

**The Highland Licensing Board****Meeting – 24 September 2018**

|             |                   |
|-------------|-------------------|
| Agenda Item | <b>3</b>          |
| Report No   | <b>HLB/088/18</b> |

**Highland Licensing Board Policy Statement 2018-2023****Report by the Clerk to the Licensing Board****Summary**

This report invites the Board to agree the terms of its Policy Statement 2018-2023 after hearing from any respondents to the consultation who are present.

**1. Background**

- 1.1 On 26 June 2018, the Board agreed the terms of its Consultation Draft Policy Statement 2018-2023. The draft as published is attached at **Appendix 1**.
- 1.2 Consultation with the Board's principal statutory consultees (Highland Licensing Forum, Police Scotland and NHS Highland) then took place. Consultations were also sent out to all Community Councils and all Highland Councillors (as persons representative of the interests of Highland residents), and various organisations known to be representative of the licensed trade, or particular parts of it. The consultation was also published on the Council and Board's website and given publicity through the Council's Corporate Communications team, to encourage members of the public to participate as widely as possible.
- 1.3 The consultation period ended on 31 August 2018. Consultation responses were received from the Highland Licensing Forum, Police Scotland, NHS Highland Directorate of Public Health and the Highland Alcohol and Drugs Partnership, Inverness Pubwatch and Inverness BID, the Highland Violence Against Women Partnership, Alcohol Focus Scotland, two community councils and one member of the public. These consultation responses are collated and attached at **Appendix 2**. Appendix 2 also sets out the Clerk's comments in relation to some of the submissions and suggestions made in the consultation responses. These comments are accordingly not repeated in this covering report.
- 1.4 The Highland Violence Against Women Partnership also asked that their 2013 consultation response be circulated for the benefit of members of the Board who were not in office at that time. This is accordingly attached at **Appendix 3(i)**. In addition, the Partnership requested that the Information Service guidance on alcohol harm in communities, and on commercial sexual exploitation also be circulated. These guidance documents are accordingly attached at **Appendix 3(ii) and 3(iii)**.

- 1.5 Alcohol Focus Scotland (AFS) also asked that the AFS/CRESH document “Alcohol Outlet Availability and Harm in Highland, April 2018” be circulated to members. This is attached at **Appendix 4**.
- 1.6 As consideration of the overprovision section the Board’s next policy statement will necessarily include consideration of the current overprovision policy, which specifically aims to avoid further proliferation of larger capacity off sales premises, updated summary tables showing numbers and capacities per type of off sales outlets in Highland are attached at **Appendix 5**.
- 1.7 In addition, as reference was made on 26 June 2018 to the overprovision statements of other Licensing Boards (with a suggestion that Highland was one of very few to have an overprovision policy), a summary of the overprovision statements of all of the Licensing Boards in Scotland (as at July 2018) is attached for members’ information at **Appendix 6**. Members will see from this that Highland is one of 18 (of 32) Boards to have made a finding of overprovision and adopted an overprovision policy. It should be noted, however, that all Boards are currently in the process of undertaking the 5-yearly review of their Policy Statements, so their overprovision statements and policies (where they have them) may currently be in the process of amendment.
- 1.7 The full off sales outlet data from which the summary tables at Appendix 5 have been produced was previously circulated to Board members on 26 June 2018, but can be accessed at [https://www.highland.gov.uk/downloads/file/19445/2018-23\\_ps\\_-\\_off\\_sales\\_capacities](https://www.highland.gov.uk/downloads/file/19445/2018-23_ps_-_off_sales_capacities)  
While the summary tables have been drawn up as accurately as possible from the full data, the figures should be treated as indicative rather than definitive given that they represent only a snapshot in time and that licence numbers may have varied since the full data was produced.
- 1.8 Full on sales outlet data was also previously circulated to the Board on 26 June, but can be accessed at [https://www.highland.gov.uk/downloads/file/19446/2018-23\\_ps\\_-\\_on-sales](https://www.highland.gov.uk/downloads/file/19446/2018-23_ps_-_on-sales)  
While it is noted that options 2 and 4 of the NHS Highland proposed options in relation to overprovision relate in part to on sales in the Caithness and Inverness Community Partnership Areas, the alcohol licensing database and system used by the Council is set up to generate reports only by individual ward. The on sales outlet data available through the attached link is accordingly arranged per ward rather than per Community Partnership Area. A map showing the Community Partnership Areas is nevertheless attached at **Appendix 7**.
- 1.9 The Directorate of Public Health and Health Policy, NHS Highland assessment of overprovision in Highland (May 2018) was also previously circulated on 26 June, but can be accessed at [https://www.highland.gov.uk/downloads/file/19444/nhs\\_highland\\_overprovision\\_assessment\\_may\\_2018](https://www.highland.gov.uk/downloads/file/19444/nhs_highland_overprovision_assessment_may_2018)

## 2. Procedure

- 2.1 All organisations, agencies and persons who submitted consultation responses have been invited to attend the special meeting of the Board on 24 September to address the Board on their consultation responses before the Board debates and agrees the final terms of its policy statement.
- 2.2 Once the Board has agreed final terms, any amendment to the text of the draft Policy (as published for consultation) required as a result of the Board's decision will be made by the Clerk and the final Policy Statement 2018-2023 published by the required date, which is 4 November 2018.

### Recommendation

The Board is invited to hear from any respondents to the consultation who wish to address the Board and thereafter agree the final terms of its Policy Statement 2018-2023.

Date: 12 September 2018

Author: Susan Blease

Background Papers: Licensing (Scotland) Act 2005, Policy Statement 2013-2018

Appendix 1 – Consultation draft policy statement as published for consultation

Appendix 2 – Collated consultation responses and Clerk's comments

Appendix 3 – (i) Highland Violence Against Women Partnership consultation response 2013

(ii) IS Guidance – Alcohol Harm in Communities

(iii) IS Guidance – Commercial Sexual Exploitation

Appendix 4 – Alcohol Focus Scotland – Alcohol Outlet Availability and Harm in Highland Profile, April 2018

Appendix 5 – Summary tables of off sales outlets per type and capacity

Appendix 6 – Summary of the 32 Scottish Licensing Boards' overprovision statements

Appendix 7 – Map of Highland Community Partnership areas

**THE HIGHLAND LICENSING BOARD  
CONSULTATION DRAFT LICENSING POLICY STATEMENT 2018-23**

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## 1. INTRODUCTION

### 1.1 Statutory background

The Licensing (Scotland) Act 2005 (“the Act”) makes provision for regulating the sale of alcohol and licensed premises.

Section 6 of the Act requires every Licensing Board to publish, before the end of the period of 18 months after an ordinary election of councillors for local government areas, a statement of their policy in respect of the exercise of their functions under the Act during the next licensing policy period. Boards may also publish supplementary statements of policy at any point during their current licensing policy period. This current policy statement will apply from 4 November 2018 to 3 November 2023.

In preparing their licensing policy statements, Boards must seek to promote the licensing objectives as set out in Section 4 of the Act. These licensing objectives are:

1. preventing crime and disorder
2. securing public safety
3. preventing public nuisance
4. protecting and improving public health
5. protecting children from harm

Section 7 of the Act requires Boards also to include in their policy statements a statement as to the extent to which they consider there to be overprovision of (a) licensed premises or (b) licensed premises of a particular description in any locality within their areas. They may determine that the whole of the Board’s area is a “locality” for this purpose.

Scottish Government has also issued Guidance for Licensing Boards as to the exercise of their functions under the Act and this guidance has been taken into account by the Board in the preparation of this policy statement.

### 1.2 The Board’s area

The Board has responsibility for liquor licensing functions under the Act across the whole of The Highland Council area. This extends to 26,484 square kilometers – one third of the land area of Scotland.

The population living in the Board’s area is currently estimated at around 233,100. This is the seventh highest population of the 32 Licensing Board areas in Scotland.

National Records for Scotland mid-2016 figures show population by Highland settlement area approximately as follows:

| Settlement              | Population | Settlement        | Population |
|-------------------------|------------|-------------------|------------|
| Inverness               | 63,780     | Kingussie         | 1,473      |
| Fort William            | 10,175     | Beauly            | 1,469      |
| Nairn                   | 10,022     | Evanton           | 1,406      |
| Thurso                  | 7,850      | Golspie           | 1,367      |
| Wick                    | 6,798      | Dornoch           | 1,277      |
| Alness                  | 6,101      | Brora             | 1,209      |
| Dingwall                | 5,519      | Ardersier         | 1,203      |
| Invergordon             | 3,788      | North Kessock     | 1,165      |
| Tain                    | 3,595      | Drumnadrochit     | 1,164      |
| Aviemore                | 3,324      | Maryburgh         | 1,149      |
| Muir of Ord             | 2,767      | Newtonmore        | 1,114      |
| Portree                 | 2,523      | Broadford         | 1,095      |
| Grantown-On-Spey        | 2,484      | Strathpeffer      | 1,075      |
| Fortrose and Rosemarkie | 2,306      | Avoch             | 1,043      |
| Conon Bridge            | 2,014      | Halkirk           | 1,043      |
| Ullapool                | 1,526      | Seaboard Villages | 1,027      |

The numbers of premises licensed to sell alcohol in the Board's area varies continually as existing premises close and new premises open. As at 1 June 2018 there were 371 premises licensed to sell alcohol for consumption on the premises only (on sales premises), 323 premises licensed to sell alcohol for consumption off the premises only (off sales premises), and 550 premises licensed to sell alcohol for consumption both on and off the premises (on and off sales premises).

### **1.3 The Board's responsibilities**

- Main functions

The Board is responsible for various functions under the Act, including the grant of

- Premises licences
- Personal licences
- Occasional licences
- Provisional licences
- Temporary licences
- Extensions to licensed hours
- Transfers of premises licences
- Variations to premises licences, and

A public register of licence applications pending and licences granted is available at [https://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/733/register\\_of\\_licences](https://www.highland.gov.uk/info/1125/licences_permits_and_permissions/733/register_of_licences)

The Board also has responsibility for conducting reviews of premises licence where a valid ground of review (such as a breach of licence conditions or any other ground relevant to a licensing objective) has been alleged. The Act confers powers on the Board to impose sanctions where, following a review hearing, it is satisfied that the ground is established.

The Board may also impose sanctions in respect of personal licences where the licence holder has been convicted of a relevant or foreign offence or where, either in the course of reviewing a premises licence or following receipt of a report from the Chief Constable or the Licensing Standards Officer, the Board finds that a personal licence holder has acted in a manner inconsistent with the licensing objectives. The Board is also responsible for giving notice to personal licence holders in advance of the five-yearly deadline for undertaking refresher training.

- Reporting functions

In 2017, a requirement that Boards also publish annual financial reports setting out their income and expenditure in the previous financial year also came into effect. The Board published its first financial report in June 2017 and must publish further annual reports within 3 months of the end of each financial year.

An additional requirement for Boards to publish annual functions reports setting out how they have exercised their functions in the previous financial year also came into effect in 2018. The Board published its first functions report in June 2018 and must publish further annual reports within 3 months of the end of each financial year.

The Board's annual financial and annual functions reports are available at:

[https://www.highland.gov.uk/info/1126/licences\\_-\\_alcohol/729/licensing\\_meetings\\_and\\_policies/4](https://www.highland.gov.uk/info/1126/licences_-_alcohol/729/licensing_meetings_and_policies/4)

- Delegation of decision-making

Authority to exercise functions in respect of the grant of certain licences or the making of licence review proposals has, in some circumstances, been delegated to the Clerk to the Board or to the Convener or Vice Convener or, in the absence of the Convener and Vice Convener, to individual members of the Board. The Board's Scheme of Delegation setting out the circumstances in which functions are delegated is appended to this policy statement. **(Appendix 1 – Scheme of Delegation)**

- Other responsibilities

The Board also has responsibility for certain licensing functions under the Gambling Act 2005. The Board's statement of policy in respect of the exercise of its functions under that Act is contained in a separate document available at

[https://www.highland.gov.uk/downloads/file/3665/policy\\_statement\\_2013-16](https://www.highland.gov.uk/downloads/file/3665/policy_statement_2013-16)



#### **1.4 Aim and status of this policy statement**

The aim of this policy statement is to promote consistency of decision-making and to give advance notice to applicants of the Board's likely approach to determining applications. Although there is a presumption that the Board will follow the terms of this policy statement in determining individual applications, it is open to applicants to seek the grant of applications which are contrary to the Board's policy statement. In such cases, applicants will have to demonstrate to the Board good reason why the Board's policy statement should not be followed. In particular, they will require to satisfy the Board that the decision sought will not conflict with any of the licensing objectives.

#### **1.5 Supplementary policy statements**

This policy statement indicates general policy on a variety of issues but cannot cover every eventuality. Where issues arise which are not fully covered by this statement, or where amendments to the Act or associated secondary legislation so require, the Board may issue further guidance and, subject to further consultation, may publish supplementary licensing policy statements under section 6 of the Act during the lifespan of this policy statement.

#### **1.6 Other regulatory regimes**

The Board aims to avoid duplication with other regulatory regimes and agencies. In particular, the Board may not impose conditions on licences which relate to matters (such as planning, buildings standards or food hygiene) which are regulated under other statutory powers.

#### **1.7 Pub Watch schemes**

The Board recognises and supports the effective partnership working that exists in many Highland "Pub Watch" schemes which actively supports the licensing objectives in providing safe drinking environments for customers and contributing in a meaningful way to the overall community safety in local areas.

#### **1.8 Equalities**

- The Board

The Board aims at all times to act in accordance with the public sector duties under equality legislation. The Board's Equality Strategy, which was agreed on 2 April 2013, can be accessed at

[https://www.highland.gov.uk/downloads/file/15449/equality\\_strategy\\_201317 - equality\\_outcomes\\_progress\\_report](https://www.highland.gov.uk/downloads/file/15449/equality_strategy_201317_-_equality_outcomes_progress_report)

This is subject to continuous review.

- The licensed trade

The Board also expects licence holders to address equalities issues in all aspects of the operation of their premises.

In this regard, it should be noted that since 1 April 2018 applicants for new premises licences have been required by law to include with their licence application a disabled access and facilities statement in a prescribed form. An application cannot be considered by the Board unless accompanied by a completed statement. Guidance on completion of these statements is available at:

[https://www.highland.gov.uk/downloads/file/18965/guidance\\_for\\_completing\\_a\\_disabled\\_access\\_and\\_facilities\\_statement](https://www.highland.gov.uk/downloads/file/18965/guidance_for_completing_a_disabled_access_and_facilities_statement)

### **1.9 Publication Scheme**

The Freedom of Information (Scotland) 2002 provides for a duty to be placed on Public Authorities (of which the Board is one) to publish information on the basic structure of the Board and how it is administered and details of the type of information available to the public and how it can be extracted. The Board's publication scheme, setting out this information, can be accessed at

[https://www.highland.gov.uk/info/1126/licences\\_-\\_alcohol/729/licensing\\_meetings\\_and\\_policies/4](https://www.highland.gov.uk/info/1126/licences_-_alcohol/729/licensing_meetings_and_policies/4)

## 2. POLICIES

### 2.1 Premises licence core hours

The following core hours will generally be the maximum hours permitted by the Board. **Applicants seeking earlier opening hours or later terminal hours, or seeking to open for a continuous period which exceeds 14 hours, will require to satisfy the Board that these hours are justified (see section 2.2 below) and that they will not conflict with any of the licensing objectives.**

- Off-sales

**Monday to Sunday: 1000 hours to 2200 hours**

- General on-sales premises

These are premises such as public houses, hotel bars and members' clubs which offer no significant entertainment facilities and where the consumption of alcohol is the principal activity.

**Monday to Sunday: 1100 hours to 0100 hours the following day**

- Food-led operations

These are premises at which the sale of alcohol is ancillary to the provision of food and is only sold to persons taking table meals. Early opening, generally from no earlier than **0900 hours**, will be permitted subject to any sale of alcohol before 1100 hours being restricted to sale of alcohol as an accompaniment to food.

Where such early opening is sought, the closing time sought should be such as to restrict the continuous period during which alcohol may be sold to no more than 14 hours, unless a justification for a longer continuous period of sale can be established to the Board's satisfaction.

- Late opening premises

These are premises, or parts of premises, which the Board is satisfied offer, from a certain point on certain evenings, significant entertainment facilities and where the provision of alcohol for consumption on the premises is ancillary to the significant entertainment provided. Nightclubs and discotheques may fall within this category. They may also include "hybrid" premises which operate as a general on-sales premises during the day but then offer significant entertainment from a certain point in the evening.

For the avoidance of doubt, applicants are advised that outwith the festive period (see section 2.3 below) the Board will not permit the sale of alcohol on late opening premises for a continuous period in excess of 14 hours except where the Board is satisfied that significant entertainment beyond 0100 hours will be provided. Where the Board is so satisfied, late opening will be permitted as follows:

**Monday to Wednesday: 1100 hours to 0100 hours the following day**  
**Thursday to Saturday: 1100 hours to 0300 hours the following day**  
**Sunday: 1100 hours to 0100 hours the following day**

On all nights for which the Board grants late opening (i.e. for a continuous period beginning on one day and ending after 0100 hours the following day) the Board will impose a condition requiring that the significant entertainment must be provided continuously from no later than 2200 hours until such time as alcohol ceases to be sold the following day. The sale of alcohol after 0100 hours on those nights will not be permitted unless the significant entertainment is being provided. Accordingly, where a premises does not provide significant entertainment on the nights for which late opening has been granted, it may operate only until 0100 hours on those nights. Other late opening conditions (see section 3 below) will also apply.

The Board will interpret the phrase “significant entertainment” strictly and will only grant late opening premises hours if the entertainment offered is adequately specified in the operating plan submitted with the application. The Board will require applicants to demonstrate that the entertainment proposed will not be merely ancillary to the consumption of alcohol. In particular, applicants must satisfy the Board that significant facilities within the premises will be dedicated to the provision of the entertainment. Examples would include provision of a significant dance floor area and/or a dedicated stage or performance area. Applicants should also provide evidence that forthcoming entertainment will be pre-advertised.

Where these tests are met, the Board considers that entertainment such as live music, ceilidhs, dances, discos, dinner dances and parties where a disco or band is provided may amount to significant entertainment. Activities such as pool or darts competitions, karaoke evenings, quiz nights or televised sporting events will not be accepted as significant entertainment.

Where significant entertainment is to be provided on only part of the premises, this must be clearly identified in the operating plan submitted with the application. Late opening (i.e. for a continuous period beginning on one day and ending after 0100 hours the following day) will be permitted only for the part of the premises in which the significant entertainment is to be provided.

- Distilleries and alcohol producers

Where the Board is satisfied that a distillery, or other premises where alcohol is produced, is a visitor attraction, the Board may permit on-sales at the premises **from 0900 hours** on any day, provided that such a sale is part of a formal tasting or sampling session arranged for visitors to the premises. A condition to this effect may be imposed.

- Specialist off-sales providers

The Board recognises that retail premises which are exclusively or mainly stocked with alcoholic products for sale for consumption off the premises may wish to offer tutored tasting and sampling of products on the premises for an appropriate charge.

Where the Board is satisfied that such premises specialises in off-sales of alcoholic products, the Board may permit on-sales **from 1000 hours** on any day provided that

such a sale is part of a formal tasting or sampling session. A condition to this effect may be imposed.

Licence holders are, however, encouraged not to offer free samples of alcoholic products prior to 1000 hours, whether or not as part of a formal tasting or sampling session.

Licence holders should also note that weights and measures regulations relating to the sale of certain spirits and other alcoholic products may apply. Guidance on this should be sought from The Highland Council Trading Standards service.

## **2.2 Extended hours applications for licensed premises**

Where the Board is satisfied that it is appropriate to do so in connection with a special event or occasion to be catered for on the premises or a special event of local or national significance, the Board may extend the licensed hours in respect of the premises by such period as is specified in the application or by such other period as the Board considers appropriate.

The applicant will require first to satisfy the Board that the proposed event is either (a) a special event or occasion to be catered for on the premises, or (b) a special event of local or national significance, and that the grant of extended hours will not conflict with any of the licensing objectives.

- Special events or occasions to be catered for on the premises

These will typically be events or occasions such as wedding receptions, birthday parties, live performances, etc. within the premises, and the Board will generally grant applications for extended hours for events or occasions of this nature unless there is good reason to refuse the application.

- Special events of local or national significance

Over the festive period, applications for extended hours coinciding with the festive period hours stated below will generally be granted unless, in any particular case, the Board consider that there is good reason to refuse the application. See section 2.3 for fuller details of the Board's policy on hours during the Festive Period.

In addition to the festive period, the Board has also identified the following as special events of local or national significance for which it will generally grant applications for extended hours unless, in any particular case, the Board considers that there is good reason to refuse the application.

- Halloween (31 October and the Friday and Saturday nights immediately before and after 31 October)
- Burns Night (25 January and the Friday and Saturday nights immediately before and after 25 January)
- St Andrew's Night (30 November and the Friday and Saturday nights immediately before and after 30 November)
- The National Mod (generally eight nights, Friday to Friday)
- Loopallu Music Festival, Ullapool (Friday and Saturday nights only)
- Local Highland Games
- Loch Broom Skiff Regatta (Friday and Saturday nights only)

- Scottish Six Day Trials, Lochaber (Friday and Saturday nights only)
- UCI Mountain Bike World Cup, Lochaber (Friday, Saturday and Sunday nights only)

Extended hours for other special events of local or national significance, including major sporting events taking place in the Highland area, may also be granted by the Board where it is considered that the grant will not conflict with any of the licensing objectives.

For special events of local significance only, the Board will generally permit extended hours only at premises situated within the locality of the event. This will usually be the town or village in which the event takes place.

However, for certain large events such as the National Mod, the Board may consider granting extended hours at premises in surrounding towns or villages where accommodation for attendees is being provided.

- Application requirements

Subject to section 2.3 below, extended hours for any special event will only be permitted where an application under section 68 of the Act has first been lodged with and granted by the Board in consultation with Police Scotland and the Licensing Standards Officer.

Exception to this will be made only in the case of extended hours over the festive period and only in the case of premises which have, within the “Seasonal Variations” section of their operating plan, a statement that they will open for such extended hours as the Board may agree each festive period.

In all other cases, an application under section 68 will be required. Any existing “Seasonal Variation” statement which purports to authorise extended opening hours for any special event other than the festive period will not be treated as licence to open for such extended hours.

- Hours

If granting extended hours either for special events or occasions to be catered for on the premises or for special events of local or national significance, the Board will generally permit extension to the following terminal hours unless, in any particular case, the Board considers that there is good reason not to do so.

- **Late opening premises (as defined in section 2.1)**                      **0400 hours**
- **Other on-sales premises**    **0200 hours**

Where the Board is satisfied that early opening (i.e. before 1100 hours Monday to Sunday) is justified for a particular special event, competition or occasion, and where also satisfied that early opening will not conflict with any of the licensing objectives, the Board may grant extended hours to allow such early opening. Additional conditions (for example, a condition requiring the provision of food or a condition requiring additional stewarding) may be applied to any early opening granted where the Board consider such conditions necessary and expedient in the circumstances of the special event and having regard to the location of the premises.

Extended hours which would result in alcohol being sold for a continuous period which exceeds 14 hours will generally not be granted unless the Board is satisfied that these hours are justified and will not conflict with any of the licensing objectives.

The Board also reminds applicants that the Act does not allow for a period of licensed hours which has been extended by application under section 68 to be further extended by further application under that section.

- Conditions

On granting an extended hours application, in respect of the period of extended hours the Board may vary the conditions to which the premises licence is subject if it considers it necessary or expedient for the purposes of any of the licensing objectives. In particular, where hours are extended beyond 0100 hours, the Board may add, as local conditions, such equivalent conditions to the late opening mandatory conditions as the Board considers appropriate.

- Football matches and televised sporting or other events

The Board will generally not entertain applications for early opening (i.e. before 1100 hours) for football matches. Exception may be made in the case of applications for football club premises themselves where early opening is sought to accommodate pre-match hospitality packages and the Board is satisfied that the consumption of alcohol will be ancillary to the pre-match dining and entertainment provided.

Applications for extended hours for televised sporting or other events will only be accepted by the Board as being special events to be catered for on the premises, or special events of local or national significance, where the Board considers the event being televised to be of significant local, national or international interest.

### **2.3 Festive period hours**

The Clerk to the Board, in consultation with the Convener of the Board, will fix annually the specific dates over the Christmas and New Year period between which the Board will consider applications to extend on sales licensed hours generally acceptable.

These dates will normally cover a period of approximately three weeks over the festive period. The Board will aim each year to notify the dates for the next festive period to premises and to Police Scotland prior to end August.

During each festive period, applications to extend licensed hours to the following terminal hours will generally be granted unless, in any particular case, the Board consider that there are material reasons to refuse the application:

- **Late opening premises (as defined in section 2.1) : 0400 hours**
- **Other on-sales premises : 0200 hours**

The additional conditions referred to at section 2.2 above may apply together with such other late opening conditions as the Board may consider necessary or expedient for the purposes of the licensing objectives.

Premises wishing to extend their licensed hours to these terminal hours over the festive period will require to lodge an application under section 68 of the Act requesting these hours on all or any of the dates annually agreed.

Premises which have, within the “Seasonal Variations” section of their operating plan, a statement to the effect that they will open for such extended hours as the Board may agree each festive period will not require to lodge applications for festive period terminal hours.

Premises licences which include such statements in their operating plan will, however, be subject to a condition requiring the licence holder to submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises open until the festive period terminal hour for that category of premises.

The additional local conditions referred to at section 2.2 above may also apply on any nights on which the premises will be open until after 0100 hours.

A large number of applications for extended hours are received for the festive period. These cannot be determined until they have been referred by the Board to Police Scotland and to the Licensing Standards Officer who have up to 10 days in which to respond. Licence holders are therefore advised to lodge their festive hours applications by 1 December each year. **Applications received after 1 December may not be processed on time.**

## **2.4 Occasional licences**

- Who may apply?

The Board may grant occasional licences for premises (where no premises licence is in effect) where application is made by (a) the holder of a premises licence or personal licence, or (b) by a representative of a voluntary organisation.

- Application requirements

The Board encourages applicants to lodge applications for occasional licences at least 28 days before the event for which the licence is required so that the requisite notice (21 days) can be given to Police Scotland and the Licensing Standards Officer. The Board cannot guarantee that applications lodged fewer than 28 days before the event will be granted in time. While the Board has power to grant an occasional licence with less than 21 days’ notice if satisfied that the application requires to be dealt with quickly, the Board is likely to exercise this power only for unforeseen events such as funerals.

- Premises with a provisional licence – additional requirements

The Board recognises that holders of provisional premises licences are legally entitled to apply for occasional licences for the premises to which the provisional licence applies. In recent years, this mechanism has increasingly been used by provisional licence holders as a means of enabling them to open their premises for the sale of alcohol before they are ready to apply for confirmation of the provisional licence.



The Board is concerned that in circumstances where the provisional licence holder is not yet in a position to apply for confirmation, this may strongly indicate that the condition of the premises themselves is such that they are not yet suitable for use for the sale of alcohol. This in turn may raise issues of public safety for patrons frequenting the premises to consume alcohol or buy alcohol to take away.

Consequently, and in order to verify that there is no risk to public safety as a result of the condition of the premises, the Board will require any holder of a provisional licence who applies for an occasional licence for the premises to which the provisional licence applies to submit, with their application for the occasional licence, either a building standards certificate containing the information prescribed in section 50(6) of the Act, or a permission for the temporary occupation or use of the premises granted under section 21(3) of the Building (Scotland) Act 2003.

