohol Focus Scotland is aware of evidence gathering exercises involving licensing board members or officials being undertaken as part of the preparation of the new 2013 policy statement. However, in the subsequently published policy statements the use of evidence is not well demonstrated. It is therefore not clear whether evidence gathered was applied to policy formulation, or if so, in what way.

Evidence-based policy statements that demonstrate a clear line of reasoning from the evidence to a particular policy approach make the licensing system more transparent and understandable. In the absence of supporting evidence, it is difficult to judge whether measures included within a policy statement are appropriate, proportionate, or sufficient for the purpose of achieving the licensing objectives.

3. Process of consultation

In preparing a statement of licensing policy, a licensing board must consult with the local licensing forum for its area and any other people it thinks appropriate. The membership of a licensing forum must include a local licensing standards officer and the health board. Membership should be representative of the interests of licence holders, police, health, education or social work, young people and residents.

Increasing community involvement in the licensing process was one of the aims of the Nicholson Committee in recommending changes to the licensing regime. Consultation on a new policy statement gives local people an opportunity to input into shaping the licensing environment in their area.

In the preparation of 2013 policy statements, Alcohol Focus Scotland responded directly to 11 policy consultations, which gave some insight into how licensing boards' approached consultation on their policies. Alcohol Focus Scotland conducted a further small-scale review of consultation processes during early 2014. All licensing clerks were contacted to provide information on how licensing boards consulted on their policies, the level and nature of responses they received, and how the responses were considered by the boards. Five licensing boards replied to the request. Information from the responses submitted by Alcohol Focus Scotland and the additional information supplied by licensing clerks suggests consultation methods and extent of engagement with licensing stakeholders varied from board to board.

Findings

- Some licensing boards consulted on an old or existing policy statement inviting open comment, some circulated new draft policies for comment, and some circulated questionnaires on specific aspects of licensing policy.
- Two licensing boards adopted a multi-phased approach to their consultation. This method appeared to generate higher response rates compared to other areas.
- One licensing board conducted oral evidence sessions.
- Most of the published 2013 policy statements refer to a consultation being carried out in the preparation of the statement.
- More than half include a list of named consultees. However, in most cases it is not clear whether those listed are individuals and organisations invited to comment, or actual respondents, so the level of participation in the consultation process is uncertain.
- Most policy statements say the licensing board gave 'due consideration', 'took account of', or 'had regard to' the views of consultees, but very few actually demonstrate how.
- Those boards that refer to the views of consultees include Glasgow City, North Ayrshire and to some extent Aberdeen City, Dumfries and Galloway, Highland and East Lothian.

Discussion

The views of consultees are referred to throughout Glasgow City's policy statement and appear to have carried weight in the formulation of policy, with a proposal to extend closing times in the city centre being dropped due to a lack of support from consultees. East Lothian included a summary of consultation views in an appendix to a draft of its policy statement and provided the licensing board's response to the points raised.

Although it is not a legal requirement, demonstrating and reflecting the views of consultees within the policy statement provides an indication to stakeholders that the consultation exercise is genuine, and that there is meaningful engagement with the community in the formulation of licensing policy. Simply stating that consultation views have been taken into account is not sufficient to demonstrate that they have.

Policy statement examples

In Edinburgh, the licensing board's consultation on its new policy statement invited consultees to submit views on the availability of licensed premises in the city. Edinburgh Alcohol and Drug Partnership (EADP) produced a report on overprovision with a number of recommendations, one of which proposed seven areas of the city with high numbers of licensed premises and high rates of alcohol-related hospital admissions and crimes be declared areas of overprovision. This proposal was supported by the City of Edinburgh Licensing Forum. Of the 22 responses to the public consultation, 13 (including 7 from community organisations and individuals) called for an increase in the designated overprovision areas in the city, and one called for better enforcement of the existing overprovision policy.

In response to the consultation, the licensing board stated that, on the basis of legal advice, if it wished to adopt overprovision localities such as those named in the EADP report, it would be necessary to carry out a further consultation on those specific localities. However, it did not do this. No reason is provided for why the licensing board did not consult further on the proposed overprovision localities.

A licensing board has a legal duty to consult on overprovision. If the views of consultees cannot be considered and taken into account without a further consultation taking place, then a decision not to consult further raises the question of whether a licensing board can be considered as having fulfilled its legal duty.

4. Licensed hours

According to statutory guidance, policy statements should provide information on a licensing board's policy on licensing hours. It suggests that licensing boards may wish to consider applications for on-licensed opening hours of up to 14 hours a day as being reasonable.

With the introduction of the 2005 Act, the legal position on licensed hours changed. Under the old 1976 licensing Act,⁷ opening hours for licensed premises were specified in the legislation. Permitted hours for on-licensed premises were 11am to 11pm on Monday to Saturday, and 12.30pm to 14.30pm and 18.30 to 11pm on Sundays. However, regular extensions to these opening hours meant that on-sales premises were often open for longer. Trading hours for off-sales were fixed as no earlier than 8am Monday to Saturday and 12.30pm on Sunday, and no later than 10pm in the evening.

In the 2005 Act, only off-sales hours are specified in law. Off-sales are allowed between 10am to 10pm Monday to Sunday, although licensing boards can decide to grant more limited off-sales hours if they consider it appropriate. It is left to each licensing board to determine the licensed hours for on-licensed premises, however there is a presumption in law against granting 24-hour licences.

In the 2013 published statements, as was the case in previous policy statements, most licensing boards indicate what they regard as being standard operating hours. These are the hours that a board says it will normally grant for on-licensed premises, often differentiated as pubs, pubs offering entertainment, nightclubs, restaurants, and hotels. Commonly, what is set out in the statements is the usual commencement and terminal hours, and any variations on different days of the week.

