

## The Highland Licensing Board

Meeting – 11 December 2014

Agenda Item	7
Report No	HLB/146/14

### Licensing Policy Statement 2013-16

#### Report by the Clerk to the Licensing Board

##### Summary

This Report invites the Board to agree a correction to the wording of the overprovision statement set out at section 2.13 of the Board's Licensing Policy Statement 2013-16

#### 1. Background

- 1.1 The Board's overprovision statement is set out at section 2.13 of its Licensing Policy Statement 2013-16.
- 1.2 The statement identifies the evidence considered by the Board in assessing overprovision in Highland and then sets out the Board's assessment of that evidence.
- 1.3 In summary, the Board's assessment was that, in the interest of promoting and improving public health, there was a need to restrict the grant of further larger-capacity off-sales premises, being premises with alcohol display areas exceeding 40 square metres. The Board reached the conclusion that the people throughout Highland had sufficient access to larger-capacity off-sales premises and that the Board's area as a whole should accordingly be considered to be overprovided with larger-capacity off-sales premises.
- 1.4 The description of the effect of this assessment set out at the end of the section explained that it created "a rebuttable presumption against the grant of an application for a premises licence, a provisional premises licence or a variation of a premises licence ... where the grant of the application would result in the premises having an off-sales capacity in excess of 40 square metres."
- 1.5 However, in relation to existing premises, the effect of the assessment was not only to create a presumption against increases which would take existing capacity beyond the 40 square metre ceiling; it was also to create a presumption against any further increase in capacity at premises which already have alcohol display areas exceeding 40 square metres. The latter effect was not clearly explained at the end of section 2.13 of the Statement. It is accordingly proposed that the statement be corrected to clarify this.

- 1.6 As the correction proposed is intended merely to clarify the effect of the Board's overprovision assessment, and will not alter that assessment, the Board is not required to carry out any further consultation in terms of sections 6 or 7 of the Licensing (Scotland) Act 2005 before making the correction.

## 2.0 Recommendation

- 2.1 The Board is invited to agree that the wording of the fourth last paragraph of section 2.13 of the Board's Licensing Policy Statement 2013-16 which commences "The effect of this overprovision assessment..." be corrected to read as follows (corrections shown in bold):

The effect of this overprovision assessment is to create, in each of these two localities, a rebuttable presumption against the grant of an application for a premises licence, a provisional premises licence or a variation of a premises licence (in terms of the ground of refusal set out in section 23(5)(e) or section 30(5)(d) of the Act) where **(a)** the grant of the application would result in the premises having an off-sales capacity in excess of 40 square metres, **or (b) in the case of licensed premises with existing off-sales capacity in excess of 40 square metres, the grant of any variation sought would result in an increase in that off-sales capacity.**

Date: 25 November 2014  
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Background papers: Licensing Policy Statement 2013-16