It is recognised that in all cases where an occasional licence is sought the Board must satisfy itself, amongst other things, that the condition of the premises is such that they are suitable for the sale of alcohol and that there is no risk to public safety. The Board would normally rely on Police Scotland and the Licensing Standards Officer to verify this when they are consulted on the application.

However, for the reasons given above, it is considered appropriate and reasonable that this additional form of verification (submission of a building standards certificate or a permission for temporary occupation or use) is provided by applicants in the case of premises with a provisional licence but not yet ready for confirmation of the provisional licence.

- Hours

The Board's policy is that occasional licences should normally be subject to the same opening/closing times as set out in the Board's core policy hours for general on-sales premises. These are:

**Monday to Sunday: 1100 hours to 0100 hours the following day**

Over the festive period, however, the policy hours for on-sales premises (other than Late Opening Premises) set out in the Board's festive period hours policy will be treated also as the policy hours for occasional licences on the dates identified each year by the Board. See section 2.3 above for further details.

Outwith the dates identified each year by the Board as the dates between which the festive period hours policy will apply, the Board will grant occasional licences for hours beyond its core policy hours only on cause shown in the case of exceptional special events and only where the applicant satisfies the Board that this will not conflict with any of the licensing objectives.

- Conditions

See section 3 below for details of the Mandatory and Local Conditions which the Board will apply to occasional licences.

Attention is also drawn to the new local condition introduced by this policy statement and which may be applied to occasional licences granted to holders of premises or personal licences. In addition to local condition "q(a)." (see Appendix 8), which requires that all

staff employed or engaged to sell or serve alcohol will require to have completed the licensing training prescribed in the Licensing (Training of Staff) Scotland Regulations 2007, in the case of outdoor events, the Board may now impose a further local condition, “q(b)”, requiring that a copy of the member of staff’s training record be kept on site for the duration of the occasional licence. This is intended to support all of the licensing objectives and to assist Police Scotland and the Licensing Standards Officers when carrying out licensing checks at outdoor events.

See also section 2.9 below for details of the circumstances in which the Board is likely to impose a condition on an occasional licence requiring that alcohol may only be served in cans or in plastic or polycarbonate containers. This condition is likely to be imposed at all large-scale public events in the interest of public safety.

- Voluntary organisations and best practice

In assessing whether an organisation is a voluntary organisation, the Board will have regard to the tests recommended by the Scottish Council for Voluntary Organisations. Information on these tests is available on the Board’s website and is attached at **Appendix 2**.

Voluntary organisations are reminded that the occasional licence limit provided in the Act restricts the number of occasional licences they may be granted in any 12 month period. No more than 4 licences for a period of 4 days or more and no more than 12 licences for a period of less than 4 days are permitted.

In addition, the total number of days for which occasional licences may be granted must not exceed 56 in any 12-month period. They are further reminded of the mandatory condition which applies to occasional licences granted to voluntary organisations which permits alcohol to be sold on the premises to which an occasional licence relates only at an event taking place on the premises in connection with the voluntary organisation’s activities.

In addition to imposing mandatory and local conditions, the Board encourages voluntary organisations to ensure that the group of members or volunteers who will run the bar on behalf of the organisation at the event to which the occasional licence relates is trained at least to a standard prescribed in the Licensing (Training of Staff) (Scotland) Regulations 2007. This is a minimum of two hours training, covering the following matters:

1. The legal basis of the requirement for the training of staff under paragraph 6 of schedule 3 to the Act.
2. The licensing objectives.
3. The definition of “alcohol” in the Act.
4. What constitutes an unlicensed sale.
5. The functions of Licensing Standards Officers, including their powers of entry.
6. The nature of an operating plan and its place in the licensing system.
7. The different types of premises licence conditions under section 27 of the Act.
8. Special provision for clubs under section 125 of the Act.
9. Licensed hours under Part 5 of the Act.
10. Offences under the Act, particularly those involving persons under the age of 18.
11. Proof of age under sections 102 and 108 of the Act and the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007.

12. Test purchasing of alcohol under section 105(2) of the Act.
13. Best practice as regards standards of service and refusing service.
14. Units of alcohol and the relationship between units and the strength of different alcoholic drinks.
15. The sensible drinking limits for males and females recommended by the British Medical Association.
16. Good practice in managing conflict situations.

This training must be provided by the holder of a personal licence or a qualification accredited for the purpose of the 2007 Regulations by the Scottish Qualifications Authority. Further information on training providers can be accessed at <http://www.sqa.org.uk/sqa/66469.html>.

The Board also recognises that many voluntary organisations use occasional licences to generate funds from events. This is often on a repeat basis. The Board would encourage voluntary organisations in this position, and who regularly use most or all of their quota of occasional licences, to consider designating one or more of their members to undertake personal licence holder training and obtain a personal licence.

As a personal licence holder, this member of the voluntary organisation would then be entitled to apply for an unlimited number of occasional licences for events the voluntary organisation wishes to hold. The personal licence holder would also be able, in turn, to train the other members and volunteers who will regularly run the bar at such events.

Such best practice should ensure that regular bars run by voluntary organisations are run in accordance with the licensing objectives and to a standard on a par with standards applicable in the licensed trade.

## **2.5 Access to premises by children and young persons**

The Board may impose the following requirements in relation to access to licensed premises by children and young persons where considered appropriate.

### **General requirements**

- Children under the age of 16 must be excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This will not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress. Nor will it apply to children who are resident in the premises.
- Secondly, and subject to possible exception in the case of family and youth friendly restaurants (see below), the Board will require that whilst in any room with a bar counter all children must be in the company of, or supervised by, an appropriate responsible adult. This will not apply to children of the licence holder or children who are resident in the premises.
- Thirdly, the Board will stipulate that children must not sit or remain at the bar counter at any time.

### Requirements at family and youth-friendly restaurants

The Board recognises the growing trend in family and youth-friendly restaurants, many of which are a safe environment for children of secondary school age to enter, unaccompanied by an adult, to purchase food and soft drinks without conflicting with the licensing objective of protecting children and young persons from harm.

- At appropriate premises, the Board may therefore consider permitting children aged 12 or above to access the premises unaccompanied by an adult. However, the Board will permit this only at food-led premises which either (a) have no bar counter (so that customers are served by table service only), or (b) have arrangements in place to ensure that unaccompanied children aged 12 or over, having placed their order for food and soft drinks at a designated area of the bar counter, are then seated in a designated area distanced away from, and preferably separated from, the bar counter or from any “vertical” drinking area where customers stand while consuming alcohol.

### Mandatory requirements

Separately, the Board reminds licence holders that it is a mandatory condition that premises admitting children under 5 have baby changing facilities accessible to both genders.

The Board further reminds licence holders of the requirement to have an age verification policy in place setting out the steps which are to be taken to establish the age of a person attempting to buy alcohol if it appears to the person selling the alcohol that the customer may be under the age of 25 (or such older age as may be specified in the policy). A sample age verification policy can be accessed at

<http://www.highland.gov.uk/NR/rdonlyres/554E6D50-1C1C-4B7D-8BEC-84A7B7485AD3/0/AGEVERIFICATIONPOLICY.doc>

## **2.6 Adult entertainment**

Where considered necessary and appropriate the Board will expect applicants who include adult entertainment as an activity in their operating plans also to include in their operating plans a statement that they will operate only in accordance with their operating code which shall include all of the provisions set out in the Adult Entertainment Local Conditions set out at Appendix 9 of this Policy Statement.

The Board may also impose these provisions directly as local conditions and may, in addition, include further local conditions requiring the licence holder to notify Police Scotland of all forthcoming adult entertainment events and requiring that a personal licence holder be present for the duration of any adult entertainment event.

## **2.7 Home deliveries**

Premises which intend to provide home deliveries of alcohol are reminded that they must include home deliveries as a specific activity on their operating plan. The Board will also encourage submission of details of how the deliveries will operate. These details should include the hours of delivery, the steps which will be taken to verify the age of the person

ordering, payment arrangements and arrangements to protect the safety of those delivering alcohol.

It is also the Board's expectation that any person engaged to make home deliveries of alcohol will have received training of at least 2 hours' duration from a personal licence holder or qualified trainer covering the matters specified in the Licensing (Training of Staff) (Scotland) Regulations 2007.

Licence holders are reminded that where alcohol is being delivered from a vehicle (other than to a trader for the purposes of that person's trade), a day book requires to be kept on the premises from which the alcohol is despatched and a delivery book or invoice requires to be carried by the person delivering the alcohol. The quantity, description and price of the alcohol and the name and address of the person to whom it is to be delivered require to be entered in both the day book and the delivery book or invoice. A failure to adhere to these requirements is a criminal offence. Delivery other than as specified in the details entered in the day book and delivery book or invoice is also an offence.

The Board also reminds licence holders and premises managers that the Act prohibits the delivery of alcohol to any premises other than licensed premises between the hours of midnight and 0600 hours.

## **2.8 Clubs**

The Board would encourage members' clubs to ensure via their constitutions that a limit is placed on the number of non-members who can be signed in by a club member and that this limit is observed.

The Board would emphasise that members' clubs exist primarily for the use of members only and their bona fide guests. The Board will ensure that appropriate action is taken in circumstances where members clubs openly advertise, through any medium whatsoever, that the club facilities are freely available to non-members.

If members' clubs wish to allow general admission to non-members of the club without being invited, signed in and accompanied by a member of the club, they will require to lodge an application for a major variation of their licence. They will also be required to appoint a premises manager, to have the sale of alcohol authorised by a premises manager or personal licence holder and will no longer be able to benefit from the reduced annual fee for clubs.

Clubs are further reminded that where they agree to host functions (such as weddings, parties etc) at which non-members are to be supplied with alcohol on the club premises at a time when they are not the guest of a member and are accompanied by that member, alcohol may only be sold to those non-members if an occasional licence has first been obtained.

Clubs are asked to note that these statements reflect mandatory legal requirements (The Licensing (Clubs) (Scotland) Regulations 2007 and Section 125 of the Act) rather than Board policy.

## **2.9 Plastic/polycarbonate glasses**

Where a premises licence review hearing takes place the Board may consider varying the licence to include a plastic/polycarbonate glasses condition, if satisfied that the ground for review is established and that it is necessary and appropriate for the purposes of any of the licensing objectives for such a condition to be imposed. The condition would require that, from such hour as the Board considers appropriate, drinks may only be served in plastic or polycarbonate glasses.

Where considering varying a licence to impose such a requirement, the Board will take advice from Police Scotland and the Licensing Standards Officer as to their assessment of any risk to public safety which may arise as a result of the continued serving of drinks in glassware at that premises from any particular hour.

In addition, certain occasional licences may be issued subject to a condition that alcohol may only be served in cans or in plastic or polycarbonate containers. This will particularly apply to large scale public events. The Highland Area hosts many large scale public events where alcohol provision is licensed by way of occasional licences. Events such as the Groove and Belladrum music festivals and large-scale Highland Games and agricultural shows attract many thousands of people and, in the interest of public safety, it is clearly impractical and unsafe for alcohol to be dispensed in glassware at such events.

## **2.10 Outdoor drinking**

Depending on the location of the premises, the Board may impose a condition restricting the hours during which drinks may be consumed in any outdoor drinking area identified in the operating plan. The Board will assess the appropriate hours on a case by case basis, having regard to the nature of the locality and any other relevant factors.

The Board may also require that all tables, chairs, parasols and other moveable furniture must be removed from any outdoor drinking area which is situated on a public footway within 30 minutes of the conclusion of the permitted hours applicable to that outdoor drinking area. In addition, tables used in any such outdoor drinking area must be regularly cleared of all used glassware and crockery.

Where a proposed outdoor drinking area is not on land for which a pavement permit would require to be obtained from the Council's TEC Services before the area could be used as an outside drinking area, the Board may require that the boundary of any outdoor drinking area situated must be effectively demarcated to the satisfaction of the Licensing Standards Officer.

Licence holders are reminded that planning permission for change of use may be required for new outdoor drinking areas (in addition to variation of the premises licence). Roads Authority consent (a "pavement permit") may also be required under Section 59 of the Roads (Scotland) Act 1984 if the proposed outdoor drinking area is situated on a public footway. Additional conditions may apply to any planning permission and/or pavement permit granted. Guidance on The Highland Council's technical requirements in relation to occupation of a pavement as "street café" can be accessed at

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

## **2.11 Capacity**

The Act requires applicants to include, in their Operating Plan, information on the proposed capacity of the premises.

For premises in which alcohol is to be sold for consumption on the premises, applicants should state the maximum number of customers which can be accommodated in the premises at any one time. This will be verified by the Board by reference to Building Standards Regulations. Applicants should therefore consult with the Highland Council's Building Standards Service if they are in doubt as to the capacity of their premises.

For premises in which alcohol is to be sold for consumption off the premises, applicants should state the amount of space on the premises given over to the display of alcohol for sale. The Board requires this figure to be expressed as the number of linear metres and area (square metres) of shelving given over to display.

For premises in which alcohol is to be sold for consumption both on and off the premises, details of both the maximum number of customers for on sales purposes and the amount of space (if any) given over to display of alcohol for off sales purposes must be detailed.

For on sales premises, applicants will also require to satisfy the Board that they will have sufficient measures in place to monitor the number of persons on the premises to ensure that maximum capacity is not exceeded.

## **2.12 Personal licences**

The Board has no specific policies in relation to personal licences.

Personal licence holders are reminded, however, that they are required by law to undertake prescribed training every five years and to provide the Board, within three months of the expiry of each five year period, with evidence that they have undertaken this training. The Board will issue notice of this requirement to each personal licence holder by no later than three months prior to expiry of the relevant five year period. Should a licence holder fail timeously to exhibit to the Board satisfactory evidence that they have undertaken prescribed training the Board is required by law to revoke the licence.

Personal licence holders are further reminded that they are also required by law to notify the Board if they are convicted of a relevant or foreign offence. Notice must be given by **no later than one month after the date of conviction**. Failure to do so, without reasonable excuse, is itself a criminal offence. Further information on what constitutes a relevant offence (for the purposes of the Act) can be found on the Board's website and is attached at **Appendix 3**.

There is a further statutory requirement that personal licence holders notify the Board of any change in the licence holder's name or address. Again, notice must be given by **no later than one month after the date of the change** and failure to give such notice, without reasonable excuse, is a criminal offence.

## 2.13 Overprovision

- The 2013 overprovision assessment

The Board first considered the question of whether there was overprovision of licensed premises in its area in 2013, prior to adopting an overprovision statement for inclusion in its policy statement, as required by section 7 of the Act.

At that time, the Board considered evidence and views in relation to overprovision submitted by the Public Health Directorate of NHS Highland, Police Scotland, the Highland Licensing Forum, the Highland Alcohol and Drugs Partnership, Inverness Highlands and Islands Licensed Trade Association, the Highland Violence Against Women Partnership, and the various community councils and members of the public who responded to the Board's 2013 overprovision consultation.

The evidence submitted, particularly that submitted by the NHS and Police Scotland, related to various aspects of alcohol-related harm by reference to the five licensing objectives. It demonstrated widespread alcohol-related health harm in Highland and indicated that alcohol was commonly involved in incidents of crime and disorder in the area.

The evidence also indicated that off-sales account for over two thirds of the volume of pure alcohol purchased and that the majority of off-sales purchases are made in larger-capacity off-sales premises, particularly large multiple grocery stores. These are the premises which tend to offer the greatest accessibility and affordability of alcohol in single locations, both of which are key factors affecting patterns of alcohol consumption. NHS Highland further advised that the most common location for drinking alcohol in the Highland area is in private homes, consuming alcohol bought in off-licensed premises.

This was to an extent corroborated by Police Scotland statistics for the Highland area which showed that a far higher number of alcohol-related incidents occurred in dwelling houses than in licensed premises.

Having had regard to all of the information submitted, to the views expressed by respondents to the consultation and to the number and capacity of off-sales premises in the then 22 Highland Council wards, the Board concluded in October 2013 that there was sufficient evidence to indicate a causal link between the number and capacity of off-sales premises and alcohol-related harm throughout Highland, particularly in terms of harm to public health.

The evidence on which the Board reached that view can be accessed at <http://www.highland.gov.uk/yourcouncil/committees/highlandlicbrd/2013-08-27-hlc-min.htm>, and <http://www.highland.gov.uk/yourcouncil/committees/highlandlicbrd/2013-11-12-hlb-ag.htm>

### Smaller-capacity off-sales premises (display area of 40 square metres or less)

The Board also considered details of the range and types of off-sales premises in Highland and recognised that smaller-capacity off-sales premises (generally with an alcohol display capacity not exceeding 40 square metres), such as local convenience



stores, distillery shops and other tourist shops were necessary to sustain local communities, particularly in remote areas, and to sustain the tourist industry which is a vital source of income for many in Highland. These are positive benefits which the Board considered outweighed any health harm through alcohol consumption to which smaller-capacity premises may contribute.

Having had regard to the capacities typical of the existing local convenience stores and tourist shops in Highland, the Board then went on to consider premises with off-sales capacity of no more than 40 square metres to be smaller-capacity off-sales premises providing positive benefits which outweighed any contribution to health harm they may make. The Board accordingly made no finding of overprovision in respect of premises with off-sales capacity of no more than 40 square metres in any locality in Highland.

Although this meant that applications for such premises would not be refused on grounds of overprovision under section 23(5)(e) or section 30(5)(d) of the Act, they would still require to be considered on their merits and the Board had still to consider whether any of the other grounds of refusal set out in the Act applied.

#### Larger-capacity off-sales premises (display area exceeding 40 square metres)

The Board did, however, consider that, in the interest of protecting 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). This was not intended to restrict trade but was considered necessary and proportionate to mitigate the adverse health effects of increased alcohol consumption resulting from further growth in numbers of larger-capacity off-sales premises.

Numbers of larger-capacity off-sales premises varied between wards and still do. In some wards, there are several larger-capacity off-sales premises yet there is evidence that alcohol-related health harm is below the Scottish average. In others, there are no, or few, larger-capacity off-sales premises yet there is evidence of high levels of alcohol-related health harm in those wards.

However, from NHS Highland's advice and from the Board's own local knowledge, the Board was, and continues to be aware that many people in Highland commonly travel between wards, and large distances, to purchase alcohol in larger-capacity outlets. This is particularly so given the geography of the area and the location of amenities. In any event, it is not reasonable to assume that the residents of particular wards are purchasing alcohol only in that ward. The mobility of consumers cannot be ignored.

The Board ultimately took the view that people throughout Highland had sufficient access to larger-capacity off-sales premises and that it was the Board's area as a whole which should accordingly be considered to be overprovided with larger-capacity off-sales premises.

The Board was nevertheless aware that, at that time, there was a view that the "localities" for the purposes of assessment of overprovision which require to be determined by the Board under section 7 of the Act should each be areas smaller than the Board's entire area. The Board accordingly found there to be overprovision of larger-capacity off-sales in two localities within the Board's area. These were

- The northern locality (comprising The Highland Council wards 1 to 11)
- The southern locality (comprising The Highland Council wards 12 to 22)

The effect of this overprovision assessment was 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.

- The 2018 overprovision assessment

On reassessment of numbers and capacities of licensed premises, both on sales, off sales and on and off sales premises in 2017-18, it was apparent that these had not changed significantly since the initial assessment in 2013. No new licences for premises with display capacities in excess of 40 square metres, or variations to licences which would result in a display capacity in excess of 40 square metres, were granted since the Board adopted its overprovision policy in October 2013.

Current on and off-sale capacities may be viewed below:

- (i) [2017-18 On Sales Capacities](#)
- (ii) [2017-18 Off-Sales Capacities](#)

On the advice of, and statistics presented by, NHS Highland in May 2018, it was apparent that the levels of alcohol-related health harm in the Board's area remain of serious concern. Details are available [here](#).

Of particular concern to NHS Highland were alcohol-related mortality and hospital admission rates. Their analysis of these across the nine Highland Community Partnership areas demonstrated high levels of alcohol-related health harm across Highland, but higher than average alcohol-related hospital admissions particularly in the Caithness and Inverness Highland Community Partnership areas.

Latest (2016) statistics for Scotland also showed a continuing downward trend in on sales and upward trend in off sales, with 73% of all alcohol sold in Scotland having been sold through off sales premises compared with 27% sold through on sales premises. Although sales data specific to the Board's area are not available, there is no reason to believe that the on sales and off sales trends observed for Scotland do not also reflect the Highland trend.

It remains the case also that the majority of off sales purchases are made in larger multiple grocery stores which tend to offer the greatest accessibility and affordability of alcohol in single locations, both of which are key factors affecting patterns of alcohol consumption.

**At its meeting on 26 June 2018, the Board agreed:**

- (A) To seek views on the question of whether there is overprovision of**
  - (a) licensed premises, or**
  - (b) licensed premises of a particular description**

in any particular locality in the Highland area or in the whole of the Highland area, and to ask respondents to give reasons in support of their response to this question.

- (B) In the case of respondents who consider there to be an overprovision of licensed premises in any locality or in the whole area, to invite them to put forward their own proposals as to how this can best be addressed.
- (C) The Board also agreed that views be sought on the 4 options for tackling overprovision proposed by the Directorate of Public Health and Health Policy, NHS Highland, in their May 2018 assessment of the overprovision of licensed premises in the Highland area. These four options are as follows.

- **NHS Option 1 (retain the Board’s current overprovision policy)**

The Board should retain its current policy presumption against the grant of applications for premises licences, provisional premises licences or variations of premises licences where (a) the grant of the application would result in the premises having an off sales display 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. This policy should continue to apply for the whole of the Board’s area, which the Board should agree should be treated as one “locality” for the purposes of the overprovision assessment.

- **NHS Option 2**

The Board should change its current policy presumption in respect of off sales (see Option 1) by introducing a presumption against the grant of applications which would result in the premises having an off sales display capacity which exceeds 30 square metres anywhere in the Highland area.

- **NHS Option 3**

The Board should retain its current policy presumption in respect of off sales anywhere in the Highland area (see Option 1) but also introduce an additional policy presumption against the grant of further on sales premises licences in the Caithness and Inverness Highland Community Partnership areas which have higher than average alcohol-related hospital admission rates.

- **NHS Option 4**

The Board should change its current policy presumption (see Option 1) by introducing a presumption against the grant of applications which would result in the premises having an off sales display capacity which exceeds 30 square metres anywhere in Highland and also introduce an additional policy presumption against the grant of further on sales premises licences in the Caithness and Inverness Highland Community Partnership areas which have higher than average alcohol-related hospital admission rates.

**(D) Separately, the Board further agreed to seek views on the option of introducing a similar overprovision policy to that currently adopted by the Scottish Borders Licensing Board. This policy reads as follows:**

- “4.6 The Board strongly considers well run on sales premises are a preferred and safer environment for alcohol consumption and should be encouraged over drinking in the home or any other unlicensed environment. On sales premises which provide a full range of services, for example food and quality accommodation, will be encouraged in most areas.*
- 4.7 The proliferation of larger type supermarkets outwith town centres has continued, the Board recognises that this type of operation serves a larger area than the immediate area in which they are situated. It also acknowledges that small convenience type shops offering a full range of goods are a vital part of the many small rural communities in the area and that it is essential for the viability of such businesses that they are able to provide a full range of goods and services.*
- 4.8 Where any application for an off sales Premises Licence, with no on sales provision, does not fall into the categories referred to at 4.7 or it replicates a similar off sales business in a particular area then the Board is likely to take the view that this would be overprovision, and applicants will be asked to clearly show how their individual proposal differs from what already exists and how it is likely to benefit the area as a whole.*
- 4.9 With further regard to off sales premises, the Board is conscious of the fact that the capacity required to be shown within the premises can sometimes be confusing and even seem somewhat irrelevant, in as much as large shops can have a small display area with a large storage area which replenishes the display area frequently or vice versa. However, the Board does acknowledge that display areas can be a factor in encouraging purchase and ultimately consumption and as such will look for detailed justification for any application to have a display area in excess of 10% of the overall sales area of premises, other than dedicated wine and spirit merchants. While Regulations dictate the requirement for display areas to be shown as height and width of display with a linear measurements of displays outwith that on a layout plan, the Board will further require layout plans to clearly show the area, lined and shaded, as a square metres of floor area given over to alcohol display when any application or a variation application is submitted”*

**This policy therefore creates a presumption against the grant of an off sales licence for the following types of premises:**

- (a) off sales premises which are neither “*larger type supermarkets outwith town centres*” nor “*small convenience type shops offering a full range of goods*” and which are a vital part of a small rural community, or
- (b) off sales premises which “*replicate a similar off sales business in a particular area*”

unless, in either case, the applicant can demonstrate “*how the proposal differs from what already exists in the area and how it likely to benefit the area as a whole*”, and

- (c) off sales premises with a display area in excess of 10% of the overall sales area (calculated in m<sup>2</sup>) of the premises (other than dedicated wine and spirit merchants)

unless, in the case of (c), a “*detailed justification*” for exceeding this size of display area is provided.

**Put in context, parts (a) and (b) of this policy would presume against the grant of a licence for**

- larger type supermarkets in town centres
- larger type supermarkets outwith town centres but in the same area as another larger type supermarket
- small convenience type shops offering a full range of goods but which are not a vital part of a small rural community (eg, small convenience shops in towns or the city)
- small convenience shops offering a full range of goods but which “*replicate*” a similar shop in the same area
- shops dedicated purely to off sales of alcohol (including specialist whisky, wine, craft beer, etc. shops)
- distillery shops and visitor centres which do not also sell alcohol for consumption on the premises

The policy contains no obvious explanation (in terms of the licensing objectives) as to why there should be a presumption against the grant of a licence for these particular types of premises.

It should be noted also that the policy contains no definitions of the terms “larger type supermarkets” or “small convenience type shops”. Were the Board to adopt a similar policy these, and various other terms used within it, would require to be clearly defined so that the policy can achieve the Board’s stated aim which is “*to promote consistency of decision-making and to give advance notice to applicants of the Board’s likely approach to determining applications*”.

**In addition, part (c) of this policy (the 10% of total sales area restriction) would also have the effect that:**

- hypermarkets (defined by IGD<sup>1</sup> as stores with sales areas typically over 5,600 m<sup>2</sup>) would be permitted an alcohol display area of 560 m<sup>2</sup> or more depending on their size,
- supermarkets (defined by IGD as stores with sales areas typically between 280 m<sup>2</sup> and 5,600 m<sup>2</sup>) would be permitted an alcohol display area between 28 m<sup>2</sup> and 560 m<sup>2</sup> depending on their size, and

<sup>1</sup> See <https://www.igd.com/articles/article-viewer/t/uk-grocery-retailing/i/15513>

- convenience stores (defined by IGD as stores with sales areas typically up to 280 m<sup>2</sup>) would be permitted an alcohol display area of up to 28 m<sup>2</sup> depending on their size.

It should be noted, therefore, that to replace the Board's current policy (which presumes against the grant of a licence for any off sales premises where the display capacity would exceed 40 m<sup>2</sup>) with this 10% policy would have the effect of restricting convenience stores to much smaller alcohol display areas than current policy would allow and allowing far larger display areas in supermarkets or hypermarkets.

***[The following remaining text in the existing overprovision statement for 2013-18 will be amended as required following the Board's decision on the content of its overprovision statement for 2018-23:***

Each such application will still require to be determined on its merits and the Board accordingly reserves the right to grant such an application where it considers that the licensing objectives would not be undermined by the specific proposals set out in the application, or that those objectives would not be undermined if the applicant's operating plan were to be modified or the grant of the licence made subject to appropriate conditions, and that no ground of refusal other than overprovision would apply. However, it will be for the applicant to demonstrate to the Board, by providing robust and reliable evidence, that the grant of the application would not undermine the licensing objectives or that the benefits in granting the application outweigh the Board's overprovision policy.