⁷ <http://www.legislation.gov.uk/ukpga/1976/66/contents>

Findings

- Over the past six years, at least 17 licensing boards have extended normal licensed hours.
- One licensing board has reduced licensed hours.
- One licensing board decided against increasing licensed hours following a consultation.
- 11am is the most common standard opening time set.
- 9am is the earliest standard opening time.
- 11pm or 12 midnight are the usual standard pub closing times for nights at the beginning of the week, extended until 1am at weekends.

Discussion

Different licensing boards appear to adopt different attitudes towards granting longer hours than their standard operating hours. In terms of early morning hours, East Ayrshire and Renfrewshire, for example, only refer to early opening in relation to funerals. In its 2013 statement Glasgow City Licensing Board states that it is unlikely to grant any more early morning licences, believing that there “is no longer a justification for such early morning hours in terms of shift workers or market workers”, which was the historic basis for granting such hours. A review in Glasgow indicated that premises with early morning licences tended to attract individuals with dependency issues and allowed for sustained drinking over long period of time, which was contrary to the licensing objectives.⁸ In contrast, other policy statements appear more amenable to granting early hours and for much less specifically-defined reasons, such as tourism and the provision of food.

Since policy statements were first produced in 2007, most of the changes to policies on standard operating hours have been to extend overall licensed hours. Following the introduction of 2005 Act, many licensing boards maintained 12.30pm Sunday opening, but today only Western Isles retains it with the rest having brought Sunday opening forward. In 2010, Orkney Isles licensing board extended its standard opening hour from 11am to 10am, having previously indicated in 2007 its satisfaction with 11am opening. In September 2013, Dundee Licensing Board agreed an amendment to its policy to extend pub closing hours by an hour at weekends.

The reasons for extending licensed hours in policy statements are often not fully explained. Sometimes reference is made to supporting the tourist trade and the need for more flexibility, but the impact on the licensing objectives is generally not considered. It is notable that extensions of licensed hours in Scotland have occurred at a time when rates of alcohol harm, despite recent falls, have been historically high and the national strategy has been aimed at reducing overall availability of alcohol.

The impression gained from policy changes adopted is one of licensing boards following suit: if one licensing board area increases its standard hours then so do many others, to bring their board area ‘into line’ with other areas. This being the case, it underlines the value of continuing to fix off-sales opening hours in legislation, as well as a presumption against 24 hour licences.

⁸ <http://www.eveningtimes.co.uk/news/city-calls-time-on-breakfast-bar-booze-141204n.22575303>

Policy statement examples

Licensing boards imposing curfews on late opening, preventing admittance/re-admittance after a certain time: Aberdeen City – 2am (changed from 12.30am in a policy amendment in 2009), Moray – 12.30am, North Ayrshire, Fife – 1.15am, Inverclyde – 12 midnight.

Licensing boards setting different terminal hours for premises within/outwith the city/town centre: Glasgow City, Aberdeen City, Dumfries and Galloway (Stranraer).

Licensing boards expressing the expectation that special events should be accommodated within normal licensed hours and not automatically justifying an extension in hours: East Ayrshire, Orkney, Shetland, West Dunbartonshire, West Lothian, Scottish Borders.

Licensing boards defining the types of entertainment that would be considered for a late licence: Aberdeen City, Clackmannanshire, Dumfries and Galloway, Dundee City, Highland.

Only one licensing board has changed its policy position to reduce standard hours. In 2010, Dumfries and Galloway cut closing time by one hour from 2am to 1am in two of its divisional areas in response to representations from the licensing forum and police, highlighting resource difficulties with policing the night-time economy. More recently, Glasgow City Licensing Board announced that it would not be extending closing time for city centre pubs by an hour following consultation on the proposal: “The board acknowledged that there was not any significant support for this proposal during the consultation process and that substantial concerns were expressed by a broad range of interested parties as to the negative impacts in terms of the licensing objectives by increasing the availability of alcohol in that area.”

Having a policy on standard operating hours does not mean that all licensed premises will be granted those hours. However, information on actual licensed hours granted is not made available in policy statements or elsewhere. The lack of relevant information on licensed hours impedes an analysis of whether licensing board policies on operating hours are consistent with promotion of the licensing objectives.

5. Overprovision

Licensing boards have a legal duty to assess the extent to which they consider there is overprovision of licensed premises, or licensed premises of a particular type, in their area. A statement on overprovision must be included in their statement of licensing policy. In deciding whether there is overprovision, licensing boards are required to consider the number, type and capacity of licensed premises in a locality. Overprovision in an area is one of the grounds for refusing to grant a new premises licence.

Statutory guidance states that licensing boards should ensure that their policy on overprovision is expressed in such a way that “interested parties are left in no doubt as to the reasons for its adoption, including the evidence upon which the board relied and the material considerations which were taken into account.”

Findings

- In the published 2013 to 2016 policy statements, 10 licensing boards find overprovision of licensed premises to some extent within their area. This is four more than in 2010.
- 5 declare overprovision across a large part of their area.
- 13 licensing boards determine that there is no overprovision of licensed premises in their area.
- 17 licensing boards had not published an overprovision statement by the end of April 2014.
- 8 licensing boards do not provide any explanation of how they reached their decision that there is no overprovision in their area or the evidence they took into account in formulating their policy position.
- 1 licensing policy statement expresses scepticism as to whether there is a causal link between number of premises licences and the incidence of alcohol-related health problems, crime, disorder and anti-social behaviour.