In the event of an existing licence for a larger-capacity off-sales premises in either of the two localities ceasing to be in force, this will not necessarily mean that there is capacity for a new licence for a larger capacity off-sales premises in that locality. The Board may continue to regard either of the two localities as overprovided notwithstanding that the number of larger-capacity off-sales premises in that locality has been reduced since the publication of this overprovision statement.]

### 3 LICENCE CONDITIONS AND OTHER RECOMMENDED CONTROL MEASURES

#### 3.1 Mandatory Conditions

In the interest of promoting the licensing objectives, the Act and associated secondary legislation stipulate certain Mandatory Conditions which the Board must impose on Premises Licences, Occasional Licences and licences for Late Opening Premises, i.e. premises open for a continuous period beginning on one day and ending after 0100 hours on the following day. These Mandatory Conditions are appended to this Policy Statement.

- **Appendix 4 – Premises Licence Mandatory Conditions**
- **Appendix 5 – Occasional Licence Mandatory Conditions**
- **Appendix 6 – Late Opening Mandatory Conditions**

#### 3.2 Local Conditions

The Board may also attach such further conditions as it considers necessary or expedient for the purposes of the licensing objectives. To that end, the Board has agreed core lists of further conditions known as “Local Conditions”, which largely reflect the Board’s policies as set out at section 2 above.

In determining which of the Local Conditions are to apply to a particular licence, the Board will have regard to the recommendations of the Licensing Standards Officers as to which of the Local Conditions are appropriate. The lists of Local Conditions (some or all of which the Board is likely to impose), and details of the particular licensing objectives to which they are considered relevant, are appended to this Statement.

- **Appendix 7 – Premises Licence Local Conditions**
- **Appendix 8 – Occasional Licence Local Conditions**
- **Appendix 9 – Adult Entertainment Conditions**

#### 3.3 Special Conditions

From time to time, Licensing Standards Officers may recommend that in the specific circumstances of a particular premises or licence, additional conditions are necessary and expedient for the purposes of the licensing objectives. The Board will have regard to any such recommendation in determining whether to apply such additional conditions.

These additional conditions are known as “Special Conditions”. Examples of Special Conditions which the Board has previously imposed, and the circumstances in which they were considered necessary, are appended to this Statement.

- **Appendix 10 – Examples of Special Conditions**

#### 3.4 Other Recommended Control Measures

In seeking to promote each of the licensing objectives, the Board and the Licensing Standards Officers encourage licence holders to have in place other control measures

which it may not be possible to require by conditions imposed on the licence but which are likely to assist in preventing crime and disorder, securing public safety, preventing public nuisance, protecting and improving public health and protecting children from harm. Advice and recommendations on appropriate measures can be sought by licence holders from the Licensing Standards Officers. The following are examples of such further control measures.

In the interest of preventing crime and disorder:

- Ongoing training of staff in addition to statutory requirements
- Installation of a CCTV system of a standard acceptable to the police, including at display areas and till points
- Suitable external lighting
- Employment of door stewards at times of peak demand (in addition to statutory requirements)
- Membership of Pubwatch or similar scheme
- Display of notices setting out management's policy on illegal substances
- Participation in in-house responsible purchase schemes for under-age sales
- Locating off-sales displays where they can be monitored by staff
- Keeping an alcohol refusals/incidents log

In the interest of securing public safety, as above, together with:

- Carrying out risk assessments
- Regular testing of procedures and equipment
- Ensuring a Personal Licence Holder and a sufficient number of staff are on the premises during times of peak demand or during special events or events of local or national significance
- First aid training for staff

In the interest of preventing public nuisance:

- Management of people entering and leaving the premises, including arrangements to prevent patrons taking glassware or bottles off the premises
- Installation of sound-proofing and sound limiting devices
- Locating smoking areas in suitable areas, providing ashtrays or litter bins and having measures in place to keep those areas tidy
- Control of operating hours for different parts of the premises
- Restricting use of outside drinking areas at night
- Ensuring litter left outside the premises is cleared regularly
- Supporting local schemes which encourage safe dispersal of patrons at closing time (eg taxi marshalling)

In the interest of protecting and improving public health:

- Making available information promoting moderate drinking, awareness of units of alcohol and recommended guidelines
- Displaying anti-drink driving materials and promoting awareness of schemes such as designated driver schemes
- Having a policy to deal with patrons who have consumed excessive alcohol
- Ensuring staff awareness of offences such as sale of alcohol to a drunk person



- Maintaining toilet facilities in a high standard of cleanliness, including provision of hot water, soap and hand-drying facilities

In the interest of protecting children from harm:

- Having child protection policies in place, particularly where unaccompanied children or young persons may be present
  - Monitoring and recording of Challenge 25 compliance
  - Staff training in spotting counterfeit or forged identity documents
  - Keeping plug caps on electrical sockets in areas to which children have access
  - Ensuring open fires or electrical or gas fires in areas to which children have access have secure fire guards
  - Locating play areas in suitable areas and prohibiting glassware or glass bottles being taken into those areas
-

## APPENDIX 1 – SCHEME OF DELEGATION

### THE HIGHLAND LICENSING BOARD SCHEME OF DELEGATION

**APPROVED AT A MEETING ON 7 AUGUST 2012 (and as amended by the Board at a meeting on 27 August 2013 with additional delegation on 1 October 2013 and on 2 August 2017)**

It was resolved that the Clerk be authorised to exercise on behalf of the Board the following functions:

#### **1. Premises Licence**

- a) The granting of a minor variation, that is
  - i) any variation of the layout plan provided there is no inconsistency with the operating plan;
  - ii) any variation restricting the terms on which children or young persons are allowed entry;
  - iii) any variation of information relating to the premises manager (including the substitution of a new premises manager);
  - iv) any other variation as may be prescribed by the Government.
- b) The substitution of a new premises manager.
- c) The transfer of a premises licence where the applicant has not been convicted of a relevant or foreign offence.
- d) Confirming a provisional premises licence.
- e) Updating changes to name and address of premises licence holder or premises manager.
- f) A variation under s 54(6)
- g) Certification under s 55(a)
- h) Rejecting a premises licence review application in terms of s 36 after consultation with the Convener whom failing the Vice Convener.
- i) Granting a temporary premises licence in terms of s 47 after consultation with the Convener whom failing the Vice Convener, subject to such variation (if any) of the existing conditions to which the principal premises licence is subject as is considered appropriate.
- j) To make a premises licence review proposal under section 44(7) where the Board receives a notice from the Chief Constable under section 44(4)(b) confirming a conviction for a relevant or foreign offence and including a recommendation that the premises licence be varied, suspended or revoked and thereafter to fix a review hearing before the Board under section 83.

- k) Where the Board has received a notice from the Chief Constable under section 44(4)(b) confirming a conviction for a relevant or foreign offence but not including a recommendation that the premises licence be varied, suspended or revoked, (a) to make a premises licence review proposal under section 44(7A)(a) and to thereafter fix a review hearing before the Board, or (b) to decide to take no further action in relation to the conviction, but in either case only after consultation with the Convener, whom failing the Vice-Convener, whom failing any other member of the Board, and only with their agreement.

## **2. Occasional Licences (see also 3. c) below)**

- a) Granting for an event where the hours applied for are within policy and there is no notice of objection or representation, subject to such local conditions and/or special conditions as are considered appropriate.
- b) If the hours of the event applied for are outwith policy or there is a notice of objection or representation, then the application will be referred to Convener of the Board whom failing the Vice Convener whom failing any member of the Board, provided that in the period between the election of Highland Councillors and members of the Board producing evidence of compliance with the prescribed requirements as to training, there will be no requirement to refer the application as detailed in this sub-paragraph.

## **3. Extended Hours**

- a) Granting where the hours applied for are within policy and there is no notice of objection from the Chief Constable.
- b) If the hours applied for are outwith policy or there is a notice of objection from the Chief Constable, then the application will be referred to the Convener whom failing the Vice Convener whom failing any member of the Board, provided that in the period between the election of Highland Councillors and members of the Board producing evidence of compliance with the prescribed requirements as to training, there will be no requirement to refer the application as detailed in this sub-paragraph.
- c) Festive Period Hours: The Clerk to the Board, in consultation with the Convener, will fix annually the specific dates over the Christmas and New Year period between which the Board's adopted festive period hours may be permitted, both as extended hours at licensed premises and as hours permitted under occasional licences. *(These dates will normally cover a period of approximately three weeks over the festive period. The Board will aim each year to notify the dates for the next festive period to premises and to Police Scotland prior to end August.)*

## **4. Personal Licences**

- a) Granting a personal licence application or renewal where the applicant has not been convicted of a relevant or foreign offence.
- b) Updating changes in the licence holder's name and address.
- c) Issuing a replacement licence in terms of S.92.

- d) Where the Board has received a notice from the Chief Constable under section 83(4)(b) confirming a conviction and that it is a conviction for a relevant or foreign offence but not including a recommendation that the personal licence be revoked, suspended or endorsed, (a) to fix a hearing before the Board under section 83(7A)(a), or (b) to decide to take no further action in relation to the conviction, but in either case only after consultation with the Convener, whom failing the Vice-Convener, whom failing any other member of the Board, and only with their agreement.
- e) To fix a hearing where a Licensing Standards Officer submits a report to the Board under section 84B) advising that the LSO considers that a personal licence holder who is or was working in licensed premises in the Board's area has acted in a manner which is inconsistent with any of the licensing objectives.

### **5. Competency of applications**

- a) Prior to a hearing where there is the issue of the competency of any application the Clerk shall determine the matter.

In any case falling under the aforementioned delegated powers, where the Clerk considers it appropriate the Clerk may refer the decision to the Board.

### ***In this scheme***

“*Act*” means the Licensing (Scotland) Act 2005

“*Convener*” means the Convener appointed in terms of Schedule 1 Paragraph 6 of the Act.

“*Clerk*” means the person appointed under Schedule 1 Paragraph 8 of the Act or any member of staff provided under that paragraph and authorised by the Clerk to act on the Clerk's behalf.

“*Vice-Convener*” means any member appointed by the Board to that office.

## APPENDIX 2 – SCVO DEFINITION OF VOLUNTARY ORGANISATIONS

The following text is extracted from guidance produced by the Scottish Council for Voluntary Organisations:

### “Defining Voluntary Organisations

#### What is a voluntary organisation?

SCVO defines voluntary organisations as non-profit driven, non-statutory, autonomous and run by individuals who do not get paid for running the organisation. Some voluntary organisations are recognised by the Inland Revenue as charities.

There are no agreed hard and fast rules for distinguishing the boundary line between voluntary and other organisations. However, the following exclusions are based on the notion that the voluntary sector represents a unique value system. Even within the set of organisations that hold to this value system, there are particular exclusions made for pragmatic reasons.

#### Exclusions

There are two key tests that we have used to distinguish voluntary organisations from other organisations:

1. Does the organisation represent a for-profit driven rather than public benefit motivation?
2. Does the organisation aim to satisfy an exclusive and private objective (or conviction) rather than a shared benefit?

The first test excludes the following:

- Private sector organisations - A key feature of voluntary organisations is that they are ultimately directed by individuals who do not make their living from their involvement in running the organisation. This naturally excludes most private sector businesses.
- Financial institutions - such as large building societies and friendly societies (eg Standard Life). These organisations are mutuals, but their overriding aim is to generate profit, rather than address a social need.

The second test excludes the following:

- Political parties and groups campaigning on a method of governance rather than to address a particular social need. It can be argued that at the grand level of things, political groups set up to address social need in its widest sense and are thus voluntary associations. However, public opinion has long determined that political activity is not seen as a public, rather than private, objective, and as such political parties are conventionally considered distinct to the voluntary sector. Nevertheless, certain civic participation groups and pressure groups campaigning on a specific social need, on behalf of excluded groups are included.
- Note that there are a significant number of Scottish charities set up as quangos or quasi non-governmental organisations. These organisations are essentially controlled by the public sector and set up by statute. Consequently, they also cannot be regarded as voluntary sector.
- Academic sector, such as universities and colleges are also excluded. It is argued that these organisations are predominantly funded by the public sector (UK Almanac 2002 – see bibliography).
- Faith based organisations, such as churches which are charitable, have a primarily religious motivation. Some faith-based organisations also set up projects that are separately constituted to address specific social needs, and these are included as voluntary sector. However, religious activity in isolation is not regarded as voluntary sector as it is an exclusive and private objective, similar to political motivation.
- Organisations officially recognised as trade unions are excluded from our definition on pragmatic grounds. The main trade unions have their own voice as a sector and are often politically motivated. However, some smaller unions of individuals, such as professional associations or business support groups are included in this voluntary sector definition.
- Private independent schools – some private schools are financially exclusive. Even if they redirect all their profit back into the school, they are arguably not driven for public benefit. Those schools which are clearly not aimed at public benefit are excluded from our voluntary sector definition.

**Other terms used to describe the sector**

The 'social economy' is a term increasingly used in relation to the voluntary sector. The phrase social economy is used to describe the economic dimension of voluntary sector activity. But while it can lead to a policy focus on some specific parts of the sector, it is not limited to those organisations that most closely emulate private sector operations known as social enterprises.

The 'Third Sector' is another term used to refer to the voluntary sector. A perspective based on work carried out by the CBS Network (2002) defines the Third Sector as all constituted organisations, plus the family economy, as set apart from the statutory and private sectors, and as such voluntary organisations are predominant within it.

**Regulated voluntary sector**

The 'regulated voluntary sector' is a subset of the voluntary sector, that comprises voluntary sector charities, housing associations and credit unions. Each of these type of organisation is subject to regulation and their presence is thus recorded by the UK Inland Revenue, Communities Scotland or the UK Financial Services Authority respectively. This makes it possible to carry out a more detailed statistical analysis of this part of the sector. All statistics in this almanac specifically relate to the regulated voluntary sector, unless otherwise indicated."

## APPENDIX 3 – LIST OF RELEVANT OFFENCES

Relevant offences for the purposes of the Act are the offences specified in the Licensing (Relevant Offences) (Scotland) Regulations 2007/513 (Scottish SI).

They include all of the offences listed in paragraphs 1 – 50 below together with:

- Any offence which was provided for in an enactment which is no longer in force and which was similar in nature to any of the offences listed in paragraphs 1 – 50 below,
- Any offence in respect of aiding and abetting, inciting, counselling or procuring any of the offences listed in paragraphs 1 - 50 below, and
- Any other offence in respect of which a sentence of imprisonment was imposed.

1. Any offence inferring personal violence.
2. Any offence which is a “sexual offence” within the meaning of [subsection \(10\) of section 210A](#) of the [Criminal Procedure \(Scotland\) Act 1995 \(c.46\)](#), as read with [subsection \(11\)](#) of that section.
3. An offence under [article 38](#) of the [Pharmacy Order 2010](#).
4. An offence under the [Betting, Gaming and Lotteries Act 1963 \(c.2\)](#).
5. An offence under the [Firearms Act 1968 \(c.27\)](#).
6. An offence under [section 1](#) of the [Trade Descriptions Act 1968 \(c.29\)](#) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
7. An offence under [section 13](#) of the [Theatres Act 1968 \(c.54\)](#) (performance of play in unlicensed premises).
8. An offence under [section 7\(2\)](#) of the [Gaming Act 1968 \(c.65\)](#) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
9. An offence under any of the following provisions of the [Misuse of Drugs Act 1971 \(c.38\)](#)–
  - (a) [section 4\(2\)](#) (production of a controlled drug);
  - (b) [section 4\(3\)](#) (supply of a controlled drug);
  - (c) [section 5\(2\)](#) (possession of a controlled drug);
  - (d) [section 5\(3\)](#) (possession of a controlled drug with intent to supply);
  - (e) [section 8](#) (permitting activities to take place on premises);
  - (f) [section 23\(4\)](#) (offence in connection with powers to search and obtain evidence).
10. An offence under the [Immigration Act 1971 \(c.77\)](#).
11. An offence under the [Poisons Act 1972 \(c.66\)](#).
12. An offence under the [Health and Safety at Work etc. Act 1974 \(c.37\)](#).
13. An offence under the [Lotteries and Amusements Act 1976 \(c.32\)](#).
14. An offence under the [Licensing \(Scotland\) Act 1976 \(c.66\)](#).



15. An offence under either of the following provisions of the [Customs and Excise Management Act 1979 \(c.2\)](#)–
- (a) [section 170](#) (disregarding [subsection \(1\)\(a\)](#)) (fraudulent evasion of duty etc.);
  - (b) [section 170B](#) (taking preparatory steps for evasion of duty).
16. An offence under the [Alcoholic Liquor Duties Act 1979 \(c.4\)](#).
17. An offence under either of the following provisions of the [Tobacco Products Duty Act 1979 \(c.7\)](#)–
- (a) [section 8G](#) (possession and sale of unmarked tobacco);
  - (b) [section 8H](#) (use of premises for sale of unmarked tobacco).
18. An offence under [Part II](#) of the [Forgery and Counterfeiting Act 1981 \(c.45\)](#).
19. An offence under any of the following provisions of the [Civic Government \(Scotland\) Act 1982 \(c.45\)](#)–
- (a) [section 7](#) (offences), so far as relating to public entertainment licences under [section 41](#);
  - (b) [section 21\(1\), \(4\), \(5\) or \(6\)](#) (offences in relation to taxis and private hire cars);
  - (c) [section 27D](#) (provision of information to holder of knife dealer's licence);
  - (d) [section 27F](#) (powers of constables and authorised officers);
  - (e) [section 27G](#) (power to inspect documents);
  - (f) [section 50](#) (drunkenness);
  - (g) [section 57](#) (being in or on buildings etc. with intent to commit theft);
  - (h) [Part V](#) (public processions).
20. An offence under the [Cinemas Act 1985 \(c.13\)](#).
21. An offence under [Part I](#) of the [Food and Environment Protection Act 1985 \(c.48\)](#).
22. An offence under either of the following provisions of [Schedule 2B](#) to the [Gas Act 1986 \(c.44\)](#)–
- (a) [paragraph 10](#) (injury to gas fittings and interference with meters);
  - (b) [paragraph 11](#) (restoration of supply without consent).
23. An offence under the [Company Directors Disqualification Act 1986 \(c.46\)](#).
24. An offence under the [Public Order Act 1986 \(c.64\)](#).
25. An offence under the [Crossbows Act 1987 \(c.32\)](#).
26. An offence under the [Firearms \(Amendment\) Act 1988 \(c.45\)](#).

27. An offence under any of the following provisions of the [Copyright, Designs and Patents Act 1988 \(c.48\)](#)–
- (a) [section 107\(1\)\(d\)\(iii\)](#) (public exhibition in the course of a business of article infringing copyright);
  - (b) [section 107\(3\)](#) (infringement of copyright by public performance of work etc.);
  - (c) [section 198\(2\)](#) (broadcast etc. of recording of performance made without sufficient consent);
  - (d) [section 297\(1\)](#) (fraudulent reception of transmission).
28. An offence under any of the following provisions of the [Road Traffic Act 1988 \(c.52\)](#)–
- (a) [section 3A](#) (causing death by careless driving while under the influence of drink or drugs);
  - (b) [section 4](#) (driving etc. a vehicle when under the influence of drink or drugs);
  - (c) [section 5](#) (driving etc. a vehicle with alcohol concentration above prescribed limit);
  - (d) [section 178](#) (taking motor vehicle without authority, etc.).
29. An offence under either of the following provisions of the [Electricity Act 1989 \(c.29\)](#)–
- (a) [paragraph 3 of Schedule 6](#) (restoration of supply without consent);
  - (b) [paragraph 8 of Schedule 6](#) (provision as to power of entry);
  - (c) [paragraph 11 of Schedule 7](#) (interference with meters).
30. An offence under either of the following provisions of the [Food Safety Act 1990 \(c.16\)](#) in circumstances where the food in question is or includes alcohol–
- (a) [section 14](#) (selling food or drink not of the nature, substance or quality demanded);
  - (b) [section 15](#) (falsely describing or presenting food or drink).
31. An offence under the [National Lottery Etc. Act 1993 \(c.39\)](#).
32. An offence under [section 92\(1\) or \(2\)](#) of the [Trade Marks Act 1994 \(c.26\)](#) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
33. An offence under any of the following provisions of the [Criminal Law \(Consolidation\) \(Scotland\) Act 1995 \(c.39\)](#)–
- (a) [section 19](#) (alcohol on vehicles);
  - (b) [section 20](#) (sporting events: control);
  - (c) [section 44](#) (false statements and declarations);
  - (d) [section 47](#) (prohibition of the carrying of offensive weapons);
  - (e) [section 49](#) (offence of having in public place article with blade or point);
  - (f) [section 49A](#) (offence of having article with blade or point (or offensive weapon) on school premises).

34. An offence under [section 3](#) of the [Private Security Industry Act 2001 \(c.12\)](#) (conduct prohibited without a licence).
35. An offence under the [Proceeds of Crime Act 2002 \(c.29\)](#).
36. An offence under the [Building \(Scotland\) Act 2003 \(asp 8\)](#).
37. An offence under the [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#).
38. An offence under the [Breastfeeding etc. \(Scotland\) Act 2005 \(asp 1\)](#).
39. An offence under the [Fire \(Scotland\) Act 2005 \(asp 5\)](#).
40. An offence under either of the following provisions of the [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#)–
  - (a) [section 1](#) (offence of permitting others to smoke in no-smoking premises);
  - (b) [section 2](#) (offence of smoking in no-smoking premises).
41. An offence under the [Licensing \(Scotland\) Act 2005 \(asp 16\)](#).
42. An offence under the [Prevention of Terrorism Act 2005 \(c.2\)](#).
43. An offence under [section 46](#) of the [Gambling Act 2005 \(c.19\)](#) (invitation to gamble).
44. An offence under the [Terrorism Act 2006 \(c.11\)](#).
45. The offences at common law of–
  - (a) theft;
  - (b) theft by housebreaking;
  - (c) fraud;
  - (d) uttering;
  - (e) fraud and uttering;
  - (f) extortion;
  - (g) abduction;
  - (h) reset; and
  - (i) conspiracy to defraud.
46. The offences at common law of–
  - (a) wilful fireraising;
  - (b) culpable and reckless fireraising;
  - (c) culpable and reckless conduct; and
  - (d) bestiality.
47. The offences at common law of–
  - (a) perjury;
  - (b) subornation of perjury;
  - (c) attempting to pervert the course of justice;
  - (d) attempting to defeat the ends of justice;
  - (e) prevarication on oath;
  - (f) contempt of court; and
  - (g) prison breaking.

48. The offences at common law of–
  - (a) breach of the peace; and
  - (b) mobbing and rioting.
49. An offence under [regulation 6](#) of the [Business Protection from Misleading Marketing Regulations 2008](#) (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.
50. An offence under [regulation 8, 9, 10, 11 or 12](#) of the [Consumer Protection from Unfair Trading Regulations 2008](#) (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol.

## **APPENDIX 4 – PREMISES LICENCE MANDATORY CONDITIONS**

The following mandatory conditions will be applied to all premises licences pursuant to section 27(1) and schedule 3 of the Licensing (Scotland) Act 2005, as amended by the Alcohol etc. (Scotland) Act 2010

### ***Interpretation***

1. Premises means, in relation to any premises licence, the premises specified in the licence.

### ***Compliance with the Operating Plan***

2. (1) Alcohol is to be sold on premises only in accordance with the operating plan contained in the licence.
  - (2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3. Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.

### ***The premises manager***

4. (1) Alcohol is not to be sold on the premises at any time when–
  - (a) there is no premises manager in respect of the premises
  - (b) the premises manager does not hold a personal licence
  - (c) the personal licence held by the premises manager is suspended, or
  - (d) the licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises.
- (2) In sub-paragraph (1), “appropriate licensing qualification” in relation to any licensed premises means any licensing qualification prescribed as such in relation to licensed premises of that description in regulations under section 91(2)(d).
- (3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.

### ***Authorisation of sales of alcohol***

5. Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by:-
  - (a) the premises manager, or
  - (b) another person who holds a personal licence.

**Training of Staff**

6. (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
- (2) That is a capacity (whether paid or unpaid) which involves the person–
- (a) making the sales of alcohol, or
  - (b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.
- (2A) At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub-paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007.
- (2B) A record kept on the premises under sub-paragraph (2A) must be produced to a Licensing Standards Officer on request.
- (3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular:-
- (a) provide for the accreditation by the Scottish Ministers of –
    - (i) courses of training, and
    - (ii) persons providing such courses,
 for the purposes of the regulations,
  - (b) prescribe different training requirements in relation to different descriptions of persons,
  - (c) require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualification as may be prescribed in the regulations, and
  - (d) require training to be undergone again at such intervals as may be prescribed in the regulations.

**Pricing of Alcohol**

- 6A** (1) Alcohol must not be sold on the premises at a price below its minimum price.
- (2) Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.
- (3) The minimum price of alcohol is to be calculated according to the following formula-
- $$\text{MPU} \times \text{S} \times \text{V} \times 100$$
- Where-
- MPU is the minimum price per unit,  
S is the strength of the alcohol, and  
V is the volume of the alcohol in litres.
- (4) The Scottish Ministers are to specify by order the minimum price per unit for the purposes of sub-paragraph (3).
- (5) For the purposes of sub-paragraph (3), where-
- (a) the alcohol is contained in a bottle or other container, and  
(b) the bottle or other container is marked or labelled in accordance with relevant labelling provisions  
The strength is taken to be the alcoholic strength by volume as indicated by the mark or label.
- (6) The Scottish Ministers are to specify by order the enactments which are relevant labelling provisions for the purposes of sub-paragraph (5)
- 6B.** (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale on the premises.
- (2) Sub-paragraph (1) applies-
- (a) only where each of the alcoholic products is for sale on the premises separately, and
- (b) regardless of whether or not the package also contains any item which is not an alcoholic product.
- (3) In this paragraph, 'alcoholic product' means a product containing alcohol and includes the container in which alcohol is for sale.
- 7.** Where the price at which any alcohol sold on the premises for consumption on the premises is varied-
- (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and

- (b) no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

**7A.** Where the price at which any alcohol sold on the premises for consumption off the premises is varied–

- (a) the variation (referred to in this paragraph as ‘the earlier price variation’) may be brought into effect only at the beginning of a period of licensed hours, and
- (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

***Irresponsible drinks promotions***

- 8.**
- (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
  - (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it-
    - (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
    - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
    - (c) involves the supply free of charge or at a reduced price of one of more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
    - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
    - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
    - (f) is based on the strength of any alcohol,
    - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or,
    - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
  - (3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
  - (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to–
    - (a) add further descriptions of drinks promotions,



- (b) modify any of the descriptions of drinks promotions for the time being listed in it, or
  - (c) extend or restrict the application of any of those descriptions of drinks promotions.
- (5) In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

***Provision of non-alcoholic drinks***

- 9.** (1) The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.
- (2) Tap water fit for drinking must be supplied free of charge on request.
- (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

***Requirement for Age Verification Policy***

- 9A.** (1) There must be an age verification policy in relation to the sale of alcohol on the premises.
- (2) An ‘age verification policy’ is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (‘the customer’) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).
- (3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

***Payment of annual or recurring fees***

- 10.** (1) The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under section 136(1).
- (2) The fee must be paid as required by the regulations.

***Notices – admission of persons under 18***

- 11.** (1) The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.
- (2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which –
- (a) states that persons under the age of 18 are not permitted; or
  - (b) states that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

**Baby changing facilities**

- 12.** (1) The condition specified in this paragraph applies only in the case of premises -
- (a) which are not–
    - (i) a vehicle;
    - (ii) a vessel;
    - (iii) a moveable structure; or
    - (iv) used wholly or mainly for the purposes referred to in section 125(1);
  - (b) on which alcohol is sold for consumption on the premises; and
  - (c) to which children under the age of 5 are to be admitted.
- (2) There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.

**Display, or promotion of the sale, of alcohol for consumption off the premises**

- 13.** (1) Alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following-
- (a) a single area of the premises agreed between the Licensing Board and the holder of the licence; or
  - (b) a single area of the premises which is inaccessible to the public.
- (1A) Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.
- (1B) Any drinks promotion on the premises may take place only in any one or more of the following –
- (a) an area referred to in sub-paragraph (1)(a) and (b),
  - (b) a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the premises) and the resulting tasting is separate from those areas.
- (1C) A drinks promotion in connection with the premises may not take place in the vicinity of the premises.
- (1D) For the purposes of sub-paragraph (1C), the ‘vicinity’ means the area extending 200 metres from the boundary of the premises (as shown on the layout plan).

(2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is-

- (a) a non-alcoholic drink,
- (b) packaged with, and may be purchased only along with, alcohol,
- (c) a branded non-alcoholic product, or
- (d) a newspaper, magazine or other publication.

(2A) Sub-paragraph (2) is without prejudice to sub-paragraph (1B).

(3) This paragraph does not apply in respect of premises-

- (a) whose main function is to provide a visitor attraction, and
- (b) where
  - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
  - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.

(4) In this paragraph-

- 'branded non-alcoholic product' means a product which does not consist of or contain alcohol and which –
  - (a) bears a name or image of, or
  - (b) is an image of,
- an alcoholic product (namely, a product consisting of or containing alcohol)
- 'drinks promotion' means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is –
  - (a) a branded non-alcoholic product for sale on the premises, or
  - (b) a newspaper, magazine or other publication –
    - (i) for sale on the premises, or
    - (ii) if not for sale on the premises, which does not relate only or primarily to alcohol.

## **APPENDIX 5 – OCCASIONAL LICENCE MANDATORY CONDITIONS**

The following mandatory conditions will apply to all occasional licences pursuant to section 60(1) and schedule 4 of the Licensing (Scotland) Act 2005, as amended by the Alcohol etc. (Scotland) Act 2010

### **Interpretation**

1. “The premises” means, in relation to any occasional licence, the premises specified in the licence.

### **Compliance with the Operating Plan**

2. (1) Alcohol may be sold on the premises only in accordance with the terms of the licence.  
  
(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3. Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.

### **Authorisation of sales of alcohol**

4. (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.  
  
(2) Every sale of alcohol made on the premises to which the licence relates must be authorised (whether generally or specifically) by the holder of a personal licence.

### **Voluntary Organisations**

5. (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.  
  
(2) Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation’s activities.

### **Pricing of Alcohol**

- 5B. (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale.  
  
(2) Sub-paragraph (1) applies-
  - (a) only where each of the alcoholic products is for sale on the premises separately, and
  - (b) regardless of whether or not the package also contains any item which is not an alcoholic product.

(3) In this paragraph 'alcoholic product' means a product containing alcohol and includes the container in which alcohol is for sale'.

6. Where the price at which any alcohol sold for consumption on the premises is varied

-

(a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and

(b) no further variation of the price at which that or any other alcohol is sold for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

6A. Where the price at which any alcohol sold on the premises for consumption off the premises is varied –

(a) the variation (referred to in this paragraph as 'the earlier price variation') may be brought into effect only at the beginning of a period of licensed hours, and

(b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation'.

#### **Irresponsible drinks promotions**

7. (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.

(2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it -

(a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,

(b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks).

(c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,

(d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),

(e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,

(f) is based on the strength of any alcohol,

(g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or

(h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.

(3) Paragraphs (b) to (d) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.

(4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to -

(a) add further descriptions of drinks promotions,

(b) modify any of the descriptions of drinks promotions for the time being listed in it, or

(c) extend or restrict the application of any of those descriptions of drinks promotions.

(5) In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

#### **Provision of non-alcoholic drinks**

8. (1) The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.

(2) Tap water fit for drinking must be provided free of charge on request.

(3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

#### **Requirement for Age Verification Policy**

9. (1) There must be an age verification policy in relation to the sale of alcohol on the premises.

(2) An ‘age verification policy’ is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (‘the customer’) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).

(3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

## APPENDIX 6 – LATE OPENING MANDATORY CONDITIONS

The following mandatory conditions apply to late opening premises pursuant to the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007. These premises are defined in the Regulations as premises the capacity of which is at least 250 people and which—

(a) will regularly provide at any time in the period between 1:00 am and 5:00 am—

- (i) live or recorded music with a decibel level exceeding 85dB;
- (ii) facilities for dancing; or
- (iii) adult entertainment, or

(b) when fully occupied, are likely to have more customers standing than seated.

They do not include, however, premises which have as their primary function the service of food, or which include, or are part of larger premises which include, at least 6 letting bedrooms, or in respect of which a licence under section 12 of the Theatres Act 1968(1) or section 1 of the Cinemas Act 1985(2) is in force, or which are, or are part of, an art gallery.

Although imposition of the late opening mandatory conditions is not mandatory where extended hours are granted to a premises (other than a late opening premises) to permit the sale of alcohol after 0100 hours for a particular special event or occasion, the Board may impose similar conditions as local conditions applicable to such premises during the period for which extended hours have been granted.

Mandatory conditions:

1. A person trained to the satisfaction of the Licensing Board in administering First Aid<sup>2</sup> must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 0500 hours

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<sup>2</sup> Until such time as the amendment to the Health and Safety (First Aid) Regulations 1981 is brought in to remove the requirement for HSE approval of first aid training and qualifications (which it is anticipated will take place with effect from 6 October 2013), the minimum level of first aid training which the Board will generally accept as satisfactory for the purposes of this mandatory condition is Emergency First Aid at Work (EFAW) training approved by the HSE. Guidance on the training which the Board will accept as satisfactory for Late Opening Premises applications lodged after that amendment takes effect will be prepared to coincide with the date on which the amendment comes into effect.

2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 0500 hours or such other time as the Licensing Board may specify.
3. There must be written policies in existence concerning:-
  - (a) the evacuation of the premises; and
  - (b) the prevention of the misuse of drugs on the premises
4. A CCTV system must be installed on the premises to the satisfaction of the appropriate Chief Constable and must be kept in good working order.
5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
6. A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 0500 hours or such other time as the Licensing Board may specify.



## APPENDIX 7 – PREMISES LICENCE LOCAL CONDITIONS

Any of the following local conditions may be applied to premises licences for the purposes of one or more of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children from harm

|       | <b>Condition</b>   | <b>Licensing Objective</b> |
|-------|--|----------------------------|
| a.    | Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress. | 5                          |
| b.    | Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the licence holder or children who are resident on the premises.   | 5                          |
| c.    | Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.   | 5                          |
| d.    | After (appropriate hour to be determined on a case by case basis) hours alcoholic and non alcoholic drinks shall be sold or served in plastic or polycarbonate glasses.<br><br>(This condition may be applied where considered appropriate following a review of a premises licence.)  | 1, 2, 3 & 4                |
| e.    | After (appropriate hour to be determined on a case by case basis) hours alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.   | 3                          |
| f(1). | Premises opening for the sale of alcohol for consumption on the premises prior to 1100 hours shall have available a selection of hot and cold food and shall advertise this within the premises.<br><br>(This condition may be applied when early opening is being permitted on an application for extended hours for a particular special event or occasion.)   | 4                          |

|       |   |          |
|-------|---|----------|
| f(2). | Alcohol may be sold on the premises prior to 1100 hours only to persons taking table meals.<br><br>(This condition may be applied when early opening is being permitted on a permanent basis to premises which are food-led operations.)  | 4        |
| g.    | Premises open for the sale of alcohol after 0100 hours shall have available a selection of hot and cold foods and shall advertise this within the premises.   | 4        |
| h.    | Dartboards and any pool table will be situated in a location to be approved by the Licensing Standards Officer.   | 2 & 5    |
| i.    | Any music or live performance will cease at (time to be specified on a case by case basis) hours.   | 3        |
| j.    | After (time to be specified on a case by case basis) hours, the premises licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises.  | 1, 2 & 3 |
| k.    | Within 30 minutes of the conclusion of permitted hours for any outside area governed by a Pavement Permit, all tables and chairs, parasols and other moveable furniture will be removed.  | 1,2 & 3  |
| l.    | The boundaries of any outside areawill be effectively demarcated to the satisfaction of the Licensing Standards Officer.<br><br>(This condition will not be applied if the area requires a Pavement Permit from The Highland Council or if the LSO advises it is unnecessary)   | 2, & 3   |
| m.    | The licence holder shall ensure that all outdoor tables covered by a Pavement Permit are regularly cleared of all used glassware and crockery.  | 2        |
| n.    | The licence holder shall ensure the provision of an effective means of recording the capacity during the premises hours of operation.   | 2        |
| o.    | On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold on the premises after 0100 hours only while entertainment as detailed in the operating plan is being provided and has been provided continuously from no later than 2200 hours.<br><br>(This condition will apply at late opening premises only) | 4        |

|    |  |       |
|----|--|-------|
| p. | <p>On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold and consumed on the premises after 0100 hours only in that part of the premises identified in the operating plan as the part of the premises in which significant entertainment is to be provided.</p> <p>(This condition will apply at late opening premises only)</p>  | 4.    |
| q. | <p>The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Policy Statement. The Premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with this condition.</p> <p>(This condition will apply only to premises which have a statement in their operating plan to the effect that they will open during the festive period for the hours agreed by the Board under their Festive Period policy.)</p> | 1 & 2 |

## APPENDIX 8 – OCCASIONAL LICENCE LOCAL CONDITIONS

Any of the following local conditions may be applied to occasional licences for the purposes of one or more of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children from harm

|    | Condition   | Licensing Objective |
|----|---|---------------------|
| a. | The Occasional Licence must be prominently displayed on the premises.   | 1                   |
| b. | The Licence Holder must be familiar with the legal requirements of selling alcohol under the Occasional Licence and shall ensure that all persons selling or serving alcohol are aware of their duties and responsibilities.  | 1, 2 & 5            |
| c. | The number of persons permitted entry to the premises shall not exceed the approved capacity limit for the premises.  | 2                   |
| d. | The Occasional Licence Holder or, in his/her absence, a nominated Personal Licence Holder must be present in person within the premises during the period covered by the Occasional Licence.<br><br><i>(This condition is likely to be applied to Personal Licence Holder and Premises Licence Holder applications only).</i> | 1 & 2               |
| e. | A designated member of a Voluntary Group granted an Occasional Licence must be present on the premises during the period the licence has effect.  | 1 & 2               |
| f. | Whilst on the premises referred to in this Occasional Licence, all persons under 18 years of age must be in the care of a responsible adult.  | 5                   |
| g. | Whilst on the premises referred to in this Occasional Licence, all children must be in the care of a responsible adult.   | 5                   |
| h. | A notice must be displayed so as to be reasonably visible which states that persons under the age of [ age ] are not permitted on the premises.   | 5                   |
| i. | The Licence Holder must provide [insert number] Stewards who hold a Licence granted under Section 8 of the Private Security Industry Act 2001.  | 1 & 2               |

|       |   |          |
|-------|---|----------|
| j.    | The Licence Holder must provide [ <i>insert number</i> ] Stewards. If these Stewards are working in a voluntary capacity they do not require to hold an SIA Licence.  | 1 & 2    |
| k.    | Stewards must be clearly identified by badges, armbands or a recognisable uniform.  | 1 & 2    |
| l.    | All Stewards must remain in the premises until all patrons have left the premises.  | 1, 2 & 3 |
| m.    | All alcoholic and non-alcoholic drinks shall only be sold and served in cans or in plastic or polycarbonate containers.<br><br>(This condition is likely to be applied at all large-scale public events such as music festivals, Highland Games and large agricultural shows, but may also be applied to other occasional licences where considered appropriate in the interest of public safety) | 1 & 2    |
| n.    | No person is to be permitted to leave the premises with alcohol in an open container.   | 1 & 2    |
| o.    | The Licence Holder shall ensure that immediately following the end of the period covered by the Occasional Licence, all litter within the immediate environs of the premises is collected and placed in a refuse bin.   | 2 & 3    |
| p.    | Any music or live performance must cease by 0245 hours or such other time as may be specified by the Licensing Board.   | 3        |
| q(a). | All staff employed or engaged to sell or serve alcohol will require to have completed mandatory licensing training as prescribed in the Licensing (Training of Staff) Scotland Regulations 2007.<br><br>(This condition is likely to be applied at large-scale public events.)  | 1 & 2    |
| q(b). | A copy of the training records of all members of staff employed or engaged to sell or serve alcohol shall be kept on site at the premises to which this licence applies for the duration of the licence and made available for inspection by Police Scotland or a Licensing Standards Officer on site if they so request.<br><br>(This condition is likely to be applied for outdoor events)      | All      |
| r.    | Only guests/ticket holders attending the function shall be allowed to be present on the premises during the permitted hours. The Licence Holder shall undertake such checks as  | 2        |

|    |  |   |
|----|--|---|
|    | are necessary to ensure compliance with this condition and shall provide sufficient staff for this.  |   |
| s. | Where children under the age of five are to be admitted to the premises during the currency of this Occasional Licence, baby changing facilities accessible to both genders shall be provided at the premises. | 5 |

## APPENDIX 9 – ADULT ENTERTAINMENT LOCAL CONDITIONS

The Board may require that the provisions contained in the local conditions below are incorporated also as an operating code in the operating plans of premises which include adult entertainment as an activity in their operating plan. Any of the following local conditions may also be applied as licence conditions to premises providing adult entertainment. They will be applied for the purposes of one or more of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children from harm

|    |  |           |
|----|--|-----------|
| 1. | The licence holder shall have in place a code of conduct for behaviour of staff and customers. A copy of this code will be made available to staff and customers and be displayed prominently within each public area of the premises. The code will deal with matters such as information for performers, on distance to be maintained from customers during a dance, prohibitions on sexual behaviour and propositioning, and what to do if a customer breaches the rules.                       | 1,2 & 3   |
| 2. | The licence holder will maintain a register of performers engaged to perform in the licensed premises. The register will show the name, age and current address of the performer. The licence holder will require to obtain photographic proof of each performer's identity. Foreign nationals must be asked to exhibit their passport and the licence holder should take appropriate steps to ensure that there are no restrictions on the performer's entitlement to work in the United Kingdom. | 1,2 & 3   |
| 3. | Performers should only perform in open public areas of the licensed premises, which should at all times be appropriately stewarded and covered by CCTV cameras which are of a standard approved by the Chief Constable.  | 1,2,3 & 4 |
| 4. | No dance entertainment should take place in private booths and performers' genitalia should be covered at all times. There should be no touching between performers and patrons at any time during the performance, the only contact allowed being the hand-to-hand payment of money at the conclusion of the performance.   | 1,2,3 & 4 |

|    |  |           |
|----|--|-----------|
| 5. | Performers remaining in the public area before, following or between performances should be suitably clothed at all times with no exposure of breasts or genitalia. Any advertising of performances outwith the licensed premises, whether by way of newspaper advertisement or any other public notices within or without the premises, including on-line advertisement, may only depict performers suitably clothed as aforesaid. Performances involving the removal of clothes should not be visible from outwith the premises. | 1,2 & 3   |
| 6. | The licensed premises shall have stewards in all public areas in addition to at least one steward positioned at each entrance to and/or exit from the premises. All public dance areas, entrances and exits should be monitored constantly while the premises are open to the public with the use of CCTV.   | 1,2 & 3   |
| 7. | Where in terms of the operating plan, children and young persons are permitted on the premises, they will not be permitted on the premises on any day on which adult entertainment takes place. Where the premises is an hotel which has children or young persons resident, children and young persons shall be excluded from any part of the hotel used for adult entertainment on any day on which adult entertainment takes place.   | 1,2,3 & 5 |
| 8. | The licence holder must notify Police Scotland of any forthcoming adult entertainment event at least 24 hours in advance of the event taking place.  | 1, 2 & 3  |
| 9. | A personal licence holder must be present in the area of the premises in which adult entertainment is taking place for the duration of the adult entertainment.  | 1, 2 & 3  |



## APPENDIX 10 – EXAMPLES OF SPECIAL CONDITIONS

The following are examples of special conditions which the Board may apply, on the recommendation of the Licensing Standards Officers, to particular types of event or premises or premises in a particular type of location. The list is illustrative only and it is open to the Board to apply further special conditions where considered necessary or expedient for the purposes of any of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children from harm

| <b>Special Condition</b>  | <b>Circumstances applied</b>  | <b>Licensing objective</b> |
|---|---|----------------------------|
| Any alcohol sold on the premises is to be consumed on the premises only by guests being accommodated there.   | Category 1 applications for premises formerly classed as restricted Hotels under 1976 Act   | 1                          |
| Alcohol may only be sold or supplied on the premises to persons taking table meals for consumption by such a person as an accompaniment to a meal.  | Food-led operation at which general on-sales are not considered appropriate. Also assists in assessing compliance with "Early Opening" policy.. | 4                          |
| Alcohol for consumption off the premises to which this licence refers may only be sold and despatched pursuant to an order originating off the premises.                                    | Telephone sales for "Beer and Pizza" deliveries.  | 1                          |
| During the Hours of Operation of any under 18 event on the Premises, a Personal Licence Holder shall be present on the premises for the duration of the event.                              | Under 18s Disco   | 1, 2, 3, 4, 5              |
| During the hours of operation of any under 18 event adequate stewarding by SIA registered personnel will be at all relevant entrances and egresses to the premises and within the premises. | Under 18s Disco   | 1, 2, 3, 4, 5              |
| Any under 18 event will be run according to the rules and conventions of Blue Light Disco's and with the approval of Police Scotland.   | Under 18s Disco   | 1, 2, 3, 4, 5              |

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| During the course of any under 18 event all drinks shall be sold or served in plastic or polycarbonate glasses.                | Under 18s Disco  | 1,<br>2,<br>4,<br>5 |
| The CCTV system installed on the Premises shall be used during the duration of any under 18 event.                             | Under 18s Disco  | 1,<br>2,<br>4,<br>5 |
| All glass disposal operations shall cease between the hours of 11pm and 8am.   | Premises in residential area   | 3                   |
| All Live vocals or amplified music will be so controlled after 11pm that it shall be inaudible in nearby residential property. | Premises in residential area   | 3                   |
| Live Entertainment shall conclude at 11.45pm (or such other time as the Board may require).                                    | Premises in residential area   | 3                   |
| A Personal Licence Holder is required to be personally present on the Premises between 7pm and 10pm.                           | Off sales premises known where evidence has been presented of anti-social behaviour/attempts to purchase by children or young persons. | 1,<br>3,<br>5       |
| A CCTV system of a standard approved by the Chief Constable shall be installed and cover the point of sale.                    | Off sales premises known where evidence has been presented of anti-social behaviour/attempts to purchase by children or young persons. | 1,<br>3,<br>5       |

**THE HIGHLAND LICENSING BOARD  
CONSULTATION DRAFT POLICY STATEMENT 2018-23 (“the draft Policy”)  
COLLATED CONSULTATION RESPONSES**

**Sections 2.1 to 2.10 – proposed policies**

1. **What are your views on the premises licence core hours proposed at section 2.1? Please explain any changes you think should be made and the reasons for your views.**

| Respondent  | Response   | Clerk’s comments  |
|---|--|---|
| Highland Licensing Forum  | HLF supports the current position in respect of core licensed hours in the main. However the HLF are in favour of distilleries and specialist off sales providers to be allowed to open for on sales from 09.00 provided that such a sale was part of a formal tasting and or sampling session and a local licensing condition to this effect may be imposed by the Board.                   | This suggestion by HLF was already incorporated in the draft Policy as published for consultation.  |
| Police Scotland   | Have no issues with the core hours proposed and believe the section regarding distilleries and alcohol producers to be a welcome addition.   |   |
| NHS Highland (Joint response from Department of Public Health and HADP) | We believe there is sufficient evidence to show there is an association between the total number of licensed premises and opening hours and levels of alcohol harm. We therefore recommend that the off sales hours remain from 10am to 10pm. Furthermore we recommend that no on sales premise, for the consumption of alcohol, on the premises, is allowed to sell alcohol before 11.00am. | With regard to on sales before 11 am: <ul style="list-style-type: none"> <li>The Board’s current Policy generally allows on sales from 9 am at food-led premises where consumption of alcohol is ancillary to the consumption of food. This has applied at food-led premises in the Board’s area for a</li> </ul> |

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|  |   | <p>number of years and is not known to be a major source of alcohol-related harm.</p> <ul style="list-style-type: none"> <li>• The draft Policy proposes also generally allowing on sales from 9 am at distilleries, breweries, etc, and from 10 am at specialist off-sales premises, but in either case only where the on sale is part of a formal/tutored tasting or sampling session. This merely reflects what has become Board practice since the existing Policy was adopted in 2013. Again, tutored tasting sessions at distilleries, etc, are not known to be a major source of alcohol-related harm.</li> </ul> |
| Inverness Pubwatch                       | Inverness Pubwatch are content that the existing policy, as replicated in the Draft 2018-23 document, fully reflects our previous consultation responses and position and as such we are supportive of the status quo.      |  |
| Ferintosh Community Council              | Ferintosh Community Council (FCC) supports the proposed licence core hours (but see our comments to Question 16).   |  |
| Lochardil and Drummond Community Council | These seem reasonable, we have no specific comments to raise.   |  |
| Alcohol Focus Scotland                   | As a national organisation, we are not in a position to provide input about local experiences, but can offer comment on the impact of licensed hours on alcohol harm and the evidence available to support this, which will | <ul style="list-style-type: none"> <li>• With regard to the AFS's suggestion that the Board should consider restricting off sales hours in certain areas to less than the 10 am to 10 pm statutory maximum, the Board may</li> </ul>   |

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|  | <p>hopefully be helpful to the Board when determining its policy in this area.</p> <p>AFS has identified over 50 research studies published since 2000 that find an association between the total number of licensed premises and opening hours in a locality, and levels of alcohol harm. Localities examined include cities, states, provinces and countries and several studies have specifically investigated the links between temporal availability and alcohol harm. This includes a 2017 systematic review of literature (published between 2000-2016) studying the impact of policies regulating alcohol trading times on alcohol related harm, which found that policies regulating times of alcohol trading can contribute to reductions in injuries, alcohol-related hospitalisations/emergency department visits, homicides and other crimes (Sanchez-Ramirez DC, Voaklander D (2018). The impact of policies regulating alcohol trading hours and days on specific alcohol-related harms: a systematic review. Injury Prevention 2018;24: 94-100.)</p> <p>As noted within the policy, over two thirds of alcohol is now purchased in off licenses and it will be particularly important that the new policy reflects and responds to this situation. The current approach of the Board is to generally permit off sales hours from 10am until 10pm. These hours are the maximum allowed by law and AFS believes that, in areas with high-rates of alcohol harm, the maximum permitted off-sales hours should be the exception and not the norm.</p> | <p>wish to consider how it might feasibly justify such restrictions. In the absence of evidence or local knowledge of particular purchasing patterns at off sales premises in particular localities at particular times of day, any such time restrictions would be arbitrary. Arbitrary restrictions on hours, without such an evidence basis, should be avoided.</p> <ul style="list-style-type: none"> <li>• With regard to the AFS's comments on early opening for on sales at food-led premises, see the Clerk's comments above in response to similar concerns raised by NHS Highland.</li> </ul> |
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|   | AFS welcomes that the policy does not allow the sale of alcohol in general on-sales premises (for consumption on the premises) before 11.00am. However, the Board may wish to give further consideration as to whether it is appropriate that alcohol be available from as early as 09.00am within food-led operations. |  |
| Highland Violence Against Women Partnership | <b>Please note the Highland Violence Against Women Partnership is not responding to the full consultation on the Licensing Policy Statement. Instead, we are responding to the sections in which we have a particular interest, question 6 and from question 11-14.</b>   |  |

2. (a) What are your views on the policies proposed at section 2.2 on extended hours in licensed premises (for special events or occasions to be catered for on the premises, or for special events of local or national significance)? Please explain any changes you think should be made and the reasons for your views.