Discussion

A number of licensing boards suggest difficulties in assessing and determining overprovision. These difficulties appear to centre around two interlinked issues: the relationship between outlet density and alcohol problems, and the standard of evidence required for a licensing board to find an area overprovided.

Policy statements from Clackmannanshire and Moray appear to question the link between numbers of licensed premises in a locality and alcohol-related problems. However, there is a well-established body of scientific evidence showing that increasing alcohol outlets can impact on a range of alcohol-related harms. Evidence in support of restricting the overall availability as a means of minimising alcohol-related harms is in fact far stronger than for other measures licensing boards promote, such as voluntary schemes of bar practice like Best Bar None.⁹

Many research studies, including in Scotland, reveal significant associations between the number of on- and off-licensed premises and rates of alcohol-related hospital admissions, risky and underage drinking, as well as violence and disorder.¹⁰ The repeated findings from these studies are considered by recognised authorities to constitute sufficient evidence to support the general application of policies to regulate the overall availability of alcohol in the public interest. The Global Strategy to Reduce the Harmful use of Alcohol, adopted by consensus by UN Member States in 2005, including the UK, provides for the regulation of numbers and location of on- and off-premises alcohol outlets. In Scotland, the government's national alcohol strategy aims at reducing the overall availability of alcohol in the country, and provisions to regulate the total number licensed premises have been a component of Scottish licensing legislation for the past 30 years.

Applying the evidence to licensing policy and practice, however, appears problematic for some licensing boards, and this situation is not helped by statutory guidance. Statutory guidance specifies that licensing boards, in determining overprovision, should identify "robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached, *always provided that a dependable causal link can be forged between that evidence and the operation of licensed premises in a locality.*" In the years the 2005 Act has been in force, this requirement to demonstrate a causal link has been cited on numerous occasions as a reason why overprovision cannot be established in many instances.

⁹ Babor et al (2010) Alcohol: No Ordinary Commodity, Chp 16 Alcohol policies: A consumer's guide.

¹⁰ Alcohol-use disorders: preventing harmful drinking, NICE public health guidance 24, June 2010; Coghill N (2011) One every corner: the relationship between off-licence density and alcohol harm in young people, Alcohol Concern; Neighbourhood structures and crime rates in Glasgow, Go Well, November 2012; Young, R et al (2013) Associations between proximity and density of local alcohol outlets and alcohol use among Scottish adolescents, Health & Place 19 124–130.

It is, however, questionable whether a causal link is the correct standard of evidence to apply in licensing policy and decision-making, where it relates to the grant of new premises licences, increased licensed hours, or extensions in capacity, which are discretionary decisions. Whilst there is a presumption to grant applications for new premises licences under the 2005 Act if none of the grounds for refusal apply, determining whether there are grounds for refusal involves the exercise of a licensing board's judgement. There is no property right in a prospective licence, moreover, in matters of public policy, it is recognised that public authorities have discretion when instituting measures aimed at preventing harm and preserving public order. To date, when the legality of such measures has been tested in court, the standard of evidence applied is not causality, but what is reasonable based on the evidence.

In 2012, a sheriff court ruling upholding the decision of a licensing board to refuse an application for a new premises licence summarised the board's reasons as: "the existence of too many licensed premises leads to an undue availability of alcohol which, in a residential city-centre area with such socio-economic problems, and on the basis of ordinary experience, is liable to lead to public nuisance and disorder and public health issues." This, in the sheriff's opinion, was a 'logical and reasoned position'. Other public policy examples include the tobacco display ban in Scotland and a ban on alcohol marketing in France. Legislation enacting both these measures has been challenged and upheld by the UK Supreme Court and the European Court of Justice respectively.¹¹ The standard of evidence used to support bans on tobacco and display and alcohol marketing is of the same standard and scope as the evidence available to licensing boards in support of restrictions on numbers of licensed premises.

Licensing boards are administrative bodies with discretionary power. The standard of evidence applied by a licensing board to its policy and decision-making should be appropriate to its role as a regulator, and statutory guidance should be reviewed and amended to assist in the proper interpretation of use of evidence to support effective licensing practice.¹²

Policy statement examples

Edinburgh City: In its 2013 policy statement, Edinburgh Licensing Board categorised seven localities within its area as 'areas of special concern' with regard to the number of licensed premises. However, unlike overprovision, the term 'areas of special concern' is not defined in the legislation and is not a specific reason for refusing to grant a new premises licence. Current indications are that this categorisation has little meaning in practice. Edinburgh's policy statement has been in force for five months and the licensing board has granted 11 (up until end of April) new premises licences in its areas of special concern.

West Dunbartonshire: West Dunbartonshire Licensing Board adopted a 'refinement' to its overprovision policy in 2013 to allow it to consider the health benefits with regard to increased employment opportunities in relation to applications for new premises licences. The policy states that this is a "...factor that an applicant may be able to use to rebut the current strict presumption (against grant in certain categories of premises in intermediate data zone areas deemed overprovided for) in the board's policy, where those benefits outweigh any likely harm." A legal opinion commissioned by Alcohol Focus Scotland, however, considers this refinement to West Dunbartonshire's overprovision policy to be unlawful. According to the legislation, the purpose of the policy statement is to set out a licensing board's policy with "respect to the exercise of their functions under this Act" (Licensing (Scotland) Act 2005). The licensing objectives are not freestanding, but must be pursued through the regulation of the sale of alcohol and licensed premises, which is the function of a licensing board. There is nothing in the 2005 Act to suggest that it is a function of a licensing board to promote employment or the positive health benefits of employment.

¹¹ http://supremecourt.uk/decided-cases/docs/UKSC_2012_0066_Judgment.pdf. C-262/02 <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-262/02>

¹² In England, the UK government amended statutory guidance to the Licensing Act 2003 to lower the evidential hurdle for cumulative impact policies, allowing licensing authorities to have more control over outlet density and to give greater weight to the views of local people. <https://www.gov.uk/government/policies/controlling-the-sale-and-supply-of-alcohol>

6. Children's access

With the introduction of the 2005 Act, rules covering children's access to licensed premises changed. The system of children's certificates that existed under the previous regime was discontinued. Children's access and the hours they are allowed into licensed premises are now set out in individual operating plans.

Findings

- All published policy statements except one 'welcome' family-friendly premises and encourage licence applications seeking to accommodate children.
- Most policy statements indicate a range of conditions for operators seeking to accommodate children in order to protect children from harm. These mainly cover issues of health and safety, provision of suitable facilities, children's menus, staff training etc.
- A minority of statements indicate a terminal hour for younger children to be present on licensed premises, and some restrict children's access to licensed premises for the primary purpose of consuming a meal.
- Nearly all policy statements include a standard condition that children should not be exposed to incidents of violence or disorder, and several express concerns in relation to gambling activities and adult entertainment, but very few recognise exposure to alcohol consumption as a possible risk factor for children.

Discussion

It is not the responsibility of a licensing board to promote or develop the licensed trade. It therefore seems questionable whether it is the place of a licensing board to encourage children's access to licensed premises as a matter of policy. Only Stirling Licensing Board adopts a neutral position on this point stating that "[w]here premises elect to allow children and young persons onto the premises, they need to ensure that they are protected from harm and are catered for appropriately." It may be more appropriate for licensing boards to confine their role to deciding whether children should be permitted onto licensed premises and under what conditions.

Whilst many conditions listed in policy statements are evidently concerned with ensuring a child's physical safety in a licensed premises, there appears to be much less awareness of the influence that being in a licensed premises may have on children's knowledge and attitudes towards alcohol. As documented in many research studies,¹³ even very young children have expectations and understandings of the social uses of alcohol. Children's attitudes towards alcohol are shaped by the drinking behaviour of those they see around them. What they observe and experience in relation to alcohol consumption will influence their likelihood to drink and their drinking practices. This being the case, it is important that measures are put in place to ensure that children admitted to on-licensed premises are not exposed to harmful drinking practices.

Dundee City recognises the need to prevent young people's exposure to harmful influences, including "excessive alcohol consumption". Dumfries and Galloway suggest that licence holders should consider adopting a policy "whereby a limit is placed on the amount of alcoholic drinks served to those adults in charge of children or young persons."

13 Velleman, R (2009) Children, young people and alcohol: how they learn and how to prevent excessive use, Joseph Rowntree <http://www.jrf.org.uk/publications/young-people-alcohol-excessive-prevention>

Arguably the scope of this measure should be widened to place licensed premises admitting children under an obligation to ensure that no drunken patrons are allowed onto the premises, and that no adult on the premises (not just adults in charge of children) is served to the point of intoxication.

Consideration may also need to be given to policies regarding early morning hours. Some licensing boards indicate that they may be willing to grant early opening for premises serving food and tourists. However, it is questionable whether it can ever be in the best interests of children and young people to be in a licensed premises for breakfast and observe people drinking alcohol at 8am, 9am and 10am.

Policy statement examples

Licensing boards expressing concern about granting access to a licensed premises where the supply of alcohol is the primary purpose of the premises: Angus, Glasgow City.

Licensing boards restricting children's access to restaurants, or to premises for the primary purpose of consuming food: Dundee, East Ayrshire, West Dunbartonshire, Scottish Borders.

Licensing boards indicating a terminal hour for children to be in a licensed premises: Glasgow – 9pm (bar areas), Inverclyde – 8pm (extended to 11pm in case of restaurants or if attending function), Highland – 10pm (for children under 16 in any room with bar counter), Moray – 8pm (indicated for younger children), Stirling – 8pm, Dundee – 10pm (except for pre-booked/ticketed event).

Licensing boards specifying that children should not sit at a bar counter: Highland, Stirling, East Lothian.

7. Occasional licences

An occasional licence allows the temporary sale of alcohol in a place that is normally unlicensed. Voluntary organisations and members clubs are limited in the number of occasional licences they can be granted in a twelve-month period.

Findings

- Some policy statements simply repeat the basic rules covering the process of issuing an occasional licence.
- Some provide guidance as to the kinds of occasions that will be considered for the grant of an occasional licence, such as birthdays, weddings and fundraising events, and a few indicate that a training qualification will be required in certain circumstances.
- Only a handful of policy statements provide statistics on the number of occasional licences granted and only one provides statistics over consecutive years.
- No policy statement includes information on the types of occasions that occasional licences were granted for.

Discussion

Occasional licences add to availability of alcohol in an area and can impact on the licensing objectives. However, as is the case with premises licences and licensed hours, very little information is provided about the number of occasional licences granted.

Community members may have views on the type of events that should be licensed in their area, as well as the total number of occasional licences granted. A recent report generated a lot of publicity and debate when it showed that primary schools in England and Wales applied to serve alcohol on more than 8,000 occasions.¹⁴ Informed discussion on the uses of occasional licences in Scotland and the number that are granted, and consequently whether licensing board policies covering occasional licences are appropriate for achieving the licensing objectives, requires statistics on occasional licences to be made available.