(b) Please list any other events which you consider should be identified in section 2.2 as “special events of local or national significance”.

| Respondent               | Response  | Clerk's comments  |
|--------------------------|---|---|
| Highland Licensing Forum | (a) HLF is of the opinion that the current position is satisfactory; although it may be relevant to add text to the effect that televised pay per view events occurring in other continents will not be treated as special events of local or national significance unless there is a localised aspect to such an event. For Example "Superbowl", as there is a long established local Club participating in national league competitions.<br><br>(b) Royal weddings -for extended hours early in the day such as | (a) No issue with adding text to the effect suggested by HLF as it would reflect (and give applicants clarity as to) what is in any event the Board's current practice. The additional text should refer, however to “other countries” rather than “other continents”.<br><br>(b) No demand shown for this at time of |

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|   | champagne breakfasts.   | recent royal wedding, but it would seem reasonable (and in line with Board policy on hours at food-led operations), provided early sale of alcohol was as an accompaniment to food.   |
| Police Scotland   | No issues.  |   |
| NHS Highland (Joint response from Department of Public Health and HADP) | <p>Extended hours increase availability of alcohol, which in turn is linked to increased consumption and increased harm, therefore, we recommend that longer hours are not generally granted. We believe that the vast majority of events and festivals can be appropriately accommodated within normal licensing hours.</p> <p>If additional hours are agreed then the operation of the premises should also be closely monitored to ensure that alcohol-related public nuisance and harm is minimised and conditions attached to licenses if necessary.</p> | <ul style="list-style-type: none"> <li>• Both the Act and current Policy permit extended hours for special events, etc. The Board's practice is to restrict grants of extended hours to genuine "special events" only and each application is carefully scrutinised accordingly.</li> <li>• Close monitoring of events, and the imposition of appropriate additional conditions, are already current practice.</li> </ul> |
| Inverness Pubwatch  | <p>(a) Again, Inverness Pubwatch are content that the existing policy as replicated in the Draft 2018-23 document, fully reflects our previous consultation responses and position and as such we are supportive of the status quo.</p> <p>(b) Inverness Pubwatch have nothing to add, and are content that the draft policy provides scope to deal with any "Special Events" that may arise in the future.</p>   |   |
| Ferintosh Community Council   | <p>(a) FCC supports the proposed policies.</p> <p>(b) None</p>  |   |

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| Lochardil and Drummond Community Council | <p>(a) These seem reasonable, we have no specific comments to raise.</p> <p>(b) We have no specific comments to raise.</p>   |   |
| Alcohol Focus Scotland                   | <p>(a) Extended hours increase availability of alcohol, which in turn is linked to increased consumption and increased harm, therefore AFS would recommend that longer hours are not generally granted.</p> <p>The holding of public events should not serve as automatic justification for extended licensed hours; AFS believes that the vast majority of events and festivals can be appropriately accommodated within normal licensing hours and should not routinely be regarded as a need for extended licensing hours. However, should the Board decide to allow additional hours then this should be on limited days only and for not more than one extra hour. The operation of the premises should also be closely monitored to ensure that alcohol-related public nuisance and harm is minimised and conditions attached to licences if necessary.</p> <p>(b) No comment.</p> | See Clerk's comments above in response to similar concern raised by NHS Highland. |



**3. What are your views on the festive period hours proposed at section 2.3? Please explain any changes you think should be made and the reasons for your views.**

| <b>Respondent</b>   | <b>Response</b>  | <b>Clerk's comments</b>  |
|---|--|--|
| Highland Licensing Forum  | HLF forms the view that the current range of festive hours is comprehensive and fair.  |  |
| Police Scotland   | Believe the festive hours should only allow one hour extra trading over and above core hours. In relation to hybrid premises where their core hours are 1100-0100 Sunday to Wednesday, 1100-0300 Thursday, Friday and Saturday, they should only be allowed one hour extra trading each night and not be given trading until 0400 hrs 7 days a week. | The Board's festive hours policy (presuming in favour of extensions to 4 am for nightclubs, etc, and to 2 am for other on sales over a period of approximately 2 weeks over Christmas and New Year) has been in place for a number of years now without adverse feedback from Police Scotland. |
| NHS Highland (Joint response from Department of Public Health and HADP) | No comment made.   |  |
| Inverness Pubwatch  | Again, Inverness Pubwatch are content that the existing policy as replicated in the Draft 2018-23 document, fully reflects our previous consultation responses and position and as such we are supportive of the status quo.   |  |
| Ferintosh Community Council   | FCC supports the proposed hours.   |  |

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| Lochardil and Drummond Community Council | We have no specific comments to raise.                   |  |
| Alcohol Focus Scotland                   | Please see comments in relation to extended hours above. |  |

**4. What are your views on the policies and core hours for occasional licences (at unlicensed premises) proposed at section 2.4? Please explain any changes you think should be made and the reasons for your views.**

| <b>Respondent</b>        | <b>Response</b>  | <b>Clerk's comments</b>  |
|--------------------------|--|--|
| Highland Licensing Forum | In respect of the core hours available for Occasional Licences we consider the position to be fair and reasonable. We would ask the Board to consider employing text which encourages voluntary organisations who use their full quota of occasional licences or a substantial proportion thereof to consider getting key personnel trained as a personal licence holder and ensuring a suitable number of volunteers used for servicing the bars have received the two hours licensing training, as such these voluntary organisations are regular alcohol providers. | Additional text to the effect suggested by HLF was already incorporated in the draft Policy as published for consultation. |
| Police Scotland          | Believe the local condition as detailed at the end of page 14 into page 15 regarding copies of staff training records being held on site for the duration of an occasional licence and the use of plastic or polycarbonate containers in relation to occasional licences is an excellent addition to the document and will assist in compliance with licensing objectives. Furthermore the suggestion that "consider designating one or more of their members to undertake personal licence holder training and  |  |

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|  | obtain a personal licence” (as detailed on page 18) is an excellent suggestion.  |  |
| NHS Highland<br>(Joint response from Department of Public Health and HADP) | We are aware that occasional licenses have caused concern. We recommend that a certain number (to be set by the Board) of back-to-back occasional applications be automatically referred to the Board for a decision. If the agreed threshold is reached the Board should expect a premise application to be submitted. Occasional license applicants should be routinely asked how they will adhere to the five licensing objectives. We also agree that the Board should ask for information about the condition of the premises, if appropriate, to be assured there is no risk to public safety. | The concerns which occasional licences (OLs) have caused only relate to OLs at premises which already hold a provisional premises licence (i.e. they have already applied for a premises licence). These concerns are addressed by the additional requirements proposed in the draft Policy as published for consultation. |
| Inverness Pubwatch   | Again, Inverness Pubwatch are content that the existing policy as replicated in the Draft 2018-23 document, fully reflects our previous consultation responses and position and as such we are supportive of the status quo.   |  |
| Ferintosh Community Council  | FCC supports the proposed policies and core hours.   |  |
| Lochardil and Drummond Community Council                                   | We have no specific comments to raise.   |  |
| Alcohol Focus Scotland   | AFS has identified that occasional licences are causing concern in some areas of the country, with licensing stakeholders reporting that this as an area where ‘loopholes’ in the legislation are being regularly exploited. People have reported to us that occasional licences are significantly increasing alcohol access   | In relation to the various suggestions made by AFS in this submission, Members are advised as follows: <ul style="list-style-type: none"> <li>• OLs cannot lawfully be taken into account in assessing overprovision of licensed</li> </ul>  |

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|  | <p>and availability (although they were not being taken into account in overprovision assessments) and in some cases are being used to circumvent the requirement to have a premises licence to sell alcohol. In addition, although members clubs are premises that are not generally open to the public, occasional licenses can be obtained by members clubs in order to sell alcohol to the general public.</p> <p>AFS would therefore recommend that the Board requires a hearing where it identifies that an applicant has made repeated occasional licence applications. The Board could also adopt a policy whereby a certain number of back-to-back occasional applications (exceeding a set threshold) be automatically referred to the Board for a decision. Licensing boards may wish to choose their own thresholds for referring decisions to the Board, based on local circumstances. For example, the proposed approach in the Perth and Kinross Licensing Board draft policy is that “the Board considers it reasonable for occasional licences covering up to 30 days (including into the following mornings) to be granted in any one calendar year for a single premise. Where more than 30 days are sought, the Board expects a premises licence application to be submitted. Failure to do so may result in all further occasional licence applications being submitted to the Board for consideration rather than being dealt with under delegated powers.”</p> <p>In order to ensure that the sale of alcohol under occasional licences is appropriately conditioned to uphold the licensing objectives, the Board could also include an Occasional Licence Application and Supplementary Information Form as an appendix. This approach is already adopted in some other board areas, where occasional licence applicants are asked to</p> | <p>premises (section 7(5) of the Act).</p> <ul style="list-style-type: none"> <li>• OLs tend to be used by members’ clubs only for functions to which members of the public are to be admitted. Any members’ club wishing to broaden its clientele (beyond its members) on a regular basis is already advised by our LSOs to consider applying for a full premises licence. Several have done so on the basis of such advice.</li> <li>• The Act already places limits on the number of OLs which voluntary organisations may be granted in any 12 month period.<br/>In all other cases (i.e. OL applications by a premises licence holder or a personal licence holder), the Act leaves it to Scottish Ministers to prescribe, by regulations, an appropriate limit on number of OLs which Boards may grant. No such limit has been prescribed.<br/>It would not, in any event, be competent for the Board to insist that, after a certain number of OLs have been granted at a single premises, a full premises licence must be applied for.</li> <li>• All OLs are currently processed and granted/refused under powers delegated to the Board Convener in the Board’s Scheme of Delegation. This delegation arrangement reflects the generally short timescales in which such applications</li> </ul> |
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|  | <p>demonstrate how they will promote the five licensing objectives, and provide practical examples of how they plan to comply with each objective.</p> <p>AFS welcomes that the policy outlines additional requirements relating to occasional licences for premises with a provisional licence, in response to concerns that the premises themselves may not yet be in a suitable condition for the sale of alcohol. It is wholly appropriate that the Board should require applicants in these circumstances to submit with their application either a building standards certificate or evidence of permission being granted under the Building (Scotland) Act 2003.</p> | <p>must be processed and determined. Board meetings do not take place with sufficient regularity to ensure that OL applications can be dealt with timeously at full hearings before the Board. In any event, given the number of OL applications the Board receives annually, the suggestion that they be referred to the full Board for determination is completely impracticable. Nevertheless, the Convener always has discretion to refer a particular OL application to the full Board if considered appropriate.</p> <ul style="list-style-type: none"> <li>• The OL mandatory conditions and the local conditions which the Board may also apply are already appended to the current Policy Statement and the draft Policy. OL application forms (along with all other types of application form) are readily available also to view and complete on the Board's webpages.</li> </ul> <p>To attach licence application forms to the Policy Statement itself would make it a completely unwieldy document. The document is intended to be a user-friendly statement of policy which promotes consistency in decision making and gives applicants a clear steer as to how the Board is likely to determine applications. It is not intended to be a complete encyclopaedia of all licensing related forms, documents and information.</p> |
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5. **What are your views on the policies in relation to access to premises by children (i.e. persons under the age of 16) and young persons (16 and 17 year olds) proposed at section 2.5? Please explain any changes you think should be made and the reasons for your views.**

| Respondent               | Response   | Clerk's comments  |
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| Highland Licensing Forum | <p>It has become noticeable through a number of recent applications to the Board that children's access to many premises which are primarily food led is being requested in operating plans to be unaccompanied. This seems to reflect that children of secondary school age are of sufficient maturity to enter premises to purchase food and soft beverages without an accompanying adult.</p> <p>Premises which do not have a wet sales bar but serve customers by way of table service only seem particularly suited to this, Pizza Hut, Nando's Frankie and Benny's and others to name but a few of a growing trend of family and youth friendly restaurants. It seems a perfectly safe environment for children of secondary school age (12 years and above) to access unaccompanied and preserve the ethos of the fifth licensing objective of protecting children and young persons from harm.</p> <p>It is suggested that the Board may wish to produce guidance within their Policy Statement allowing persons aged 12 and above to access premises unaccompanied which are food led and have no bar counter which provides a drinking location for customers particularly up until a cut off time of say 21.00hrs. Criteria for consideration would be food led, no bar counter, and whether there was a designated seating area for children /young persons.</p> | <p>These suggestions by HLF were already incorporated in the draft Policy, although they were further refined (in consultation with the HLF Clerks/LSOs) prior to publication to allow also for unaccompanied access by secondary school aged children at premises which do have a bar counter where food orders are placed but where children aged 12 or above are then seated in a designated area clearly removed from the bar counter and any "vertical drinking" area.</p> |

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| Police<br>Scotland  | No issues.   |   |
| NHS Highland<br>(Joint<br>response from<br>Directorate of<br>Public Health<br>and HADP) | We fully appreciate that the Board may wish to encourage applications for licensed events and venues that are family friendly and safe for children. We know, however, that children and young people are influenced by the behaviour of adults they observe and this should be taken into account when considering the appropriateness of licensing applications. We are of the view that any premise that does not offer food of any description are highly unlikely to be a suitable environment for families with children and recommend that these licenses are refused. Furthermore we are of the view that any event that is predominately organised for the purpose of children the policy includes a presumption against granting an alcohol license. | The additional access for children aged 12 and above proposed in the draft Policy is restricted to food-led premises and appropriate controls and restrictions are proposed as suggested by the Forum (see above).<br><br>It is already Board practice not to grant an alcohol licence (an OL) for any event organised predominantly for the attendance of children. At any existing licensed premises where an occasional event for children may be organised, stringent conditions are applied to ensure there is no inconsistency with the licensing objective of protecting children and young persons from harm. |
| Inverness<br>Pubwatch   | Inverness Pubwatch welcome the changes which aligns with the wider mainstream policies and recognises the status of Young Persons as an inclusive identifiable group in society. We also welcome the guidance and wider clarification around the provision as it relates to Young People being permitted to access Food Led premises with no bar counter.  |   |
| Ferintosh<br>Community<br>Council   | FCC supports the proposed policies.  |   |

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| Lochardil and Drummond Community Council | These seem reasonable.  |   |
| Alcohol Focus Scotland                   | <p>AFS fully appreciates that some Boards wish to encourage applications for licensed events and venues which are family friendly and safe for children. However, evidence shows that children and young people are influenced by the behaviour of adults they observe and this should be taken into account when considering the appropriateness of licensing applications. It will also be important that the new policy addresses the broader impact of alcohol on children and young people, including the impact of parental drinking.</p> <p>AFS would expect that premises that do not offer food of any description are highly unlikely to be a suitable environment for children. It is also critical that any on-licensed premises to which families with children have access give careful consideration of their responsibilities to protect children from harm, and AFS would recommend that the Board requires applicants in these circumstances to demonstrate how they will promote this objective, including by providing a written statement (further details about how this could be done using a 'Supplementary Information' document are provided below).</p> <p>Section 2.5, detailing the Board's policy with regards to children and young persons access, is particularly useful in setting out the Board's expectations and examples of the conditions may put in place. However, it could be beneficial to set out greater detail about the conditions the Board may impose relative to children and young people, and under what circumstances.</p> | <p>See Clerk's comments above in response to NHS response.</p> <p>The Board's existing policy in imposing appropriate conditions for premises or occasional licences where children or young persons may be present are considered already sufficient. In addition, a "Children's Policy" must routinely be submitted with applications, is checked for adequacy by the LSOs and must thereafter be adhered to.</p> <p>It is understood, however, that the HLF may, with the assistance of the HLF Clerks (who are also the Council's LSOs) shortly be undertaking a review of conditions generally, although this exercise may take some time. Were this to result in recommendations from the HLF and LSOs to the Board for changes or additions to the Board's local conditions (including those relating to children and young persons), the Board would have the opportunity then to consider introducing a supplementary Policy Statement amending the conditions set out in the appendices to its main Policy Statement.</p> |



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|  | <p>The policy states that children under the age of 16 must be excluded from rooms where there is a bar counter after 2200 hours except during private functions. AFS would recommend that more detail is provided in the policy with regards to children and/or young persons access to licensed premises for functions. For example, the policy could specify whether or not it is generally permissible for children to remain on licensed premises for the duration of functions. The policy could also stipulate the conditions that may be applied to premises holding functions to help ensure that due regard is had to the licensing objective of protecting children and young people from harm. This could include measures such as, for the duration of any function held on the premises, a staff supervisor being appointed to act as managerial liaison for the premises with the organiser of the function, and to monitor the function to ensure that its conduct is not inconsistent with the five licensing objectives.</p> <p>During a series of regional events hosted by AFS in 2016, concerns were expressed across Scotland regarding occasional licences being granted for events mainly or exclusively targeted at families where children would be present. AFS also notes that the members of the public who responded to the survey of alcohol availability in the Highlands were concerned about the impact of alcohol on children and family life, and were not adverse to introducing further restrictions such as having no alcohol sales at events where children are present. We would therefore also recommend that the policy includes a presumption against granting occasional licences where the event predominantly involves children. The Board would still maintain its full discretion and flexibility to grant a licence in these circumstances, if minded to do so based on the merits of a particular application.</p> | <p>The Clerk's recommendation, therefore, is that the Board await the outcome of the HLF/LSO review of conditions before considering altering the conditions set out in the appendices to the current Policy and draft Policy. This will allow for a more fully considered approach.</p> |
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**6. What are your views on the policies in relation to adult entertainment proposed at section 2.6? Please explain any changes you think should be made and the reasons for your views?**

| Respondent   | Response   | Clerk's comments  |
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| Highland Licensing Forum   | HLF supports the existing policy.  |   |
| Police Scotland  | No issues.   |   |
| NHS Highland (Joint response from Directorate of Public Health and HADP) | <p>Page 7 of the consultation document states, "The Board also expects licence holders to address equalities issues in all aspects of the operation of their premises." The joint Scottish Government COSLA document outlines our understanding of Violence Against Women (including Commercial Sexual Exploitation) as a significant issue in our progress towards gender inequality as both a cause and a consequence of it. We would argue that to permit 'adult entertainment' on premises is for a License Holder to not only fail to address gender inequality, but to perpetuate it.</p> <p>We continue to be concerned, in general, about licenses being approved whilst 'Adult Entertainment' is being offered and we maintain that 'adult entertainment' is a form of Violence Against Women. In this regard, we would recommend that the Licensing Board does not grant any alcohol licenses for adult entertainment.</p> | <p>The legislation permits the activity of "adult entertainment" to be included in the operating plan of a premises licence. Case law establishes that the Board cannot refuse or restrict a licence for the sale of alcohol purely because adult entertainment is to take place on the premises. The grounds for refusing or restricting a licence must relate to the sale of alcohol, not simply to the type of entertainment to be provided on the premises. The Board does, however, have certain local conditions it currently imposes specifically at premises where the activity of adult entertainment is proposed. These are set out at Appendix 9 to the Board's current Policy and the draft Policy. To date, these conditions have not been challenged.</p> |

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|  |  | <p>However, further legislation is being introduced to introduce a separate licensing regime for “sexual entertainment venues” under the Civic Government (Scotland) Act 1982, regulating the entertainment itself. This new area of licensing will fall within the remit of the Highland Licensing Committee (not the Board).</p> <p>In the meantime, it should be noted that there are in fact extremely few premises in Highland which include “adult entertainment” as an activity to take place on the premises during the licensed sale of alcohol and all but one of these provides adult entertainment only on a very occasional basis.</p> |
| Inverness Pubwatch                       | Inverness Pubwatch are content that the existing policy as replicated in the Draft 2018-23 document, fully reflects our previous position and as such we are supportive of the status quo as adequate and necessary. |   |
| Ferintosh Community Council              | FCC supports the proposed policies.  |   |
| Lochardil and Drummond Community Council | No comment.  |   |

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|---|--|---|
| Alcohol Focus Scotland                      | No comment.  |   |
| Highland Violence Against Women Partnership | <p>We remain concerned about 'adult entertainment' although recognise the constraints within which the Licensing Board is operating in addressing this issue. We would continue to urge that the wide ranging conditions, as recommended by the Adult Entertainment Working Group in 2006, be reflected within the local conditions. These are available at <a href="https://www.gov.scot/Resource/Doc/112705/0027365.pdf">https://www.gov.scot/Resource/Doc/112705/0027365.pdf</a></p> <p>The Partnership welcomes the engagement it has had with the Licensing Board over previous years and the opportunities granted for continued discussion about Violence Against Women and alcohol licensing. The Clerk to the Licensing Board is aware of the views of the Partnership and Highland Council in relation to 'adult entertainment' as a form of Violence Against Women. We have included a previous consultation response for reference for other members of the Board who may not be so familiar with this position alongside this submission as well as the Guidance for Elected Members on Commercial Sexual Exploitation from the Improvement Service.</p> <p>In this particular policy statement, we are supportive of the continued inclusion of the requirements in relation to 'adult entertainment'. We have specific comments and request that the following amendments be seriously considered. These are:</p> <p>1) The Board will automatically include these conditions as part of licence including 'adult entertainment' - current document states that the Board "may" require these provisions.</p> | <p>See Clerk's comments above in relation to the NHS response.</p> <p>The additional documents referred to (the VAW group's 2013 consultation response and the IS Guidance) are appended at Appendix 3 to the Clerk's Report to the Board.</p> <p>Members are asked also to consider the following in relation to the various suggestions made by the VAW group in their submission.</p> <ul style="list-style-type: none"> <li>• The local conditions to be imposed on any type of licence are at the discretion of the Board. To frame a policy statement in such a way as to state that the Board will automatically always include certain local conditions in licences which include adult entertainment as an activity would be to fetter the Board's discretion. This would accordingly be a legally challengeable policy. The Board must consider each application, and the discretionary local conditions it considers it appropriate to impose, on a case by case basis.</li> <li>• With the exception of the suggested amendment to adult entertainment local condition 9, the Clerk sees no issue in</li> </ul> |

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|  | <p>2) Appendix 9 - part 4 - as no private dances are permitted, we would recommend that this section includes reference to breasts as well as genitalia, as included in part 5 re: public areas - we are not sure why there should be a differentiation between performance/being present in the area.</p> <p>3) Appendix 9 part 4 - we would urge the wording of this condition be altered from "performers" genitalia should be covered..." to "performers" genitalia should be covered and not visible..."., and this section should include breasts (see previous point). We are aware that there are a number of ways in which this condition can be interpreted so that in practice genitalia/breasts may be covered but are visible.</p> <p>4) Where there is a concern that a personal licence holder has committed an offence relating to Violence Against Women (e.g. domestic abuse, sexual crime, stalking, harassment, non consensual image sharing - or any other VAW offence) and 'adult entertainment' is included in this licence, the Board should review the licence and hold a hearing, as per the legislation in place, and the Licensing Standards Officers should also monitor the establishment to ensure that staff, performers and the public are not at risk. We wish to see this action reflected in the conditions in Appendix 9.</p> <p>5) We note that the inclusion of these conditions to a licence continues to be an interim measure until Sexual Entertainment Venue Licences (SEVs) are included as part of Licensing conditions. We would strongly suggest that these conditions remain in place and are applied whilst SEVs are being implemented.</p> | <p>including the specific amendments to the wording of the adult entertainment local conditions (set out at Appendix 9 of the current and draft Policies) otherwise proposed by the VAW group if the Board is so minded.</p> <ul style="list-style-type: none"> <li>• With regard to the suggestion that condition 9 be amended to provide for review of a personal licence if the licence holder is convicted of a VAW offence, the legislation already contains provision for a personal licence review if the Police or the LSO report to the Board that they consider that the licence holder has acted in a manner inconsistent with any of the licensing objectives (eg by committing a relevant offence). It is unnecessary and inappropriate to include in condition 9 an obligation on the Board to carry out such a review. The conditions are intended to place obligations on the licence holder, not the Board.</li> <li>• When the SEV licensing legislation comes into effect, it will be recommended that the Board review its adult entertainment local conditions to ensure that they are compatible with and, as far as possible, supportive of, the SEV licensing regime. Imposition of these local conditions on alcohol premises licences will, however, remain at the discretion of the Board for the reasons stated above.</li> </ul> |
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|  | <p>We will require to manage the fact that licensing for 'adult entertainment venues' will fall under the responsibility of both the Licensing Board (alcohol) and the Licensing Committee (SEV). We must ensure consistent approaches in tackling Violence Against Women are taken by both bodies, bearing in mind that addressing Violence Against Women is included in the local Equalities Outcomes for Highland Council and the Highland Licensing Board . The forthcoming legislation will provide more opportunities to tackle this form of sexual exploitation more effectively. In the meantime, we would stress that the conditions remain in place for the foreseeable future and are automatically added to alcohol licences, even when SEVs are made available. We look forward to continuing to working with the Board and the Committee on this issue in order to reduce Violence Against Women and promote equality.</p> |  |
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**7. In relation to home deliveries (section 2.7), what, if any, additional policies you would wish to see in place and why?**

| <b>Respondent</b>        | <b>Response</b>  | <b>Clerk's comments</b>  |
|--------------------------|--|--|
| Highland Licensing Forum | It maybe relevant to include text that covers the employment of specific couriers to carry out deliveries on behalf of licensed premises such as Deliveroo, that it remains the responsibility of the premises licence holder to ensure the diligence of the entire delivery operation in mitigating against underage sales. | No issue with adding a reminder to this effect for the benefit of premises licence holders using couriers/delivery services. |
| Police Scotland          | No issues.   |  |

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| NHS Highland<br>(Joint response from Directorate of Public Health and HADP) | Alcohol deliveries and internet sales are an emerging area of concern and we welcome this as part of the policy statement. Remote alcohol sales and distribution across wide geographical areas have the potential to undermine local efforts to control the availability of alcohol and reduce alcohol related harm. We recommend that the Board specifies in the policy that anyone making home deliveries should operate a 'Challenge 25' policy and that orders cannot be left in so called 'safe places'. We recommend that resources are deployed to verify these processes.. | Deliveries of alcohol are already regulated by the Act. Both the Act and current Policy sets out reminders as to the legal requirements (including the offence of delivering alcohol to a child or young person).<br><br>There would be no issue in theory in including a further recommendation in the new Policy that a person making the delivery should operate a “Challenge 25” policy at the delivery point and should not leave orders in “safe places”. These would, however, be recommendations only, to assist the licence holder in avoiding commission of any related offence under the Act.<br><br>With regard to deploying resources, the Council now employs only two LSOs to cover the whole of its area (having originally employed four LSOs). There are no additional resources which can be deployed. |
| Inverness Pubwatch  | Inverness Pubwatch are content that the existing policy as replicated in the Draft 2018-23 document, fully reflects our previous position and as such we are supportive of the status quo as adequate and necessary.  |   |
| Ferintosh Community Council   | None.   |   |

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| Lochardil and Drummond Community Council | No comment made.   |   |
| Alcohol Focus Scotland                   | <p>AFS commends the Board for encouraging applicants to submit details of how deliveries will operate; including the hours of delivery, the steps which will be taken to verify the age of the person ordering, payment arrangements and arrangements to protect the safety of those delivering alcohol. It is also welcomed that the Board has an expectation that any person making home deliveries of alcohol will have received training of at least 2 hours' duration covering the matters specified in the Licensing (Training of Staff) (Scotland) Regulations 2007.</p> <p>Alcohol deliveries and internet sales are an emerging area of concern and AFS is pleased that this is being considered as part of the policy development process. Remote alcohol sales and distribution across wide geographical areas have the potential to undermine local efforts to control the availability of alcohol and reduce alcohol-related harm. Online sales are not a new issue but are a continuously evolving and expanding area of retail; applications from large online retailers represent what AFS considers to be a considerable advancement of the online market for alcohol. However, there is a distinct lack of information available about the business operations of online retailers, or the extent to which they contribute to alcohol sales and availability. For example, there is no data available pertaining to their distribution areas, or the volumes and types of alcohol they sell.</p> <p>A further concern relates the potential impact of on-line sales to</p> | See Clerk's comments above in relation to the NHS response. |



children and young people. It is unclear how age verification can and will be effectively implemented when alcohol is being purchased on-line, or delivered to people's homes. Unlike supermarkets, which employ their own delivery staff, on-line alcohol retailers may rely on various contract carriers, who may not receive any instruction in this regard. This has the potential to make alcohol much more readily accessible to young people, and could undermine progress made in meeting the licensing objective to protect children from harm.

The Board's policy in this area helps to address some of these concerns, and we hope that other areas will adopt a similar approach. The Board may also wish to make clear in the policy that anyone making home deliveries should operate a "Challenge 25" policy, and that orders cannot be left in nominated safe places. With regards to training, the policy could be strengthened by specifying that staff delivering alcohol must be trained to the same level as staff who sell or supply alcohol in licensed premises. The Board could also explore the possibility of placing conditions on online retailers to request details of sales and distribution areas, as well as figures on delivery refusal rates.

8. Section 2.8 relating to clubs sets out reminders as to statutory requirements applicable to the sale of alcohol in clubs. Are there any additional requirements which you consider the Board should impose on clubs as a matter of policy? If so, why?

| Respondent   | Response   |
|--|--|
| Highland Licensing Forum   | HLF supports the existing policy content.  |
| Police Scotland  | No issues.   |
| NHS Highland (Joint response from Directorate of Public Health and HADP) | We have no further comments and agree with what has been proposed in the draft consultation document.  |
| Inverness Pubwatch   | Inverness Pubwatch are content that the existing policy as replicated in the Draft 2018-23 document, fully reflects our previous position and as such we are supportive of the status quo as adequate and necessary. |
| Ferintosh Community Council  | No.  |
| Lochardil and Drummond Community Council                                 | No comment.  |
| Alcohol Focus Scotland   | No comment.  |

9. What are your views on the policy proposed at section 2.9 as to circumstances in which the Board may impose a requirement that alcohol may be served only in cans or in plastic or polycarbonate containers? Please explain any changes you think should be made and the reasons for your views?

| <b>Respondent</b>  | <b>Response</b>  |
|--|--|
| Highland Licensing Forum   | HLF supports the existing position.  |
| Police Scotland  | Excellent proposal to have this added as a condition to occasional licences.   |
| NHS Highland (Joint response from Directorate of Public Health and HADP) | We have no further comments and agree with what has been proposed in the draft consultation document.  |
| Inverness Pubwatch   | Inverness Pubwatch are content that the existing policy as replicated in the Draft 2018-23 document, fully reflected our previous consultation responses and position. It also provides the Board with the adequate and necessary means to impose such restrictions based on the merits of any new application. As such we are supportive of the status quo. |
| Ferintosh Community Council  | FCC supports the proposed policies.  |
| Lochardil and Drummond Community Council                                 | There may be exceptional occasions when, in consultation with police, for safety reasons this condition may be appropriate, but we would consider this the exception. There is now a desire to promote more use of glass rather than plastic .   |
| Alcohol Focus Scotland   | No comment.  |

**10. What are your views on the policies in relation to outdoor drinking areas proposed at section 2.10? Please explain any changes you think should be made and the reasons for your views?**

| <b>Respondent</b>  | <b>Response</b>   | <b>Clerk's comments</b>  |
|--|---|--|
| Highland Licensing Forum   | HLF would respectfully suggest to the Board that on a case by case basis they may apply a local condition requiring that consumption of drinks in any outside area will only be permitted by customers seated at the tables and chairs provided and not by standing customers. The HLF feels this helps contribute to licensing objectives, 2, 3 and 5.   | No issue with including policy to this effect if the Board is so minded. |
| Police Scotland  | Suggest lowering the period to have tables, chairs, parasols and other moveable furniture from outdoor drinking areas which are situated on a public footpath within 30 minutes of the conclusion of the permitted hours applicable to that outdoor drinking area reduced to 15 minutes. I am aware this will place additional pressure on staff to have the area cleared quickly during what will no doubt be a busy period however an outdoor drinking/seating area is very much an attraction to members of the public who are passing and will cause staff many more issues attempting to remove or evict persons who may have taken up a place in outdoor drinking area. The quicker the area can be cleared the less likely will be to cause public nuisance or risk public safety. | No issue with including policy to this effect if the Board is so minded. |
| NHS Highland (Joint response from Directorate of Public Health and HADP) | We have no further comments and agree with what has been proposed in the draft consultation document.   |  |
| Inverness Pubwatch   | Inverness Pubwatch are content that the existing policy as replicated in the Draft 2018-23 document, is adequate and necessary and as such we are supportive of the status quo.   |  |
| Ferintosh Community Council  | FCC supports the proposed policies.   |  |
| Lochardil and Drummond Community Council                                 | No comment.   |  |
| Alcohol Focus Scotland   | No comment.   |  |

### **Section 2.13 – overprovision statement**

The Board's policy statement has to 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. The Board can treat the whole of its area as a "locality" for this purpose. The inclusion of an overprovision statement in the policy statement is mandatory. Nevertheless, the statement may be to the effect that the Board does not consider there to be any overprovision in its area or in any part of it. Before reaching such a conclusion, however, the Board must still have undertaken an overprovision assessment, having regard, amongst other things, to the number and capacity of licensed premises in particular localities or the whole area and the views of consultees.

Section 2.13 of the Consultation Draft Policy Statement 2018-23 sets out the background to the Board's existing overprovision statement which was based on an overprovision assessment carried out in 2013.

The existing overprovision statement creates a presumption against the grant of applications for new premises licences or variations of premises licences where (a) the grant would result in the premises having an off sales display capacity in excess of 40 m<sup>2</sup>, or (b) in the case of licensed premises with existing off sales capacity of more than 40 m<sup>2</sup>, the grant of the variation sought would result in an increase in that capacity.

Section 2.13 also summarises the reassessment carried out in 2018, and includes a link to the assessment carried out by the Directorate of Public Health and Health Policy, NHS Highland in May 2018 which can be viewed at [https://www.highland.gov.uk/downloads/file/19444/nhs\\_highland\\_overprovision\\_assessment\\_may\\_2018](https://www.highland.gov.uk/downloads/file/19444/nhs_highland_overprovision_assessment_may_2018)

Specific details of current numbers and capacities of both on sales and off sales premises can also be viewed at [https://www.highland.gov.uk/downloads/file/19445/2018-23\\_ps\\_-\\_off-sales\\_capacities](https://www.highland.gov.uk/downloads/file/19445/2018-23_ps_-_off-sales_capacities)  
[https://www.highland.gov.uk/downloads/file/19446/2018-23\\_ps\\_-\\_on-sales](https://www.highland.gov.uk/downloads/file/19446/2018-23_ps_-_on-sales)

At its meeting on 26 June 2018, the Board agreed:

- (A) To seek views on the question of whether there is overprovision of**
  - (a) licensed premises, or**

**(b) licensed premises of a particular description**

in any particular locality in the Highland area or in the whole of the Highland area, and to ask respondents to give reasons in support of their response to this question.

- (B) In the case of respondents who consider there to be an overprovision of licensed premises in any locality or in the whole area, to invite them to put forward their own proposals as to how this can best be addressed.**
- (C) The Board also agreed that views be sought on the 4 options for tackling overprovision proposed by the Directorate of Public Health and Health Policy, NHS Highland, in their May 2018 assessment of the overprovision of licensed premises in the Highland area. These four options are as follows.**

- **NHS Option 1 (retain the Board’s current overprovision policy)**

The Board should retain its current policy presumption against the grant of applications for premises licences, provisional premises licences or variations of premises licences where (a) the grant of the application would result in the premises having an off sales display 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. This policy should continue to apply for the whole of the Board’s area, which the Board should agree should be treated as one “locality” for the purposes of the overprovision assessment.

- **NHS Option 2**

The Board should change its current policy presumption in respect of off sales (see Option 1) by introducing a presumption against the grant of applications which would result in the premises having an off sales display capacity which exceeds 30 square metres anywhere in the Highland area.

- **NHS Option 3**

The Board should retain its current policy presumption in respect of off sales anywhere in the Highland area (see Option 1) but also introduce an additional policy presumption against the grant of further on sales premises licences in the Caithness and Inverness Highland Community Partnership areas which have higher than average alcohol-related hospital admission rates.

- **NHS Option 4**

The Board should change its current policy presumption (see Option 1) by introducing a presumption against the grant of applications which would result in the premises having an off sales display capacity which exceeds 30 square metres anywhere in Highland and also introduce an additional policy presumption against the grant of further on sales premises licences in the Caithness and Inverness Highland Community Partnership areas which have higher than average alcohol-related hospital admission rates.

**(D) Separately, the Board further agreed to seek views on the option of introducing a similar overprovision policy to that currently adopted by the Scottish Borders Licensing Board. This policy reads as follows:**

- “4.6 The Board strongly considers well run on sales premises are a preferred and safer environment for alcohol consumption and should be encouraged over drinking in the home or any other unlicensed environment. On sales premises which provide a full range of services, for example food and quality accommodation, will be encouraged in most areas.*
- 4.7 The proliferation of larger type supermarkets outwith town centres has continued, the Board recognises that this type of operation serves a larger area than the immediate area in which they are situated. It also acknowledges that small convenience type shops offering a full range of goods are a vital part of the many small rural communities in the area and that it is essential for the viability of such businesses that they are able to provide a full range of goods and services.*
- 4.8 Where any application for an off sales Premises Licence, with no on sales provision, does not fall into the categories referred to at 4.7 or it replicates a similar off sales business in a particular area then the Board is likely to take the view that this would be overprovision, and applicants will be asked to clearly show how their individual proposal differs from what already exists and how it is likely to benefit the area as a whole.*
- 4.9 With further regard to off sales premises, the Board is conscious of the fact that the capacity required to be shown within the premises can sometimes be confusing and even seem somewhat irrelevant, in as much as large shops can have a small display area with a large storage area which replenishes the display area frequently or vice versa. However, the Board does acknowledge that display areas can be a factor in encouraging purchase and ultimately consumption and as such will look for detailed justification for any application to have a display area in excess of 10% of the overall sales area of premises, other than dedicated wine and spirit merchants. While Regulations dictate the*

*requirement for display areas to be shown as height and width of display with a linear measurements of displays outwith that on a layout plan, the Board will further require layout plans to clearly show the area, lined and shaded, as a square metres of floor area given over to alcohol display when any application or a variation application is submitted'*

**This policy therefore creates a presumption against the grant of an off sales licence for the following types of premises:**

- (a) off sales premises which are neither "*larger type supermarkets outwith town centres*" nor "*small convenience type shops offering a full range of goods*" and which are a vital part of a small rural community, or
- (b) off sales premises which "*replicate a similar off sales business in a particular area*"

unless, in either case, the applicant can demonstrate "*how the proposal differs from what already exists in the area and how it likely to benefit the area as a whole*", and

- (c) off sales premises with a display area in excess of 10% of the overall sales area (calculated in m<sup>2</sup>) of the premises (other than dedicated wine and spirit merchants)

unless, in the case of (c), a "*detailed justification*" for exceeding this size of display area is provided.

**Put in context, parts (a) and (b) of this policy would presume against the grant of a licence for**

- larger type supermarkets in town centres
- larger type supermarkets outwith town centres but in the same area as another larger type supermarket
- small convenience type shops offering a full range of goods but which are not a vital part of a small rural community (eg, small convenience shops in towns or the city)
- small convenience shops offering a full range of goods but which "*replicate*" a similar shop in the same area
- shops dedicated purely to off sales of alcohol (including specialist whisky, wine, craft beer, etc. shops)
- distillery shops and visitor centres which do not also sell alcohol for consumption on the premises



The policy contains no obvious explanation (in terms of the licensing objectives) as to why there should be a presumption against the grant of a licence for these particular types of premises.

It should be noted also that the policy contains no definitions of the terms “larger type supermarkets” or “small convenience type shops”. Were the Board to adopt a similar policy these, and various other terms used within it, would require to be clearly defined so that the policy can achieve the Board’s stated aim which is “*to promote consistency of decision-making and to give advance notice to applicants of the Board’s likely approach to determining applications*”.

**In addition, part (c) of this policy (the 10% of total sales area restriction) would also have the effect that:**

- hypermarkets (defined by IGD<sup>1</sup> as stores with sales areas typically over 5,600 m<sup>2</sup>) would be permitted an alcohol display area of 560 m<sup>2</sup> or more depending on their size,
- supermarkets (defined by IGD as stores with sales areas typically between 280 m<sup>2</sup> and 5,600 m<sup>2</sup>) would be permitted an alcohol display area between 28 m<sup>2</sup> and 560 m<sup>2</sup> depending on their size, and
- convenience stores (defined by IGD as stores with sales areas typically up to 280 m<sup>2</sup>) would be permitted an alcohol display area of up to 28 m<sup>2</sup> depending on their size.

It should be noted, therefore, that to replace the Board’s current policy (which presumes against the grant of a licence for any off sales premises where the display capacity would exceed 40 m<sup>2</sup>) with this 10% policy would have the effect of restricting convenience stores to much smaller alcohol display areas than current policy would allow and allowing far larger display areas in supermarkets or hypermarkets.

The overprovision section of the consultation accordingly sought responses and views to the following questions (11 to 14), and the responses are as set out below.

<sup>1</sup> See <https://www.igd.com/articles/article-viewer/t/uk-grocery-retailing/i/15513>

11. Do you consider there to be overprovision of (a) licensed premises, or (b) licensed premises of a particular description in any locality in Highland or in the whole Highland area? Please give reasons for your answer.

| Respondent   | Response   | Clerk's comments  |
|--|--|---|
| Highland Licensing Forum   | The HLF is supportive of the current position in terms of overprovision as further laid down in Option 1 of the NHS Assessment of May 2018. The Forum felt this position to be proportional, justified and defensible. Some of the Forum membership from NHS and Women's Aid were supportive of option 4.  |   |
| Police Scotland  | Believe the previous consultation and subsequent overprovision statement in the Highland Licensing Board Policy Statement 2013-16 was completely fit for purpose and adhered to any overprovision issues.  |   |
| NHS Highland (Joint response from Directorate of Public Health and HADP) | We accept the evidence outlined in the overprovision paper that there is overprovision of alcohol throughout Highland. There is evidence pertaining to crime and disorder, house fires, alcohol related health harms and views from the local public. Data about drive and walk times to licensed premises is also provided and demonstrates how easily available alcohol is for purchase. Furthermore local people have expressed concern that there are enough places selling alcohol in their local area. | The "overprovision paper" referred to is the NHS Highland Overprovision Assessment May 2018 previously circulated to the Board and which can be viewed at <a href="https://www.highland.gov.uk/downloads/file/19444/nhs_highland_overprovision_assessment_may_2018">https://www.highland.gov.uk/downloads/file/19444/nhs_highland_overprovision_assessment_may_2018</a> |
| Inverness Pubwatch   | Inverness Pubwatch, as a members Group made up of On-Sale Premises within the City Of Inverness, fully debated the proposals for over-provision, and felt that in the context of the Options, their was insufficient detailed information as to the implications and consequences of such, on local communities and how this would affect, and potentially limit investment in current and future businesses in fragile communities across the Highlands.  |   |

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|  | <p>Whilst Inverness Pubwatch recognise the challenges presented by the "Off-Sales" provision, both in terms of Health and to their own business interests, Members could not agree on collective opinion therefore Inverness Pubwatch cannot offer comment on how to regulate this particular issue as it pertains to "Off Sales", given that most members in our Highland communities have easy access to larger off sales premises within easy commute or via home deliveries, either on a regular or infrequent basis. That said, Inverness Pubwatch support Member Premises to respond to the consultation independently on their individual perspectives on the issues.</p> <p>Whilst not in any way being protectionist in respect of existing Licensed Premises, but more in support of maintaining a vibrant Business Improvement District with increased opportunity for quality provision across the licensed hospitality sector in Highland, Inverness Pubwatch support the need for the Highland Licensing Board to have the power and regulatory authority to consider "over provision" as a legitimate concern when deciding on the grant or otherwise of new applications or variations of Licences across Highland, both for "On" and Off Sales premises.</p> |  |
| Ferintosh Community Council              | As there is only one premise with an on-sales licence and one premise with an off-sales licence, FCC considers that there is no overprovision within its area.  | The Board's current and draft Policies look at the whole Highland area, on the basis that people are known to travel between particular smaller localities or wards to purchase alcohol. |
| Lochardil and Drummond Community Council | No comment made (but see 13., Option 2, below)  |  |

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| <p>Alcohol Focus Scotland</p> | <p>As a national organisation, we do not have sufficient local knowledge of the Highland area to enable us to comment in detail on some of the specific localities and premises concerned. However, we offer our opinion on the general approach and policy direction, which we hope the Board will find useful.</p> <p>There is no simple numerical formula for pinpointing the threshold between provision and overprovision. Determining overprovision involves the application of reason and judgement in the interests of the community. Alcohol harm statistics for Highland should therefore be considered in conjunction with density information, such as from the CRESH alcohol outlet density map, to make an informed assessment of overprovision. AFS has also published profiles containing information about the levels of alcohol availability and related harm (at both a national level and for each local authority). These can be accessed via our website: <a href="http://www.alcohol-focus-scotland.org.uk/campaigns-policy/availability-and-licensing/alcohol-outlet-availability">www.alcohol-focus-scotland.org.uk/campaigns-policy/availability-and-licensing/alcohol-outlet-availability</a></p> <p>For ease, we have provided a copy of the Highland profile alongside this response.</p> <p>The CRESH data shows that Highland is ranked 26th out of 30 local authority areas for alcohol outlet density in Scotland (19th for on-sales and 26th for off-sales outlets). Highland has an alcohol outlet density lower than Scotland as a whole; neighbourhoods had an average of 8.9 alcohol outlets within 800m of the population centre, compared to the Scottish average of 16.8 outlets. However, 13% of neighbourhoods in Highland have a total outlet density higher than the Scottish average, and the most deprived neighbourhoods have 6.5 times the number of alcohol outlets than the least deprived.</p> | <p>The Highland profile referred to in the AFS submission is circulated as Appendix 4 to the Clerk's report to the Board.</p> <p>While the AFS advice is noted, they have perhaps not appreciated that the Board's current overprovision statement already draws heavily (as AFS recommend) on the evidence previously collated by the Directorate of Public Health, NHS Highland.</p> <p>In addition the Board's current policy already recognises that the majority of alcohol sold in Scotland is bought from off-sales premises and that people now travel further to buy alcohol. The current Policy on off sales overprovision therefore already applies to the whole Highland area rather than just to off-sales in particular locations.</p> |
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When considering links to harm, a statistically significant relationship was found in Highland between alcohol outlet density and alcohol-related death rates, alcohol-related hospitalisation rates and crime rates. Specifically, alcohol-related death rates in the neighbourhoods with the most alcohol outlets were 2 times higher than in neighbourhoods with the least, hospitalisation rates 2.4 times higher, and crime rates 4.7 times higher. The links between alcohol outlet density and harm were found even when other possible explanatory factors, such as age, sex, urban/rural status and levels of income deprivation, had been taken into account.

Decisions on overprovision should also be informed by evidence from the police, health authorities and other agencies. AFS notes the range and quality of information provided to the Board by the Directorate of Public Health and Health Policy, NHS Highland. This helpfully collates local data pertaining to crime and disorder, house fires, alcohol-related health harms and also presents the views of the local public. This evidence shows that high levels of alcohol-related harm are widespread across Highland, and that the public there are concerned that there are already enough places selling alcohol in their local area. It is encouraging that there is improving local evidence of the impact of alcohol-related harm on communities across Highland.

Aggregated statistics such as these point compellingly to the conclusion that there exists a state of overprovision in Highland. AFS would recommend that the Board draw upon the evidence submitted by local partners and use the CRESH webmap to indicate areas where levels of availability and/or harm are sufficiently high to cause concern, and which may indicate that overprovision would be an appropriate response. The webmap can be used to compare areas against the Scottish average for outlet density, compare alcohol outlet availability between neighbourhoods within the local authority, and also identify

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|   | <p>corresponding rates of harm (e.g. alcohol-related hospitalisations, crime rates, and alcohol mortality). However, it is important to note that areas with the highest outlet density may not be those experiencing the highest levels of harm, and that different communities can be affected differently by alcohol, with some communities experiencing disproportionate levels of harm.</p> <p>When considering off-sales in particular, however, the Board may also wish to consider that the majority of alcohol sold in Scotland is bought from off-sales premises, and people now travel further to buy alcohol. Should the Board be concerned about overprovision of off-sales in any particular locations, an off-sales overprovision policy over a wider area may therefore be more effective in helping to reduce and prevent levels of alcohol consumption and harm.</p>  |  |
| Highland Violence Against Women Partnership | <p>Yes, the Violence Against Women understands that evidence available from both the Highland Alcohol and Drugs Partnership and the NHS Highland demonstrates that alcohol is too widely available in Highland and that results in increased alcohol related harms.</p> <p>We do not support the view that alcohol causes Violence Against Women, as reflected in our previous submission to the Licencing Board on the overprovision policy statement. However, we recognise that alcohol can increase risk in domestic abuse situations and it can be used to facilitate sexual violence. We are also aware of the reliance on alcohol that survivors of abuse, both in child and adult hood, can have and would welcome further restrictions on its availability.</p> <p>We particularly welcome the suggestion to reduce the area in shops for off sales and to target specific areas where alcohol harm is greatest.</p> |  |

**12. If you consider there is overprovision of licensed premises, or of licensed premises of a particular description anywhere in Highland, what measures do you think the Board should put in place to address this?**

| <b>Respondent</b>  | <b>Response</b>   | <b>Clerk's comments</b> |
|--|---|-------------------------|
| Highland Licensing Forum   | Existing position supported.  |                         |
| Police Scotland  | Believe the Board should continue with the current overprovision policy. This coupled with the recent introduction of Minimum Unit Pricing are tools which will undoubtedly assist in protecting and improving public health.   |                         |
| NHS Highland (Joint response from Directorate of Public Health and HADP) | We recommend that the most appropriate measures are to declare that alcohol is overprovided for within Highland by setting an off sales capacity limit because the majority of alcohol sales is through larger retail off sales establishments and also by identifying two areas with a higher alcohol related mortality and hospital admission rates for community planning areas. |                         |
| Inverness Pubwatch   | See 11. above.  |                         |
| Ferintosh Community Council  | Not applicable.   |                         |
| Lochardil and Drummond Community Council                                 | No comment (but see 13., Option 2, below)   |                         |

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| Alcohol Focus Scotland                      | AFS believes that, if the evidence indicates areas where levels of availability and/or harm are sufficiently high to cause concern, declaring overprovision would likely be the most appropriate response.   |  |
| Highland Violence Against Women Partnership | We support the introduction of Option 4. The Licensing Board has a duty to protect and improve public health under the Licensing Objectives and these measures will help to do this. We enclose a copy of the Improvement Service's Guide for Elected Members on Alcohol Related Harm with this submission. We are aware that a common argument for not restricting licences is in relation to economic arguments. We would like to point out that the role of the Board is to promote the licensing objectives. |  |

**13. Having regard to the four options (see section (C) above) for tackling overprovision proposed by the Directorate of Public Health and Health Policy, NHS Highland:**

- **What are your views on NHS Option 1? Please include your reasons.**

| <b>Respondent</b>        | <b>Response</b>   | <b>Clerk's comments</b>  |
|--------------------------|---|--|
| Highland Licensing Forum | Supported. Has withstood challenges during tenure of current Policy. Does not rule out development of small Spar/Co-op/ Scotmid type supermarkets which serve local communities whose capacities range between 20 and 39 square metres. Ww can expect such outlets to spring up serving new communities such as Tornagrain. | Members are reminded that Option 1 reflects current Policy which is aimed at curbing the proliferation of off sales outlets with larger display areas (greater than 40 sq m) which offer the greatest availability and affordability of alcohol in single locations and are are known to account for over two thirds of alcohol sales. |
| Police Scotland          | Believe we should remain with the status quo. This option is fair for all licensed premises and is a tried and tested part of the Board Policy.   |  |



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| NHS Highland<br>(Joint response from Directorate of Public Health and HADP) | No comment made.  |  |
| Inverness Pubwatch  | See 11. above.  |  |
| Ferintosh Community Council   | FCC does not support NHS Option 1 because it is less robust and comprehensive than the proposed NHS Option 4.             |  |
| Lochardil and Drummond Community Council                                    | No comment.   |  |
| Alcohol Focus Scotland  | No comment.   |  |
| Highland Violence Against Women Partnership                                 | We welcomed the implementation of the original overprovision statement, and support the introduction of further measures. |  |

- What are your views on NHS Option 2? Please include your reasons.

| Respondent   | Response  | Clerk's comments  |
|--|---|---|
| Highland Licensing Forum   | Not supported.  | <p>Option 2 is identical to option 1 (current Policy) except that it would presume against display areas over 30 sq m (rather than 40 sq m).</p> <p>Members would require to be satisfied that there is sufficient evidence to support lowering the definition of larger display areas from areas over 40 sq m to areas over 30 sq m.</p> |
| Police Scotland  | Do not believe there is significant evidence to support the lowering of the off sales display capacity. |   |
| NHS Highland (Joint response from Directorate of Public Health and HADP) | No comment made.  |   |
| Inverness Pubwatch   | See 11. above.  |   |
| Ferintosh Community Council  | FCC does not support NHS Option 2 for the reasons stated above.   |   |

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| Lochardil and Drummond Community Council    | We agree with the conclusions reached in the consultation document that the evidence of alcohol related hospital admissions indicates there is a need to control the overprovision of licensed premises. In our area regular police statistic show us there is a regular number of incidents associated with alcohol every month. The main licensed premises in our area are supermarkets so controlling the display area would appear a way to discourage excessive consumption. There would be value in applying restrictions across the highlands to prevent problems increasing in other areas. |  |
| Alcohol Focus Scotland                      | No comment.   |  |
| Highland Violence Against Women Partnership | We support further reducing the availability of off sales. The majority of alcohol is now purchased this way and consumed at home. The more available alcohol is, the more that people can purchase and the increased harm caused.  |  |

- **What are your views on NHS Option 3? Please include your reasons.**

| <b>Respondent</b>        | <b>Response</b> | <b>Clerk's comments</b>  |
|--------------------------|-----------------|--|
| Highland Licensing Forum | Not supported.  | Option 3 is the same as option 1 (current Policy) but with the addition of a presumption against further on sales in the Caithness and Inverness Community Partnership areas. These areas have been identified as having the highest alcohol-related hospital admission rates. |

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|  |  | <p>However, members may wish to consider that the evidence continues to show a downward trend in on sales and an upward trend in off sales, indicating that alcohol-related harm is likely to be attributable primarily to off sales rather than to on sales.</p> <p>Members may wish to question therefore whether a restriction on further <b>on sales</b> licences in these two particular areas is justifiable on the basis of the alcohol-related hospital admission rate evidence alone.</p> |
| Police Scotland  | This option could unfairly restrict the growth of business, in particular small businesses whose alcohol sales may be only a small but very important part of their business plan. |  |
| NHS Highland (Joint response from Directorate of Public Health and HADP) | No comment made.   |  |
| Inverness Pubwatch   | See 11. above.   |  |
| Ferintosh Community Council  | FCC does not support NHS Option 3 for the reasons stated above.  |  |

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| Lochardil and Drummond Community Council    | No comment.   |  |
| Alcohol Focus Scotland                      | No comment.   |  |
| Highland Violence Against Women Partnership | We support targeted measures to reduce alcohol harm in the areas where it is most prevalent, Caithness and Inverness. |  |

- **What are your views on NHS Option 4? Please include your reasons.**

| <b>Respondent</b>        | <b>Response</b>                        | <b>Clerk's comments</b>   |
|--------------------------|--|---|
| Highland Licensing Forum | Minority support from NHS/Women's Aid. | <p>Option 4 would both reduce the definition of large display area from areas over 40 sq m to areas over 30 sq m and would add a presumption against further on sales licences in the Caithness and Inverness Community Partnership areas.</p> <p>Members would require therefore to be satisfied that there is sufficient evidence to support lowering the definition of larger display areas from those over 40 sq m to those over 30 sq m.</p> |

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|  |   | <p>Members may also wish to consider that the evidence continues to show a downward trend in on sales and an upward trend in off sales, indicating that alcohol-related harm is likely to be attributable primarily to off sales rather than to on sales.</p> <p>Members may wish to question therefore whether a restriction on further <b>on sales</b> licences in these two particular areas is justifiable on the basis of the alcohol-related hospital admission rate evidence alone.</p> |
| Police Scotland  | This simply incorporates my previous two responses: I do not believe there is significant evidence to support the lowering of the off sales display capacity and this option would unfairly restrict the growth of business, in particular small businesses whose alcohol sales may be only a small but very important part of their business plan. |  |
| NHS Highland (Joint response from Directorate of Public Health and HADP) | We recommend that the data is sufficiently compelling to adopt option 4.  | See Clerk's comments above.  |
| Inverness Pubwatch   | See 11. above.  |  |

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| Ferintosh Community Council                 | FCC supports NHS Option 4 because it sends the strongest signal that there is an urgent need to address the issues arising from the consumption of alcohol.  | See Clerk's comments above. |
| Lochardil and Drummond Community Council    | No comment.  |                             |
| Alcohol Focus Scotland                      | AFS believes the evidence submitted by NHS Highland to be particularly comprehensive, robust and compelling, and we would fully support the adoption of NHS Option 4, which was the NHS preferred option.      | See Clerk's comments above. |
| Highland Violence Against Women Partnership | We believe combining the targeted measures in Caithness and Inverness as well as restricting off sales across Highland is required in order to improve our response to the harm caused by alcohol in Highland. | See Clerk's comments above. |

14. Having regard to the terms of the Scottish Borders overprovision policy (see section (D) above), do you consider that a similar policy should be introduced in Highland? Please include the reasons for your view.

| Respondent   | Response   | Clerk's comments  |
|--|--|---|
| Highland Licensing Forum   | Not supported.   |   |
| Police Scotland  | I do not believe the Scottish Borders overprovision policy would be effective for the Highland area. As described in the draft policy document the 10% sales area restriction would allow huge areas for off sales in large premises yet very little in a small area. Given the geographical makeup of the Highlands it could also restrict healthy competition between businesses and create a monopoly where businesses already exist. |   |
| NHS Highland (Joint response from Directorate of Public Health and HADP) | We do not agree to the adoption of an overprovision statement similar to the Scottish Borders overpovison statement. This is because we believe it is difficult to interpret and we understand that if it is implemented it would have the effect of restricting convenience stores to much smaller alcohol display areas than current policy would allow and allowing far larger display areas in supermarkets or hypermarkets.         | The Clerk agrees with these comments. Members should bear in mind also that if a policy is difficult to interpret (as in the case of the Scottish Borders Policy), it will defeat the Board's stated objective " <i>to promote consistency of decision-making and to give advance notice to applicants of the Board's likely approach to determining applications</i> ".<br>It is not considered that the Scottish Borders policy provides sufficient clarity to applicants as to how the Board will be likely to determine applications. |



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| Inverness Pubwatch                          | Inverness Pubwatch fully recognise and support the paragraphs 4.6 and 4.7 contained within the Scottish Borders overprovision policy but we would refer you to our response at Question 11 above.   | The general statements made in paragraphs 4.6 and 4.7 of the Scottish Borders policy are likely to be supported by all. However, members should note that the more detailed policies in the ensuing paragraphs of the policy do not then clearly give effect to those general statements. |
| Ferintosh Community Council                 | Although FCC supports the overall objectives of the Scottish Borders overprovision policy, it does not support the presumption against granting off-sales licences to distillery shops and visitor centres because this may have a detrimental effect on an industry that is of great importance to the Highlands. Additionally, FCC does not believe that off-sales of this kind make a significant contribution to the problems arising from alcohol consumption. |   |
| Lochardil and Drummond Community Council    | No comment made.  |   |
| Alcohol Focus Scotland                      | No. Please see comment above.   |   |
| Highland Violence Against Women Partnership | No, we believe Option 4 as laid out by NHS Highland should be adopted.  |   |

**Local conditions applicable to premises licences (Appendix 7), occasional licences (Appendix 8) and adult entertainment (Appendix 9)**

15. Please describe any changes or additions to the local conditions listed at appendices 7, 8 and 9 which you consider should be made and why? (If you have already commented on any of these conditions in your answers to the previous questions, please simply refer to those answers.)

| Respondent               | Response   | Clerk's comments   |
|--------------------------|--|--|
| Highland Licensing Forum | Existing conditions supported.   |  |
| Police Scotland          | <p>I believe a "Prevention of the misuse of drugs policy" and "Duty of care policy" should be added to appendices 7, 8 and 9 with a view to preventing crime and disorder and securing public safety. Appendix 6, "Late opening mandatory conditions" already contains a "prevention of the misuse of drugs policy" condition. There should be no reason why this cannot be added as a local condition to premises licences, occasional licences and adult entertainment.</p> <p><u>Proposed drugs policy:</u></p> <p><b>DRUGS POLICY FOR LICENSED PREMISES WITHIN HIGHLAND AREA</b></p> <p><b>These premises operate a zero tolerance approach to drugs.</b></p> <p><b>Everyone in every community has a part to play in tackling drug misuse. It is important to tackle the drug problem and to ensure that licensed premises within the Highland area remain drug free. Illegal substances must not be allowed to be supplied or consumed within licensed premises.</b></p> | <p>No issue with appending these new policies, if members are so minded, along with a local condition requiring licence holders to have them in place.</p> |

The contents of this drugs policy should allow all staff employed in licensed premises to have a better understanding of the law in relation to drugs and drug related incidents. It will provide systems and procedures to ensure that all drugs related incidents are dealt with consistently and safely.