8. Operating conditions to promote the licensing objectives

Legislation specifies a number of mandatory operating conditions that apply to all licensed premises, and licensing boards can impose their own additional local conditions.

Findings

- Many policy statements indicate a range of factors licensed premises should take into account in the promotion of each of the licensing objectives, and provide example measures that can be implemented.
- Many measures appear relevant to the purpose of licensing, such as age verification schemes to prevent underage alcohol purchasing. However, in some instances the connection to the sale of alcohol is not clear.

Discussion

Statutory guidance advises that policy statements avoid duplication with other regulatory regimes. Health and safety law for example applies to all businesses and is not particular to licensed premises. However, some conditions listed in policy statements under the licensing objectives headings, such as regular testing of appliances and systems appear to be general health and safety measures, which do not fall within the remit of a licensing board. Licensing objectives, although written in general terms, are not freestanding. Securing public safety is not securing public safety in general, but specifically in relation to the sale of alcohol.

In terms of promoting the licensing objective of protecting and improving public health, almost all policy statements suggest licensed premises make information available regarding recommended drinking guidelines, using drink mats and posters, and warnings of the effects of 'excessive' alcohol consumption and where to get help. The degree of compliance with this suggested operating condition is not clear however.

Measures included in a policy statement that are rarely, if ever, implemented could give the impression of action when none is being taken. It would therefore seem worthwhile for licensing boards to periodically evaluate levels of compliance or uptake of recommended operating conditions and consider stronger enforcement where necessary or appropriate.

¹⁴ <http://www.theguardian.com/society/2014/mar/08/ban-alcohol-primary-school-events-swanswell>

Conclusions

The introduction of statements of licensing policy in the 2005 Act, together with the licensing objectives, was intended to give the licensing system more direction and purpose. A complaint about the previous licensing regime was that it was overly-bureaucratic and lacked a clear and consistent philosophy.¹⁵ The new requirement for licensing boards to formulate a statement of licensing policy was considered to represent a sea change in the way the licensing system would operate. Instead of being reactive and application-driven, licensing would be guided by policy and aimed at achieving the licensing objectives. However, four years after the 2005 Act came into full force, and seven years since the first policy statements were produced, indications are that there is still some way to go for this ambition to be fully realised.

In some areas, policy statements for 2013 to 2016 show notable progression and development from those published in 2010. Six or seven demonstrate to varying degrees the potential for policy statements to support a more strategic approach to promoting the licensing objectives. These statements attempt to place licensing policy in context, provide explanations for policy positions, refer to supporting evidence, and acknowledge and reflect the views of consultees in the formulation of policy. Increased levels of engagement between different licensing stakeholders have also been observed in a number of places during the policy preparation process. Overall, however, it is a mixed picture.

Analysis of policy statements suggests there is a continued emphasis on the administration of the system, rather than what it is there to achieve. Statements contain a lot of information on licensing processes and procedures, but in many cases say remarkably little about policy. Important policies on overprovision and licensed hours are presented with limited or very often no explanation of the reasons for the policy approach, or the evidence underpinning it. Many policy statements are devoid of contextual information on how the licensing system operates in an area and the nature and scale of alcohol problems, making it difficult to see how the policy positions adopted are relevant for a specific locality and appropriate for achieving the licensing objectives. Standard, formulaic phrases are used to affirm that consultation views have been taken into account, but only in a minority of statements is it evident that stakeholder engagement has been meaningful. In many of the published 2013 to 2016 statements, there is a basic lack of transparency about why a licensing board acts in the way it does.

In terms of policy content, licensing boards appear reluctant to act where they have the power to act in controlling overall numbers of licensed premises, preferring to suggest operating conditions for licensed premises, even in spheres where they have no remit such as general health and safety. Although some licensing boards find that the legislation and the evidence enables them to decide that part or all of their area is overprovided, other licensing boards attest to almost insurmountable practical and legal difficulties in assessing and determining overprovision. Whether these differing positions on overprovision reflect uncertainty in the interpretation and application of the law or guidance, or are attributable to other reasons is not known. One published policy statement expresses scepticism about the link between overall numbers of licensed premises and alcohol-related problems, which raises a question about this particular licensing board's openness to the possibility of finding overprovision in its area. The compatibility of such a publicly expressed view with a licensing board's legal duty to assess and consider overprovision is debatable.

¹⁵ Nicholson Committee report pp 42-43.

Some policy statements display policy development, with policy positions evaluated and amended, as well as a willingness to engage in different methods of consultation to extend public participation. However, in around half a dozen licensing board areas, policy statements produced for 2007, 2010, 2013 are practically identical. As publishing a statement of licensing policy is still a relatively new task for licensing boards, it is understandable for there to be a period of 'bedding-in' as licensing teams become more accustomed to the process of preparing, consulting on and using a policy statement. Nevertheless, it is reasonable to expect licensing boards to demonstrate a commitment to regularly reviewing and developing their policy-making processes, and seeking to improve the quality of published policy statements. Analysis of statements of licensing policy for 2013 to 2016 suggests that there is scope for action in a number of areas.

Recommended actions

It is the responsibility of a licensing board to prepare and publish a statement of licensing policy, and to ensure that the measures included within it seek to promote the licensing objectives. However, in order to fulfil this task properly, licensing boards need adequate support from local authorities and the Scottish Government. Continued improvement in the standards and quality of licensing policy statements is dependent on commitment and action from all three.

Transparency, accountability, involvement

One of the main findings from the policy statement review is that there is a lack of transparency in how policies are formulated and how they apply to specific local circumstances. To increase transparency, action should be considered in the following areas:

- Presentation of information

Licensing boards should aim to produce clear and concise policy statements that are accessible to a wide audience. Scottish Ministers should consider revising statutory guidance to direct that policy statements concentrate on policy matters, instead of procedural information. Local authorities should provide additional support to licensing boards to produce easy-read or summary versions of their policy statements.

- Use of evidence

All policy statements should demonstrate the evidence on which policy positions are based. Local knowledge should be specified. Explaining the reasons for a licensing board's approach and linking the evidence to the policy position adopted, makes the policy statement more accessible and understandable, and is required for proper scrutiny and accountability.

- Publication of licensing data

Publication of detailed licensing data is necessary to understand how licensing decisions impact on alcohol problems in a local area. Licensing boards should work towards publishing a detailed set of licensing statistics to enable effective monitoring and review of the licensing system, and production of a policy statement that is relevant to local circumstances. Local authorities should provide the necessary technical and administrative support to licensing teams to record, collate and report on a comprehensive licensing data set.

- Consultation

Licensing boards should encourage active participation in the policy consultation process. Consideration should be given to ways of increasing stakeholder engagement, by writing a more accessible statement and/or using different consultation methods. Consultation responses should be made public. Licensing boards should commit to providing feedback on how and where consultation views have been taken into account.

Policies to promote the licensing objectives

Greater openness and transparency in how policies are formulated is needed before an assessment can be made of whether policy measures adopted are appropriate and sufficient to achieve the licensing objectives. However, one issue that clearly emerges from the policy statement review is the uncertainty in interpreting and using evidence in determining overprovision. This requires clarification if the legislative provisions are to be implemented properly.

- Overprovision

Scottish government should review statutory guidance and clarify the standard of evidence that applies to overprovision policy and decision-making and advise on the interpretation and use of that evidence.

Appendix 1

The due date for publication of policy statements for 2013 to 2016 was 30 November 2013. All statements published by the end of April 2014 were included in Alcohol Focus Scotland's review and analysis.

Licensing policy statement	Published by end April 2014	Overprovision statement included	
Aberdeenshire Central & South	No	No	
Aberdeenshire North	No	No	
Aberdeen City	Yes	Yes	http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=56156&SID=1146
Angus	Yes	Yes	http://www.angus.gov.uk/atoz/laliquorforms2005/statementoflicensingpolicy2005.pdf
Argyll & Bute	No	No	
Clackmannanshire	Yes	Yes	http://www.clacksweb.org.uk/document/2782.pdf
Dumfries & Galloway - Nithsdale	Yes	Yes	http://www.dumgal.gov.uk/CHttpHandler.ashx?id=331&p=0
Dumfries & Galloway - Stewartry	Yes	Yes	As above
Dumfries & Galloway - Wigtown	Yes	Yes	As above
Dumfries & Galloway - Annandale & Eskdale	Yes	Yes	As above
Dundee	Yes	No	Not found on Dundee City website
East Ayrshire	Yes	Yes	http://www.east-ayrshire.gov.uk/Resources/PDF/Draft-Statement-of-Policy-2013-16.pdf
East Dunbartonshire	No	No	
East Lothian	Yes	Yes	http://www.eastlothian.gov.uk/downloads/file/7462/east_lothian_licensing_board_statement_of_licensing_policy_2013_to_2013
East Renfrewshire	No	No	
Edinburgh	Yes	Yes	http://www.edinburgh.gov.uk/downloads/file/3083/licensing_board_policy_november_2013
Falkirk	No	No	
Fife	Yes	No	http://www.fifedirect.org.uk/publications/index.cfm?fuseaction=publication.pop&pubid=C6CAA39F-C346-7D54-A1210AEC18C73830
Glasgow	Yes	Yes	http://www.glasgow.gov.uk/CHttpHandler.ashx?id=17578&p=0
Highland	Yes	Yes	http://www.highland.gov.uk/downloads/file/3743/highland_licensing_board_policy_statement_2013-16
Inverclyde	Yes	Yes	http://www.inverclyde.gov.uk/law-and-licensing/licensing-alcohol/licensing-board-policy-statement
Midlothian	Yes	No	http://www.midlothian.gov.uk/downloads/file/3862/licensing_board_policy_2013__2016_draft

Licensing policy statement	Published by end April 2014	Overprovision statement included	
Moray	Yes	Yes	http://www.moray.gov.uk/downloads/file90211.pdf
North Ayrshire	Yes	Yes	http://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/licensing-board.aspx
North Lanarkshire	Yes	Yes	http://www.northlanarkshire.gov.uk/CHttpHandler.ashx?id=4867&p=0
Orkney	Yes	Yes	http://www.orkney.gov.uk/Files/Law-and-Licensing/Licensing-Board/Policies/OIALBAcoholLicensingPolicyStatement2013.pdf
Perth	No	No	
Renfrewshire	Yes	No	http://www.renfrewshire.gov.uk/wps/wcm/connect/51420af7-f371-4cd4-a14a-21d848c67319/cs-ae-RevisedStatementofLicensingPolicy2013-2016.pdf?MOD=AJPERES
Scottish Borders	Yes	Yes	http://www.scotborders.gov.uk/downloads/file/7206/scottish_borders_licensing_board-policy_statement
Shetland	Yes	Yes	http://www.shetland.gov.uk/about_introduction/documents/StatementofLicensingPolicyNov2013-Nov2016.pdf
South Ayrshire	Yes	Yes	http://www.south-ayrshire.gov.uk/licensing/policy.aspx
South Lanarkshire -Rutherglen/Cambuslang	No	No	
South Lanarkshire - East Kilbride	No	No	
South Lanarkshire - Hamilton	No	No	
South Lanarkshire - Clydesdale	No	No	
Stirling	Yes	No	http://www.stirling.gov.uk/_documents/temporary-uploads/economy,-planning-_and_-regulation/licensingpolicyfinal.pdf
West Dunbartonshire	Yes	Yes	http://www.west-dunbarton.gov.uk/media/3181389/licensing_policy_statement_november_2013_2016.pdf
West Lothian	Yes	No	http://www.westlothian.gov.uk/media/downloadaddoc/1799499/1842140/boardpolicy
Western isles	Yes	Yes	http://www.cne-siar.gov.uk/licensing/documents/Licensing%20Policy.pdf