We will work towards achieving this through:

- communication with our customers;
- providing our employees with guidance, information, training and procedures to assist them in identifying drugs, the effects of taking them and appropriate action;
- complying with our legal responsibilities;
- working closely with local authorities and Police Scotland.

#### Classes of drugs

The Misuse of Drugs Act 1971, classifies drugs as follows:

#### Class 'A'

Includes cocaine, crack cocaine, heroin, ecstasy (powdered and crystal MDMA), cannabis oil (Class B) and LSD

#### Class 'B'

Includes cannabis, cannabis resin, cannabis shatter (honey butane oil), amphetamine, M-Kat and ketamine.

#### Class 'C'

Generally tend to be prescribed drugs which are abused, the most popular include temazepam, diazepam, steroids, etizolam, alprazolam (xanax).

### The law

The Misuse of Drugs Act 1971 creates a number of offences to control the misuse of illegal drugs. It is not an offence to possess Steroids, Dihydrocodeine or NPS.

### Common offences possession

It is an offence for a person to have a controlled drug in his/her possession.

### Possession with intent to supply

It is an offence for a person to have a controlled drug in his/her possession whether lawfully or not with intent to supply it to another.

### Supply

It is an offence for a person to supply or offer to supply a controlled drug to another person.

### Concerned in the supply

It is an offence for a person to be concerned in the supply of a controlled drug to another person.

### Section 8 of the Misuse of Drugs Act 1971

It is the responsibility of the licensee and staff of licensed premises to prevent drug dealing and the use of controlled drugs within licensed premises.

To knowingly permit or suffer any drug related activity on the premises is an

offence.

### Searching

All licensees should introduce the use of searches as a condition of entry to their premises.

Signs required to be clearly displayed regarding this and a 'zero tolerance' policy in relation to drugs within licensed premises.

### Power of search

Only the Police have power to search people without their consent.

### Can a customer wishing to enter the premises be searched?

Yes, if it is clearly advertised as a condition of entry that customers are required to allow a search of their person.

Searches can only take place with the permission of the person concerned. A witness should always be present during any search to provide corroboration and prevent any allegations. If they decline to be searched, entry can be refused.

Always remember your rights to refuse entry or to ask someone to leave your licensed premises. If an individual refuses, the Police should be contacted for assistance.

### What can be searched?

The search should be restricted to outer clothing or pockets and should include bags etc. Great care must be taken whenever you are searching a person in relation to drugs. Never put your hand straight into someone's pocket without first asking the person if they have any sharp objects and patting the outside of the

pocket. It may be preferable to ask the person to empty their own pockets and show you the contents. You should then ask if the pocket is empty and pat it from the outside. This may be sufficient to establish if there is anything in the pocket. Great care must be taken so that an exposed needle for example, does not cause injury. You should also ask the individual to empty any bags and watch carefully whilst this is done. Again this may be sufficient to establish whether any drugs are present. Obviously if the premises in which you are, are particularly busy, you do not want to take too long to carry out your search. Thoroughness should not however be sacrificed for speed. You should attempt to put your customer at ease and make them as comfortable as possible in these circumstances.

**Can a customer within the premises be searched?**

Yes, however, it is not recommended. If a customer is searched prior to entry, there should be no need to do a further search. However, if it is still felt necessary to carry out a further search once on your premises, a sign should be clearly displayed setting out the Search Policy. It is of vital importance that licensees and staff are aware of the limitations on their power of search. Searches can only take place with the permission of the person concerned to be searched. The search should not take place in a public area of the premises. Again, corroboration during searches is essential.

If the individual does not agree to a search, you have no legal powers to do it. If a subject withdraws consent during a search, you have no legal powers to continue, you must stop immediately and consider contacting the Police. Again you also have the right to require someone to leave your licensed premises.

**Can a male search a female?**

No. A male should only search a male and a female should only search a female to prevent allegations of indecency/sexual assault. A witness should always be present to provide corroboration and help to prevent any allegations. The witness can be either male or female. If possible, carry out the search within the range of

**CCTV cameras if you have them.**

**What to do if drugs are found whilst searching a customer?**

**The person who has agreed to being searched and who has agreed to remain with you must be handed over to the Police as soon as possible. However, you have no power to force them to remain with you. If you find something which you think is a controlled substance, you should keep this safe and contact the Police immediately.**

**Can force be used to search a customer?**

**No. The customer must always grant permission to be searched. There are no circumstances in which force may be used to carry out the search.**

**Power of detention**

**You have no power to detain a person for offences under the Misuse of Drugs Act 1971. The person(s) must agree to remain with you and must be handed over to the Police as soon as possible. If a person commits a Common Law offence such as an assault on a customer or member of staff, or is committing a Breach of the Peace on the premises, then he/she can be detained but only for the Common Law offence. Again the Police should be notified as soon as possible.**

**Drugs seized or found on the premises**

**If you find anything that appears to be an illegal drug, put it in a plastic bag or envelope and seal it: This must be signed by the finder and witnessed by another member of staff; Enter the details of the drugs found in the appropriate drugs register; If any member of staff or management finds drugs on the premises, they must immediately inform the most Senior Manager on duty. The Police must be advised at the earliest opportunity (be cognisant of the statutory defence under**

**MDA 1971 and the requirements to comply).**

**Drugs information**

**Do not automatically think that because you know, the Police will know too. The Police can only act if they have information/intelligence to act upon. YOUR information may be the key to success. If you have any information about drug activities you should notify the Police immediately.**

**Be aware of NPS legislation (not an offence to possess). Persons might use NPS packaging to hold controlled drugs therefore any such item recovered/seized should be treated as if it were a controlled substance.**

Proposed duty of care policy:

**DUTY OF CARE POLICY**

**The licence holder must have in place a duty of care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication. The purpose of this policy is to reduce vulnerability through intoxication, however attained.**

**All staff must have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication. This should include use of material such as the 'Who are You' video (whoareyou.nz) or similar.**

**All related training should be recorded and such records available for inspection by Police and Licensing Standards Officers.**



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| NHS Highland<br>(Joint response from Directorate of Public Health and HADP) | No comment.   |  |
| Inverness Pubwatch  | Inverness Pubwatch are content that the existing policy as replicated in the Draft 2018-23 document, is adequate and necessary and as such we are supportive of the status quo.   |  |
| Ferintosh Community Council   | None.   |  |
| Lochardil and Drummond Community Council                                    | No comment.   |  |
| Alcohol Focus Scotland  | AFS welcomes the inclusion of these appendices, and commends the Board for clearly setting out the objectives to which each condition relates. We have produced a Licensing Resource Pack that provides examples of research which demonstrates the impact of particular licensing conditions on harms. This may particularly useful to the Board when developing the new Licensing Policy Statement, and can be downloaded from our website: <a href="http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf">http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf</a> |  |

**Other comments or proposals**

16. If you wish to make any further comment on the Consultation Draft Policy Statement 2018-23, or put forward proposals for additional policies you would like the Board to consider, please add these below, giving your reasons.

**Responses:**

| <b>Respondent</b>        | <b>Response</b>   | <b>Clerk's comments</b>   |
|--------------------------|---|---|
| Highland Licensing Forum | Please see separate paper on proposals from Highland Licensing Forum  | These proposals are those referred to in the Clerk's comments above which were already incorporated in the Board's Consultation Draft Policy Statement (on the suggestion of the HLF Clerks), but were only subsequently ratified by HLF members on 23 August 2018. |
| Police Scotland          | No comment made.  |   |
| NHS                      | No comment made.  |   |
| Inverness Pubwatch       | Inverness Pubwatch fully support the inclusion of the Pubwatch Section (as at 1.7) however we believe that the Board's statement should be reinforced to reflect a position that would welcome and actively support the introduction of Pubwatch schemes in all sizeable towns and conurbations across Highland in support of the Five Licensing Objectives, all of which promote Community Safety, Wellbeing, Public Protection and Crime Reduction. | No issue with including additional wording to this effect in section 1.7 of the draft new Policy if members are so minded.  |

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| <p>Inverness BID (which provides Secretariat Services to Inverness Pubwatch)</p> | <p>Inverness BID have not submitted a separate response <i>[to the response from Inverness Pubwatch]</i> as in the main we generally agree with the response as attached but would only add that from a business support perspective in the City Centre we would not like to see any specific policy restriction that would be to the detriment of existing businesses in terms of their ability to trade and prosper, and secondly that if such is to be included that any additional conditions were not onerous that it would not prevent opportunities for legitimate new licensed trade businesses to set up in localities within the City Centre, accepting of course that any such business would have to ensure their business model was sustainable for them as well as the trading environment and in accord with the agreed policy.</p> |   |
| <p>Ferintosh Community Council</p>   | <p>With reference to Questions 1 to 10, FCC has no particular expertise in licensing matters and would have found it helpful if alternative policies could have been suggested where Highland Council considers that viable alternatives may exist.</p>  | <p>This section of the consultation was designed to allow respondents free rein to put forward their own ideas, rather than being restricted to commenting on specific options proposed by the Board.</p>   |
| <p>Lochardil and Drummond Community Council</p>                                  | <p>In our residential area we would request</p> <ol style="list-style-type: none"> <li>1) that noise is contained within the premises especially after 11pm at night. We are aware that there some licenced exceptions such as Inverness Royal Academy is able to apply for an extension for exceptional occasions, and that is acceptable (as these are for the benefit of the school community and the school is mainly surrounded by open ground)</li> <li>2) that licensing hours are not extended any further than at present, simply because this is a residential area.</li> </ol> <p>It is important that those going to work next day and particularly children who may have to go to school are not disturbed.<br/>It may also be that some of the employees of these premises are</p>   | <p>The noise-related issues raised in this submission are largely issues to be considered by the Board in relation to individual premises when applications for new premises licences or for variations to existing premises licences come forward.</p> |

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|  | <p>mums and dads who have to get the children up for breakfast and school in the morning and it is not desirable that they should be asked to work on very late, or lose their jobs if they say No.</p> <p>3) We note that late licence provision stipulates that noise should be limited to a maximum of 85 decibels and should not be audible inside local residents' homes. We believe there is a campaign in some parts of Scotland to remove this obligation on proprietors and we would have strong objections to that.</p> <p>4) We note the assessment and evidence supplied by NHS Highland on overprovision of licensed premises and the report by Alcohol Focus Scotland entitled "Alcohol outlet availability and harm in Highland" and consider that their professional advice should be heeded.</p> <p>5) We further suggest that noise levels in some licensed premises are causing significant harm to the hearing of their patrons and their staff and that this is affecting their future quality of life and causing significant added expense to the NHS with this cost only going to increase in future years with further prolonged exposure to high sound levels. Could the Board and NHS Highland come up with an agreed policy to mitigate this please? This would help "protect and improve public health and protect children and young adults from harm".</p> |  |
| <p>Andrew McKenna<br/>(Chair of<br/>Inverloch &amp;<br/>Torlundy<br/>Community</p> | <p>Personally, I feel that Energy drinks should be sold under License since they contain high quantities of stimulants - not alcohol, but none the less stimulants. Energy drinks are on the Scottish Government agenda, but no idea what they are thinking. The Head Teacher at Lochaber High School is concerned about the number of teenagers coming to school in the morning and</p>  | <p>Mr McKenna has been written to separately by the Clerk to explain that the regulation of the sale of energy drinks is not something within the Board's remit which is restricted to regulating the sale of alcohol.</p> |

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| <p>Council but responding in a personal capacity)</p> | <p>afternoons tanked up on energy drinks sold to them within a short walking distance from the school.</p> <p>I also think that alcohol in the Highlands and Scotland should not be sold in filling stations, unless perhaps over 25</p> <p>These are my own personal views and not those of Inverloch &amp; Torlundy CC. I am also Chair of Lochaber High School Parent Council.</p> | <p>With regard to filling stations, it was explained to Mr McKenna they are already classed as “excluded premises” under the Licensing (Scotland) Act 2005, meaning that in theory they cannot sell alcohol. However, some garage shops have retained off sales licences under “grandfather rights” on transition from 1976 Act licensing to 2005 Act licensing. Many others fall outwith the definition of “excluded premises” because they are premises on which persons resident in the locality are, or are likely to become, reliant to a significant extent as the principal source of petrol or derv or groceries. In other words, where the filling station is also the village shop, the Board cannot treat it as an “excluded premises” and must deal with any licence application as they would for any other off sales outlet.</p> |
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| <p>Alcohol Focus Scotland</p> | <p>Links with other strategies:</p> <p>At present, the policy does not appear to outline the national strategies and local policies which the Board will have regard to when carrying out its functions. It will be important that the new policy recognises the value of linkages with other bodies interested in alcohol regulation, and specifically references the policies and strategies that are most relevant to the work of the Board.</p> <p>The alcohol licensing regime provides a locally led system for regulating the sale of alcohol and is one of the key mechanisms by which availability can be controlled at a local level. As alcohol licensing is the responsibility of licensing boards, it will be essential that boards can identify where they share similar objectives to Community Planning Partners (CPPs), and understand how they can best support each other towards these ends. In many respects, licensing boards and CPPs are already working towards shared goals and stand to benefit from more collaborative approaches. It will therefore be important that the new Licensing Policy aligns with community planning Local Outcome Improvement Plans (LOIPs). In addition, the work undertaken by the Alcohol and Drug Partnership will be of particular significance, and the new policy could signpost people to where they can access a copy of the Highland ADP Delivery Plan. AFS would also recommend that the new policy references relevant strategies of the Health and Social Care Partnership (HSCP).</p> <p>The Board should also take into account the views of local partners, the Forum, communities, and other strategies and plans that have relevance to alcohol when developing and implementing their new policy. The Licensing (Scotland) Act 2005 and accompanying guidance should inform the Board's approach to</p> | <p>Reference is made to the Clerk's comments in relation to the AFS's response at question 4 above.</p> <p>There is good reason why the Board's current and draft Policy Statements do not contain the vast amount of additional information advocated by AFS in this particular part of their consultation response.</p> <p>This reason is that the document is intended to be a user-friendly statement of policy (for the benefit of applicants, the public, and, indeed, Board members themselves) which promotes consistency in decision making and gives applicants a clear steer as to how the Board is likely to determine applications. It is not intended to be a complete encyclopaedia of all licensing related forms, documents and information, guidance, etc.</p> <p>Much of the additional information which AFS recommend should be included in the Board's Policy Statement is already available and easily accessible elsewhere on the Board's and Council's webpages. To incorporate it into the Policy Statement itself would make the Statement unnecessarily lengthy and unwieldy.</p> |
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|  | <p>how this can best be achieved, for example by responding to the recommendations of relevant Forums.</p> <p>Scotland's alcohol strategy 'Changing Scotland's relationship with Alcohol a Framework for Action' is of key relevance to the policy and reference to this should be included. This established a whole population approach to reducing alcohol harm and identified action on availability as one of three key mechanisms - alongside price and marketing - to achieve this. The Scottish Government's consultation on the strategy, published in 2008, recognised that the main mechanism for controlling alcohol availability was licensing legislation.</p> <p>The draft policy recognises that licensing boards have legal obligations under equalities legislation. AFS would highlight that licensing boards are also bound by human rights legislation. Action on human rights in Scotland is currently being driven through Scotland's National Action Plan for Human Rights (SNAP) and there a range of links between alcohol-related harm and the realisation of human rights in Scotland.</p> <p>Promotion of the licensing objectives:</p> <p>As s.6 of the Licensing (Scotland) Act 2005 makes clear, the policy statement must seek to promote the licensing objectives. However, the draft policy does not currently contain a section specific to the licensing objectives. For all objectives, AFS would suggest the following format:</p> <ol style="list-style-type: none"> <li>1. State the licensing objective.</li> <li>2. Give a statement as to what the licensing board is trying to achieve with this objective.</li> </ol> | <p>Much of the additional explanation and background which AFS recommend should be included (eg details of how each policy specifically ties to a particular licensing objective) would add unnecessarily to the length of the document without actually providing useful information for licence applicants or the public.</p> <p>There is not a single policy contained in the Board's current or draft Policies which cannot be justified by reference to particular licensing objectives and evidence. It is, however, entirely unnecessary that all of this background to the policies be included in the Policy Statement itself.</p> <p>Members should also bear in mind that while AFS is the national charity working to prevent and reduce alcohol-related harm it is not a regulatory authority for Licensing Boards. Nor (unlike the HLF, Police Scotland and NHS Highland) is it a statutory consultee in terms of the Act. While their advice may be noted, the Board is under no obligation to follow it.</p> |
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3. List concerns in the area relating to this objective – identify what evidence was used to identify these concerns.
4. List what the licensing board intends to do. Note that this could include declaring overprovision, controlling licensed hours, or applying certain conditions – referring to the relevant section/s in the policy.
5. List any suggested actions the licensing board would like to see the licensed trade in the area undertake to meet this objective.

The new policy could include more statistics and evidence of the current situation in relation to each objective, any issues that are a particular concern, and measures that have had an impact etc. We would suggest including both statistical and expert opinion, as well as any available local data, on what the issues are in the Highlands. This should cover the range of alcohol-related issues such as town centre disorder; domestic incidents; chronic and acute health harms; fire incidents; social work cases. Much of this evidence is set out well within the report provided to Board by the Directorate of Public Health and Health Policy, NHS Highland. Aspects of this report could be included within the policy, even as an appendix, with a clear line of reasoning from that evidence to the conclusions in the policy.

It is helpful that the policy gives examples of the control measures licensees could put in place to promote each of the objectives. The new policy could build upon this by setting out a clear expectation that individual applicants address the five licensing objectives in their operating plan. It could also include an expectation that applicants supply a written statement detailing how they will promote the objectives. This approach is already adopted in other board areas, with several providing a 'Supplementary Information' document for applicants to submit



alongside their application - asking them to detail how they will comply with the objectives. Having a statement of licensing objectives attached to their licence could help to focus applicants' attention on the objectives and ensure that they are afforded proper consideration in any proceedings. In addition, it is appropriate that the Board should go further and look to the evidence in respect of each of the five licensing objectives, also expecting applicants to provide evidence that suitable measures will be implemented and maintained.

Specific to the objective of Preventing Crime and Disorder, the proportion of alcohol now bought to consume at home or in other private dwellings (73% of all alcohol sold being purchased in off-sales) underlines the need for the new policy to reference the importance of licensing for preventing crime and disorder in private spheres as well as the public.

Specific to the objective of Protecting and Improving Public Health, AFS welcomes that the Board has suggested a control measure that information promoting moderate drinking, awareness of units and recommended guidelines be provided. The new policy should make clear that any information provided should be based on the Chief Medical Officer's (CMO) low risk guidelines. The Board might also wish to consider providing materials to licensees which is independently produced. The World Health Organisation has stated categorically that the alcohol industry should not be involved in health promotion, and the Government has a duty to ensure access to information and advice on alcohol is based on the best available scientific evidence and is impartial. NHS Inform is the best website in Scotland for impartial health advice:

<https://www.nhsinform.scot/healthy-living/alcohol>

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|  | <p>AFS would also recommend that the Board has particular regard to the views of Alcohol and Drugs Partnership when considering the impact of alcohol and the measures required locally to ensure the protection of public health.</p> <p>Accessibility, participation and transparency:</p> <p>A lack of effective public engagement in licensing can prevent proper transparency and accountability. During the regional licensing seminars, hosted by AFS in 2016, a lack of public participation in licensing was reported across the country. Barriers to participation can relate to poor accessibility of licensing processes, but inconsistencies in policy and practice can also prevent meaningful engagement.</p> <p>It is useful that the policy includes information about the Board's reporting functions and publication scheme, and includes a link to where the information available to the public can be accessed. However, the policy could provide much more detail about the means by which the boards' processes and procedures will provide for increased accessibility, transparency and accountability for communities. For example, participants at the 2016 regional licensing seminars recommended that Boards require to have:</p> <ul style="list-style-type: none"><li>• a set of published standing orders;</li><li>• board papers and minutes being published on time;</li><li>• board minutes recording the names of board members voting for/against a decision; and</li><li>• details to be made available of what people can expect when attending meetings and the supports available to them.</li></ul> |  |
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The new policy should include a commitment that the Board will follow the principles of openness and transparency when carrying out its functions. It could also include an additional commitment that the Board will attempt to make the experience of attending a hearing as informal as possible. This can be a particularly important commitment for many community members, who may feel intimidated by overly formal processes and environments.

The new policy could help further support public participation by reassuring communities that the Board will endeavour to make proceedings as user-friendly as possible, and setting out the procedure to be followed at hearings, also signposting the public to sources of guidance/support they could access e.g. the AFS Alcohol Licensing in Your Community Toolkit, or such guidance could be included as an Appendix.

In addition, policy statements should be easily understood by all licensing stakeholders, including by members of the public without technical expertise. Ensuring that the new policy is written in plain, accessible language could help facilitate the involvement of a wide range of stakeholders.

AFS is pleased that the policy currently references some of the evidence and views the Board considered in relation to overprovision. The new policy could include a list of consultees and include more of the evidence considered by the Board in developing the policy. The Board should be explicit and demonstrate within the policy how it has been informed through consultation, with the material considered by the Board being published and links to this material being included in the policy itself. Stating this in the policy statement further demonstrates the board's responsive approach to consultation.

## Highland Violence Against Women Partnership consultation response to 2013 consultation draft policy statement

### Consultation Draft, Section 2 – Proposed Policies

Please note that we have only responded to the sections included in this consultation relevant to “Adult Entertainment”

6 In relation to adult entertainment, do you consider that the requirements proposed by the Board at section 2.6 are adequate and necessary for the purpose of any of the licensing objectives?

No

If not, what changes to those requirements would you wish made and why?

Comment:

Page 7 of the consultation document states, “The Board also expects licence holders to address equalities issues in all aspects of the operation of their premises.” The joint Scottish Government COSLA document outlines our understanding of Violence Against Women (including Commercial Sexual Exploitation) as a significant issue in our progress towards gender inequality as both a cause and a consequence of it. We would argue that to permit ‘adult entertainment’ on premises is for a License Holder to not only fail to address gender inequality, but to perpetuate it.

We continue to be concerned, in general, about licenses being approved whilst ‘Adult Entertainment’ is being offered and we maintain our position that ‘adult entertainment’ is a form of Violence Against Women. In this regard, we would prefer that the Licensing Board did not grant any alcohol licenses during adult entertainment. However, we appreciate the legal difficulties that the Board believe themselves to have in this regard.

The current consultation document asks for views on the requirements proposed by the Board for “Adult Entertainment”. We, and the Board, are aware of the current legal difficulties in imposing any conditions on “Adult Entertainment” and urge the Board not to grant any licenses until this issue is resolved. As we have previously discussed with the Board, the current legal position is that any conditions are entirely voluntary & should there be any breach of these, there is no legal basis for sanctions.

However, as this Consultation is for the Licensing Board’s 3 year Policy Statement, we have commented on the proposed conditions for “Adult Entertainment”. This is in the

hope that, the legal position will change, and, if there are to be venues offering so called adult entertainment, these will be subject to legally enforceable conditions

We believe that the proposed changes outlined below (if able to be enforced), would serve to increase protection for performers, customers and the wider public and would serve to better meet the Licensing Objectives. The additions to the current conditions are outlined below:

- performers must be directly employed by the Licensee and not employed on a 'self-employed' basis which leaves women unprotected and not covered by the conditions attached to the License (as evidenced in the legal challenge in Glasgow, the Brightcrew case). We also believe that because women are most often self employed in lap dancing clubs and have to pay a 'house fee' or commission, this is what can often lead them to break their own boundaries (and the conditions) in relation to contact with customers. It must be recognised that, on average, in Glasgow, women are paid between £10-£20 per dance<sup>1</sup>. Women may make more money from private dances, and although in Highland, as in Glasgow, the conditions already state that these must not take place, the issue is that women will be tempted to breach these conditions to ensure they leave work in rather than out of pocket. We believe that women should be paid the Living Wage, in accordance with The Highland Council policy. **Licensing Objectives 1 & 4**

- the Licensee and staff attend Equalities training, as do stewarding staff, to a minimum standard to be decided by The Highland Council Equalities Officer. **Licensing Objectives 1, 2 & 4**

- the distance between performers and customers is specified and set at 2 feet minimum so it is clear what is meant by the statement in the conditions "no touching". **Licensing Objectives 1, 2, 3 & 4**

- prices for drinks, admission, etc are set annually by the Licensee and apply on all days of opening, regardless of whether or not 'adult entertainment' is taking place (this will address some concerns re: customers being financially exploited by venues whilst 'adult entertainment' takes place). **Licensing Objectives 1, 2, 3 & 4**

**In terms of protecting and improving public health (Licensing Objective 4) , we believe the following additions to the conditions are required:**

Risk Assessments - A risk assessment should be undertaken and regularly reviewed and appropriate control measures should be implemented in respect of:

- the precise work activities required of performers
- the personal safety of performers

The Licensing Standard's Officers should be able to access, on request, copies of these risk assessments and any subsequent risk management plans prepared.