Appendix 2

Consultation process

Consultations to which Alcohol Focus Scotland submitted a response: Glasgow City, Edinburgh, Orkney, West Dunbartonshire, Aberdeenshire (Central & South/North), Scottish Borders, East Dunbartonshire, East Lothian, Moray, Perth, Dumfries and Galloway.

Licensing boards that responded to Alcohol Focus Scotland's request for further information on consultation processes: Angus, Dumfries and Galloway, Edinburgh, Orkney, Glasgow City.

Through submission to consultation exercises and additional information provided by five licensing boards, Alcohol Focus Scotland gained insight into a total of thirteen out of a possible 36 policy consultations.

- 3 of the 13 boards circulated the old or existing policy statement inviting open comment.
- 5 of the 13 boards circulated new draft policies for comment.
- 5 of the 13 boards circulated questionnaires on specific aspects of licensing policy.

Of the five licensing boards that provided additional information on their consultation processes, two had adopted a multi-phased approach: Dumfries & Galloway and Glasgow City. Dumfries & Galloway distributed an initial questionnaire seeking views on overprovision, taking into account a detailed report submitted by the local Alcohol Licensing Information Group, and on proposals to improve the previous licensing policy. Based on the responses they received to the initial questionnaire, twenty-five proposals were developed for further consultation along with more detailed consideration of areas identified as being potentially overprovided for. The distribution of the consultation was done via letters to key stakeholders, advertising in local newspapers and on posters distributed in the local area and via the council website. People could respond using online or hard-copy questionnaires. This approach resulted in the highest level of public response observed among those boards that submitted additional information about their consultation process with 66 responses to the first phase and 18 responses to the second phase.

Glasgow Licensing Board also adopted a phased approach with a 'pre-consultation' exercise comprising the distribution of a questionnaire on specific parts of the policy, face-to-face evidence sessions with individuals and organisations that responded to the pre-consultation, followed by a final consultation on a draft policy based on the evidence and information gathered during the first two phases. The licensing board also undertook site visits to all proposed overprovision localities. This overall approach also resulted in a relatively high response rate in comparison with other parts of Scotland. The evidence sessions were held with 12 individuals or organisations and the final consultation attracted 42 responses.

The remaining three boards that submitted additional information on their consultation achieved response rates as follows:

- Angus Licensing Board: 7 responses
- Edinburgh Licensing Board: 23 responses
- Orkney Licensing Board: 13 responses

In addition to requesting further information about the consultation process from licensing clerks, Alcohol Focus Scotland also conducted telephone interviews with key licensing stakeholders in two case study areas: Edinburgh and the Scottish Borders. The interviews explored participants' experience of the licensing policy process in 2012/13. In both areas an improvement in the policy development process since 2010 was noted by interviewees with particular reference to wider engagement and consultation with stakeholders, and the availability of more robust evidence to inform the policy. However, the impact on policy and decision-making of the perceived improvement in process varied between the two areas.¹⁶ In Edinburgh, stakeholders involved in the preparation of both the 2010 and 2013 policy statements reported that the consultation process for the 2013 policy statement had been wider, with some good responses submitted. However, some key stakeholders believed that the licensing board had not acted on the information received and expressed disappointment and frustration that health and police evidence provided was not given serious consideration.

¹⁶ Mahon L & J Nicholls, Using licensing to protect public health: From evidence to practice, June 2014. www.alcoholresearchuk.org

Appendix 3

Licensed Hours

Summary of standard operating hours for pubs

Licensing board	Standard opening hour	Early opening (where specified)	Standard closing hours
Aberdeen City	10am		12 midnight outwith city centre. 2am within city centre, 3am Fri/Sat.
Aberdeenshire North	Policy not published		
Aberdeenshire Central and South	Policy not published		
Angus	11am		Midnight Sun-Thurs, 1am Fri-Sat. Entertainment venues/Nightclubs: midnight Sun-Thurs; 2am Fri-Sat
Argyll and Bute	Policy not published		
Clackmannanshire	11am		Midnight Sun-Thurs, 1am Fri-Sat. Entertainment venues: 1am Sun-Thurs; 2am Fri-Sat
Comhairle nan Eilean/ Western Isles	11am, 12.30 on Sunday, 7.30am for Stornoway airport		11pm Sun-Weds, 1am Thurs, 1.45am Fri, 1am Sat
Dumfries and Galloway - Annandale and Eskdale	11am		11pm Sun-Weds, 12midnight Thurs-Sat/1am with function room.
Dumfries and Galloway - Stewartry	10.30am		Midnight, 1am for functions.
Dumfries and Galloway - Nithsdale	11am		1am, 2am with entertainment.
Dumfries and Galloway - Wigtown	11am		11.30pm Sun-Weds, Midnight Thurs-Sat. Premises with entertainment 12.30 Sun-Weds, 1am Thurs-Sat.
Dundee City	13 hours continuous opening		12 midnight Sun-Thurs, 1am Fri-Sat, 2am if provide entertainment.
East Ayrshire	11am	10am	12 midnight Sun-Weds, 1am Thurs-Sat.
East Dunbartonshire	Policy not published		
East Lothian	11am		11pm Mon-Weds, 1am Thurs-Sat, 12 midnight Sun
East Renfrewshire	Policy not published		
Edinburgh	9am, Sunday 11am		1am. Premises offering food or entertainment 3am.
Falkirk	Policy not published		
Fife	10am		Midnight Sun-Thurs, 1am Fri-Sat.
Glasgow	11am		Midnight Mon-Sun, 1am for premises with function suite/entertainment
Highland	11am	9am	1am
Inverclyde	11am, 12.15 on Sunday		Midnight Mon-Weds, 1am Thurs, 1.30am Fri-Sat, midnight Sun

Licensing board	Standard opening hour	Early opening (where specified)	Standard closing hours
Midlothian	11am		1am.
Moray	11am		Considers applications for up to 15 hours opening in any 24 hour period
North Ayrshire	11am	10am	Midnight Sun-Weds, 1am Thurs-Sat.
North Lanarkshire	11am		Midnight Sun-Thurs, 1am Fri-Sat.
Orkney	10am	9am	Midnight Sun- Weds, 1am Thurs-Sat.
Perth and Kinross	Policy not published		
Renfrewshire	11am		Midnight Sun-Thurs, 1am Fri-Sat.
Scottish Borders	11am		Midnight Sun-Thurs, 1am Fri-Sat.
Shetland	11am		1am
South Ayrshire	10am		Considers applications for up to 14½ continuous hours.
South Lanarkshire - Rutherglen/ Cambuslang	Policy not published		
South Lanarkshire - East Kilbride	Policy not published		
South Lanarkshire - Hamilton	Policy not published		
South Lanarkshire - Clydesdale	Policy not published		
Stirling	11am		Midnight Sun-Thurs, 1am Fri-Sat
West Dunbartonshire	11am	10am	Midnight Sun-Thurs, 1am Fri-Sat.
West Lothian	11am		Midnight Sun-Weds, 1am Thurs-Sat.

Appendix 4

Overprovision policies

Licensing board	Overprovision Yes/No	Extent	Type of overprovision identified	Premises licences in force, March 2013 ¹⁷	New premises licences granted 2012/13	Premises licences refused 2012/13
Aberdeen City	Yes	Widescale	On-sales premises within 2 localities in the city: Belmont Street and Langstane Place/Windmill Brae/Bridge Place. Off-sales within the whole city, except 2 localities.	638	27	0
Aberdeenshire North	Policy not published			632	24	0
Aberdeenshire Central and South	Policy not published					
Angus	No			324	13	0
Argyll and Bute	Policy not published			597	20	0
Clackmannanshire	No			134	0	0
Comhairle nan Eilean/Western Isles	Yes	Limited	Vertical drinking establishments in Stornoway town centre	100	0	0
Dumfries and Galloway - Annandale and Eskdale	No			635	13	0
Dumfries and Galloway - Stewartry	No					
Dumfries and Galloway - Nithsdale	No					
Dumfries and Galloway - Wigtown	Yes	Limited	Off-sales premises within central Stranraer			
Dundee City	Policy not published			423	10	1
East Ayrshire	No			320	2	0
East Dunbartonshire	Policy not published			184	4	0
East Lothian	Yes	Widescale	Licensed premises across the whole area.	292	0	0
East Renfrewshire	Policy not published			164	0	0
Edinburgh	Yes	Limited	Licensed premises in the Grassmarket, Cowgate areas and streets leading into these main thoroughfares.	1725	67	1
Falkirk	Policy not published			365	7	0

¹⁷ Liquor licensing statistics Scotland 2012/2013, Scottish Government statistical bulletin. <http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/PubLiquor>

Licensing board	Overprovision Yes/No	Extent	Type of overprovision identified	Premises licences in force, March 2013	New premises licences granted 2012/13	Premises licences refused 2012/13
Fife	Policy not published			1043	8	0
Glasgow	Yes	Fairly limited	Licensed premises in 8 (out of 133) intermediate datazone localities: Calton, Gallowgate and Bridgeton; Carntyne West Haghill; Govan and Linthouse; Ibrox; Laurieston and Tradeston; Parkhead West and Barrowfield; Shettleston North; Whiteinch.	1745	21	6
Highland	Yes	Widescale	Overprovision of larger-capacity off-sales across whole area (more than 40m sq capacity)	1212	18	0
Inverclyde	Yes	Limited	Licensed premises in Greenock town centre	205	3	0
Midlothian	Policy not published			197	0	0
Moray	No			313	3	0
North Ayrshire	Yes	Widescale	Licensed premises across the whole area.	401	8	2
North Lanarkshire	No			705	13	0
Orkney	No			112	0	0
Perth and Kinross	Policy not published			584	3	0
Renfrewshire	Policy not published			416	17	2
Scottish Borders	No			468	0	0
Shetland	No			140	1	0
South Ayrshire	No			429	12	0
South Lanarkshire - Rutherglen/Cambuslang	Policy not published			700	13	0
South Lanarkshire - East Kilbride	Policy not published					
South Lanarkshire - Hamilton	Policy not published					
South Lanarkshire - Clydesdale	Policy not published					
Stirling	No			399	12	0
West Dunbartonshire	Yes	Widescale	Licensed premises in 17 out of 18 sub-localities.	241	2	0
West Lothian	Policy not published			394	11	0



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