Lighting - All dance areas, changing facilities provided for performers and sanitary conveniences should have lighting of a sufficient standard to enable performers and others to move around safely.

<sup>1</sup> Information supplied by the Women's Support Project

Cleanliness - All dance areas, changing facilities provided for performers and any furniture, fittings etc should be kept clean. The surfaces of the floors, walls and ceilings of all dance areas, changing facilities and other parts of the licensed premises to which performers have access should be capable of being kept clean.

Sanitary Conveniences - Sanitary conveniences should be provided in accordance with the requirements of the Workplace (Health, Safety & Welfare) Regulations 1992. The facilities should be for the exclusive use of performers and should provide privacy and security from intrusion by members of the opposite sex and from customers and members of staff.

Washing Facilities - Wash hand basins and showers should be provided for the exclusive use of performers and should have a supply of warm, or hot and cold water and provide privacy and security from intrusion by members of the opposite sex and from customers. Washing facilities should be provided in the immediate vicinity of the sanitary conveniences and the changing facilities.

Changing facilities for performers - Should comply with the following basic standards: -

- a) the facilities should have a minimum floor area of 1.86m<sup>2</sup> per performer engaged to perform at any one time;
- b) the facilities should be secure, private and for single sex use only and should not be accessible by customers or members of staff;
- c) the facilities should be located near to, but not within, sanitary conveniences;
- d) the facilities should include private and lockable storage units for each performer for the safekeeping of valuables and clothing;
- e) the facilities should include a plentiful supply of chilled drinking water for all performers

We urge the Board to recognise that when inspecting premises offering 'adult entertainment' this should be done anonymously and without the Licensee (or other staff's) previous knowledge. This is in order to gain a true picture of how the conditions are or are not being upheld.

**Consultation Draft, Appendices 7, 8 and 9 – Premises Licence, Occasional Licence and Adult Entertainment Local Conditions**

1. Are there any changes or additions to the local conditions listed at appendices 7, 8 and 9 which you consider should be made and why? (If you have already commented on any of these conditions in your answers to the previous questions, please simply refer to those answers.)

Yes – please see our answer to question 6.

We would also revise the introduction to Appendix – 9 – Adult Entertainment Local conditions to state that “**All** of the following local conditions....” Rather than the current statement, which reads, “Any of the following...”, with the expectation that our recommendations included in question 6 are adopted.

Respondent's details:

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Email: Gillian.gunn@nhs.net

Date of submission: 31st July 2013

ELECTED MEMBER BRIEFING NOTE

# Alcohol Harm in Communities





# What is the purpose of the briefing note series?

The Improvement Service (IS) has developed an Elected Members Briefing Series to help elected members keep pace with key issues affecting local government.

Some briefing notes will be directly produced by IS staff but we will also make available material from as wide a range of public bodies, commentators and observers of public services as possible.

We will use the IS website and elected member e-bulletin to publicise and provide access to the briefing notes. All briefing notes in the series can be accessed at [www.improvementservice.org.uk/elected-member-guidance-and-briefings.html](http://www.improvementservice.org.uk/elected-member-guidance-and-briefings.html)

## About this briefing note

This briefing note from [Alcohol Focus Scotland](#) aims to increase understanding amongst elected members of how alcohol consumption and harm impacts on local communities and across different areas of local authorities' work. It will examine the role elected members can play in tackling the harms caused in their communities and improving local outcomes.

# What is the issue and why does it matter?

Alcohol is a legal, socially acceptable drug which is seen as an integral part of Scottish life, used to celebrate, commiserate and socialise. Its ready availability – from shopping centres to sports events, cinemas and coffee shops – creates the impression that alcohol is a normal part of everyday life. In reality, alcohol is a toxic substance that can create dependence and causes serious health and social problems.

Scotland is drinking at harmful levels, consuming more alcohol than we realise. The UK Chief Medical Officers' [low risk alcohol guidelines](#) advise against men and women drinking more than 14 units a week on a regular basis. However, despite an increasing prevalence of non-drinkers<sup>1</sup>, in 2016 enough alcohol was sold in Scotland for every adult to drink almost 1.5 times the weekly guideline, every week of the year.<sup>2</sup> Around 73% of alcohol consumed is purchased from shops and supermarkets rather than pubs, clubs and restaurants.<sup>3</sup>

Alcohol harm costs individuals, families and communities dear, is a drain on our hard-pressed public services and a brake on economic growth. Harmful alcohol consumption, alongside tobacco use, physical inactivity and unhealthy diet, is a major risk factor for non-communicable diseases (NCDs), such as cardiovascular diseases, cancer, chronic liver disease, and diabetes. These preventable diseases cause 89% of deaths in the UK,<sup>4</sup> and are Scotland's biggest killers.<sup>5</sup> In Scotland, 24 people die every week due to alcohol<sup>6</sup>, and alcohol-related death rates are 54% higher than in England and Wales.<sup>7</sup>

There is a strong association between alcohol consumption and crime, especially violence. Victims report that the offender was under the influence of alcohol in just over half (54%) of violent crimes in Scotland<sup>8</sup>, and in 2016, a third of emergency services workers were subjected to physical abuse while attending an alcohol-related incident.<sup>9</sup> Moreover, whilst there is no causal link between alcohol misuse and domestic abuse, alcohol is known to be a factor that contributes to the severity and frequency of incidents of physical violence in relationships where abuse is occurring.<sup>10</sup>

In addition, alcohol is both a contributory cause and compounding factor in mental ill health.<sup>11</sup> There are strong links between alcohol misuse, self-harming behaviour and completed suicides.<sup>12</sup>

Harm from alcohol not only affects the drinker, but also affects others around the drinker including family members, friends, co-workers and the wider community. Half of Scots report being harmed as a result of someone else's drinking, and more than 1 in 3 report having heavy drinkers in their lives.<sup>13</sup> As a result of parental drinking, children in Scotland have experienced physical abuse and violence, and a lack of care, support and protection.<sup>14</sup> Such adverse childhood experiences (ACEs) have profound and long-lasting consequences.<sup>15</sup>

Inequalities in alcohol-related harm are stark: those living in our most deprived areas are six times more likely to die and almost nine times more likely to be hospitalised due to alcohol than those in our least deprived communities.<sup>16</sup>

Alcohol harm costs local authorities millions of pounds each year and Scotland as a whole an estimated £3.6 billion per year.<sup>17</sup> This includes an estimated £230 million of social care costs due to alcohol misuse; £727 million for alcohol-specific offences and crimes; and a loss of £866 million to the Scottish economy's productive capacity due to presenteeism, absenteeism, unemployment and premature alcohol related mortality. There is also little evidence to support arguments that lower spending on alcohol would harm the economy.<sup>18</sup>

Reducing how much alcohol Scotland drinks and targeting those particularly at risk will benefit everyone: drinkers and non-drinkers, children and families, communities, the NHS and emergency services, employers and the economy. Reducing overall consumption levels will have most benefit to Scotland's vulnerable communities.

There is a clear need for continued action to reduce alcohol-related harm in Scotland and to address the associated health inequalities.

# What does this mean for elected members?

The negative impacts of alcohol harm are felt across every area of a local authority's work, on every budget line and throughout the communities we live in. All elected members should have an understanding of the wider impact of alcohol.

## Key areas affected by alcohol harm include:

- **Crime and community safety:** There is a strong link between alcohol and crime, which plays a role in offending and disorder. This is an issue that is highly visible in communities, affecting both those who drink and those who don't. Given the increase in drinking at home there are likely to be increasing effects in private spaces too.
- **Health and communities:** In Scotland, 1 in 4 people (26%) drink at hazardous or harmful levels (defined as drinking more than 14 units per week).<sup>19</sup> Local authorities have a key role in supporting adults who are affected by alcohol problems and mental ill health.
- **Children and young people:** Parental alcohol misuse is cited as a concern in 1 in 5 child protection cases in Scotland.<sup>20</sup> The effect of growing up in households where there are alcohol problems has knock-on effects to the social care system and to the life outcomes for affected children. On average, 18 young people under the age of 20 are admitted to hospital each week because of alcohol.<sup>21</sup>
- **Costs to local economy:** Alcohol harm costs businesses and affects the local economy in relation to healthcare, social care, productive capacity and crime.<sup>22</sup>
- **Environment and transport:** The cost of cleaning up town centres and the recycling and rubbish generated by consumption is borne by local authorities. The consequences of drink driving also affect the local authority.

# What does good practice look?

International evidence clearly indicates that increasing price, reducing availability and restricting marketing are amongst the most effective and cost-effective policy measures to reduce alcohol consumption and harm in a population.<sup>23</sup> Conversely, whilst education and public information campaigns are important in raising awareness, they are ineffective in changing long-term behaviour and reducing consumption and harm.<sup>24</sup>

Elected members are instrumental to improving outcomes at a local level. Because of their local knowledge and role as community leaders, elected members have a key role to play in preventing and reducing alcohol harm in their communities.

## Strategic recognition of alcohol harm

Elected members can use their influence to ensure that prevention and reduction of alcohol harm, alongside treatment and recovery, are key priorities embedded across all local strategies. Amongst others, this should include the local authority's vision, the Local Outcome Improvement Plan, Locality Plans, Community Justice Outcome Improvement Plan, Anti-Social Behaviour Strategy and Economic Plan. Elected members should ensure that these different strategies are not working against each other. It is also good practice to complete an impact assessment of alcohol harm on each policy.

## Leading by example

The environments where people live, work and play should be supportive of people's health and wellbeing. With 16% of adults describing themselves as non-drinkers<sup>25</sup>, elected members need to ensure that, for example, the development of the night-time economy encourages diversity.

Elected members can lead by example in de-normalising alcohol consumption and contributing towards a culture shift; local authority receptions and events could be alcohol-free and/or include a wide selection of non-alcoholic options. The local authority should ensure it has a robust workplace alcohol policy for its own staff that provides support for those who need it.

## Championing action and raising awareness

The stigma that surrounds problem drinking can prevent friends, family and colleagues from asking important questions to identify issues and can prevent those with a problem from seeking help. Elected members can use their public profile to tackle stigma by speaking out about the harm alcohol causes local communities.

Elected members can champion the need to ensure that there is political and financial support for early identification and intervention where alcohol harm is suspected, for example children living with problem drinkers.

Taking on the role of alcohol champion can help ensure that alcohol harm is considered in all local policies and that action is joined-up across all local authority departments and across other local agencies.

### Community involvement

The Community Empowerment (Scotland) Act 2015 emphasises strengthening of community involvement in local decision-making. Local residents will have first-hand experience of how alcohol harm affects their family, friends, businesses and the wider community and this knowledge must be taken into account by local authorities seeking to tackle alcohol harm.

Local licensing forums are made up of local stakeholders, including business owners and residents. By meeting with the local forum, elected members can build up a picture of alcohol harm in their local area. Licensing forums are made more effective by strong representation from the local community, so elected members also have a role to play in encouraging the local community to attend forum meetings and feed in their experiences.

Elected members are also well placed to speak to the communities they encounter in their day-to-day work directly about the problems they face. This information should be passed on to the relevant department or local licensing board so that solutions can be developed.

To help local people to have their say on how alcohol affects their community, Alcohol Focus Scotland has created a [Community Toolkit](#).

### Support national action to reduce alcohol harm

The most effective policy measures to reduce alcohol harm are also those that are the most cost-effective: increasing price, reducing availability and controlling marketing.

The Scottish Government's 2009 alcohol strategy, Changing Scotland's Relationship with Alcohol, is internationally recognised as being one of the most forward-thinking and ambitious responses to alcohol-related harm but more action is now needed. Elected members have a key role to play in highlighting the harm alcohol is causing in communities across Scotland and calling for action to prevent this.

This could be achieved through ensuring that Alcohol and Drug Partnership Delivery Plans are fully supported by relevant partners and endorsed by all elected members.

# Key questions and actions for elected members to consider

## Key questions

1. Does your local area have a joined up alcohol strategy?
2. Is the relationship between alcohol availability, consumption and harm reflected in your local licensing board's policy statement?
3. How much time does your local police force spend dealing with alcohol-related incidents?
4. How does alcohol impact your local health and social care services?
5. What's the cost of cleaning up your town centre after the weekend?
6. What are the experiences of children and families in your area living with someone who drinks too much?
7. Are local services meeting the needs of, and involving, service users and their families?

## Actions for local elected members on alcohol-related harm

1. Meet with your local Alcohol & Drug Partnership to find out what's being done to reduce alcohol harm in your community
2. Attend your local licensing forum or licensing board meeting
3. If you sit on the licensing board, pay particular attention to undertaking a robust assessment of overprovision for statements of licensing policy
4. Champion the inclusion of measures to reduce alcohol harm in local strategies
5. Use your local media to raise awareness of alcohol-related harm
6. Visit a [local alcohol support service](#) explore ways of promoting and celebrating recovery
7. Find out more about alcohol harm in your community by reading Alcohol Focus Scotland's [local alcohol harm factsheet](#)
8. Keep up-to-date with alcohol news, research and events by signing up to [Alcohol Focus Scotland's monthly newsletter, eFocus](#).

## Summary

Alcohol harm negatively affects local communities across Scotland, putting a drain on our hard-pressed public services and a brake on economic growth. But it is preventable. Nearly every local authority department's work will be impacted by alcohol consumption and harm. Elected members should understand the full impact of alcohol on the local community and champion action both locally and nationally to reduce this burden, making their local area a healthier, safer, and fairer place to live.

## Contact

Alcohol Focus Scotland's website contains a range of information and resources including [local support services](#), [local harm and cost profiles](#), and [community toolkits](#).

Alcohol Focus Scotland  
166 Buchanan Street  
Glasgow  
G1 2LW

0141 572 6700

 @alcoholfocus



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23. Babor, T. et al. (2010), Alcohol: No Ordinary Commodity: Research and Public Policy, Second edition. Oxford, England: Oxford University Press; Anderson, P. (2009) Evidence for the effectiveness and cost-effectiveness of interventions to reduce alcohol-related harm, Copenhagen: WJP Regional Office for Europe
24. Babor, et al (2010), op cit.; Anderson (2009), op cit.
25. Bardsley, et al. (2017), op cit.

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ELECTED MEMBER BRIEFING NOTE

# Commercial Sexual Exploitation



# What is the purpose of the briefing note series?

The Improvement Service (IS) has developed an Elected Members Briefing Series to help elected members keep pace with key issues affecting local government.

Some briefing notes will be directly produced by IS staff but we will also make available material from as wide a range of public bodies, commentators and observers of public services as possible.

We will use the IS website and elected member e-bulletin to publicise and provide access to the briefing notes. All briefing notes in the series can be accessed at [www.improvementservice.org.uk/elected-members-development](http://www.improvementservice.org.uk/elected-members-development).

# What is the purpose of this briefing note?

It has long been accepted that violence against women is a consequence of continuing inequality between men and women.<sup>1</sup> Tackling Inequality is therefore essential if we are to prevent and eradicate all forms of violence against women and girls. Equally, tackling violence is essential if we are to meet the requirements of the Gender Equality Duty on Public Bodies.

Scotland has a well-established internationally recognised approach towards different elements of tackling violence against women (VAW). We have challenged and changed cultural attitudes towards domestic abuse. We can apply our learning and do the same for commercial sexual exploitation (CSE).

The purpose of this briefing note is to challenge current thinking and encourage a shared understanding of the harm caused through commercial sexual exploitation and the contributing factors and drivers behind it. In doing so, it is our hope that elected members will use this information to encourage self-reflection within local authorities of those policies, which have the potential to positively impact on the lives of women and the wider communities in which we live.

This briefing focuses on prostitution as a main element of commercial sexual exploitation but many of the issues and themes raised extend to other areas such as lap dancing, trafficking and pornography.

Elected Members have a key role to play because:

- You have a responsibility to safeguard and enhance the interests and well-being of local people
- You understand your ward in terms of demographics, the key challenges facing local people and communities and the services delivered by the council and its partners to meet local need
- You are in a strong position to facilitate and negotiate solutions to community problems
- You can influence local government policies to make sure they are reflective of the needs of communities
- You can engage with your community planning partners and support the work of your local multi-agency violence against women partnership.
- You are in a position of authority to challenge current thinking about the reasoning behind policies and positions tackling CSE and to ensure that they are robust and transparent

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1 U.N. Declaration on the Elimination of Violence against Women 1993

# What is Commercial Sexual Exploitation?

## Definition

*“Sexual exploitation is a practice by which person(s) achieve sexual gratification, or financial gain, or advancement through the abuse of a person’s sexuality by abrogating that person’s human right to dignity, equality, autonomy, and physical and mental well-being.”<sup>2</sup>*

It includes sexual activities such as prostitution, phone sex, stripping, internet sex/chat rooms, pole dancing, lap dancing, peep shows, pornography, trafficking, sex tourism and mail order brides. Sexual exploitation includes offering drugs, food, shelter, protection, other basics of life, and/or money in exchange for sex or sexual acts.

## Commercial Sexual Exploitation and Prostitution

Often the most common responses to the question, ‘What causes prostitution?’ are ‘poverty’, ‘drug addiction’, and ‘a history of abuse and violence’. In fact these are factors that lead or force vulnerable women and men into prostitution, rather than the cause of prostitution itself. The cause of prostitution is the exploitation of vulnerability and inequality, either by individuals or by the sex industries.

## Vulnerability

*“For the vast majority of people, sex work or whatever name you give it is a survival strategy. For most it is a practice enforced by poverty, degradation, homelessness, hunger and powerlessness; a form of slavery to economic, social and cultural deprivation, stigmatisation and marginalisation.” (S Khan 1999)<sup>3</sup>*

The factors that lead individuals into prostitution are about survival in situations where choices can be severely limited. To speak of choice as if it were a free and full concept is not accurate in this regard. Those involved are often made vulnerable in some way:

- Coming from vulnerable backgrounds
- Living in poverty or with financial difficulties
- Feeling they have few realistic or viable alternatives
- Having addiction or substance misuse issues
- Experience of other forms of violence or abuse

2 Part I, Article 1, draft Convention Against Sexual Exploitation) Prostitution of Sexuality, 1995 Appendix

3 Khan, S. (2001), “Beyond the Fringe, Edinburgh makes a virtue out of vice”, The Observer 26 August

For many people it is neither a “free” nor a “vocational” choice and they do not consider it a form of work. When it is classed as a form of employment or as merely individual choice, the harms can be masked and minimized, as well as blamed on the woman herself.

A sizable number of those selling or exchanging sex have experienced childhood sexual abuse. In a local study, 57% of those surveyed in street prostitution and 22% of those involved indoors were adult survivors.<sup>4</sup> Local authorities have a duty of care to children and young people, which extends to vulnerable adults.

We have to consider why so many of those who may have been involved with public services remain vulnerable for sexual exploitation into adulthood. We have to work to address the lack of realistic and viable alternatives many women are faced with.

## Inequality

*“We, the survivors of prostitution and trafficking... declare that prostitution is violence against women. Women in prostitution do not wake up one day and ‘choose’ to be prostitutes. It is chosen for us by poverty, past sexual abuse, the pimps who take advantage of our vulnerabilities, and the men who buy us for the sex of prostitution.”<sup>5</sup>*

Most - if not all- politicians and political parties publicly condemn violence against women and wish to see it prevented in all its forms. However it is difficult to challenge long held attitudes around discrimination and sexism or to fight for improved protection for women from sexual harassment when these same views and beliefs can be socially accepted and form the basis of ‘adult entertainment’. Prostitution is a major component of this but it also includes, for example lap dancing and stripping.

If we want to address attitudes and norms around gender inequality and how women are viewed and discriminated against then it is our belief that we must challenge those who continue to gain or profit from sexualised inequality and the societal acceptance of all sex industries.

The Scottish Government considers that the on-going existence and acceptance of the exploitation of women through these forms of leisure or entertainment gives legitimacy to negative attitudes towards women and supports inequality, discrimination, objectification and violence.<sup>6</sup> Given the desire to address both inequality and violence against women there is a clear need for those in authority and with the power to affect this issue to reconsider and commit to critical self- challenge of the principles behind as well as the actual policies which exist locally.

4 Judith Connell and THT 2010 Study on the needs of those in prostitution in Ayrshire and Arran.

5 Survivors of Prostitution and Trafficking Manifesto - Press Conference - European Parliament 2005

6 Equally Safe: Scotland’s Strategy for Preventing and Eradicating Violence Against Women and Girls



## Sex Industry and trafficked women

Sex industries are no longer hidden – with lap dancing clubs open on some local High Streets and escort agencies advertise in newspapers, online and in local directories, making paid for sexual services available in nearly every area of Scotland. Local support services have worked with trafficked women who were found in such businesses. The sex industry is keen to separate prostitution and trafficking but the two are inextricably linked. Traffickers and organized crime rely on a local sex industry/market in which they can place and advertise trafficked women. Local policies relevant to the sex and “adult” industries need to understand, challenge and address these risks.

### The Demand

*“Without johns there would be no prostitutes. Obvious perhaps but largely unstated. She’s not there for her selfish pleasure; she’s there for him, and his pleasure. Women’s bodies are sold and abused only because there is someone who is willing to pay to abuse them. Take away the demand and you remove the problem.”*<sup>7</sup>

We acknowledge there are different approaches to reducing the harms of CSE. In this paper we focus on the agreed approach of Scottish Government and COSLA.

Public debate has tended to focus on those selling or exchanging sex whilst the buyers have remained largely invisible. The buyers are a driving force behind sexual exploitation but are also a weak link. The sex industry is driven by a quest for profit and prostitution, like other markets, will profit most where there is a strong demand. Therefore any effective long-term approach to the harms caused through prostitution must include challenging and reducing the demand.

Just because there is a demand for sexually exploitative activities does not make these activities harmless, legitimate or acceptable. Demand for something does not dictate its moral or legal right to be. Similar debates are seen in relation to drugs, alcohol and access to extreme pornography.

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7 From Surviving Prostitution and Addiction blog - written by a survivor of the sex industry.  
[http://survivingprostitutionandaddiction.blogspot.co.uk/2012\\_02\\_01\\_archive.html](http://survivingprostitutionandaddiction.blogspot.co.uk/2012_02_01_archive.html)

# Why does it matter that we tackle commercial sexual exploitation?

For the elected member tackling commercial sexual exploitation matters in several ways. It matters because of the impact it has, it matters in the approaches we use, and it matters in policy.

Tackling CSE matters because of the impact of commercial sexual exploitation on women, children and communities.

It is widely acknowledged that CSE adversely affects physical, sexual and mental health and is a serious public health issue. The health impact of CSE can be profound, both as a result of coping with the consequences of exploitation and because of the greater exposure to violence and other forms of abuse inherent in this activity.<sup>8</sup>

Many people in prostitution have already experienced significant neglect, violence and abuse.<sup>9</sup> A small Scottish study highlighted that 50% had been in local authority care and 93% had been roofless/homeless.<sup>10</sup> These are people whose vulnerabilities are exploited for others pleasure and gain and who may need additional services to deal with harms. Local areas need to consider what services are available as:

- those involved may travel beyond their home area,
- there is an increase in indoor prostitution and
- there is an expansion and new forms of the sex industry e.g. webcam work.

## Emotional and Psychological Harm

*“You’re constantly being made to feel like a piece of meat and that you just exist for sex and if you do something long enough you start to believe it.”<sup>11</sup>*

Research has highlighted the harmful emotional and psychological impact on both men and women in

8 NHS Scotland Briefing on Commercial Sexual Exploitation 2010

9 Paying the Price, Home Office, 2004

10 Judith Connell and THT 2010 Study on the needs of those in prostitution in Ayrshire and Arran.

11 Connell and Harts study (2003) study noted negative effects on the mental health and wellbeing of men involved in prostitution.

prostitution.<sup>12</sup> Many studies show that those who sell sex need to develop coping strategies to enable them to offer sexual services to clients and to block out their experiences. A small needs assessment of men and women involved in prostitution in Ayrshire and Arran (Connell J 2008) found 93% suffered depression and 78.5% had self-harmed.

### Substance and alcohol (mis)use

High levels of alcohol and/or drug use have been reported as a common coping strategy for those selling or exchanging sex<sup>13</sup> increasing vulnerability and risk of harm. In a local study:<sup>14</sup>

- 100% had used various drugs in the past,
- 78.5% were currently using drugs
- 71% were involved in prostitution because of drug use

### Physical harm

In Scotland, studies with both men and women in prostitution have also shown high levels of violence with clients the most likely source. 91% were concerned about their safety during prostitution, 78% of women in street prostitution had experienced violence from buyers.<sup>15</sup> One study<sup>16</sup> found that 73 % of respondents were exposed to physical assaults, rapes, confinement and threats of murder.

### Cultural Harm

The sex industries need inequality to exist and encourage discrimination and objectification of women. Some believe it supports a “conductive culture” for VAW.<sup>17</sup> These industries’ existence encourages inequality and objectification and the attitudes that contribute to making women more vulnerable. The negative impact of prostitution on the “clients’ is often overlooked. Buying sex can have a significant long term impact on men’s sense of self-worth and self-esteem. One Scottish study found that 25% of

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- 12 Matthews and Easton 2010 ‘Prostitution in Glasgow - A strategic Review, J., Hart, G. (2003) An Overview of Male Sex Work in Edinburgh and Glasgow: The Male Sex Worker Perspective’, Occasional Paper No.8 MRC Social & Public Policies Unit, Glasgow University.
- 13 Connell, J., Hart, G. (2003) ‘An Overview of Male Sex Work in Edinburgh and Glasgow: The Male Sex Worker Perspective’ Occasional Paper No.8, MRC Social & Public Policies Unit, Glasgow University.  
Cusick, Cusick, L. (1998). ‘Female prostitution in Glasgow: Drug use and occupational sector’. *Addiction Research* 6, 115-130  
Mckeganey and Barnard, 1996 *Sex Work On The Streets: Prostitutes and Their Clients*
- 14 Judith Connell and THT - A small scale scoping with men and women in prostitution in Ayrshire and Arran 2010.
- 15 Matthews and Easton 2010 ‘Prostitution in Glasgow - A strategic Review’
- 16 Hoigard and Finstad’s (1992) Norwegian study
- 17 Dr Maddy Coy - 2013 *Prostitution, Harm and Gender Inequality: Theory, Research and Policy*

men who had bought sex in prostitution expressed “significant regret or shame” about having done so:<sup>18</sup>

*“I’ve always wished I hadn’t and just pretended to my friends that I’d done it.”<sup>19</sup>*

### Tackling CSE matters in the approaches we use

*“The Scottish Government is committed to ensuring a fairer, safer and stronger and healthier Scotland for all its citizens. Such aspirations cannot be fully achieved when vulnerable women and children are sold for the sexual gratification of men.... As the professional association of senior social work managers we are acutely aware of the often irreparable harm that prostitution causes to individuals, families and communities.”* (Association of the Directors of Social Work, 2011)<sup>20</sup>

We need preventative approaches that focus on all levels of concern whilst aiming for the long-term changes to address underlying inequalities.

There is a range of possible approaches to prostitution and heated international debate on the potential impacts.

### ‘Challenging Demand’

A Challenging Demand approach is in line with the National VAW strategy. It views prostitution as a form of sexualised violence, which is harmful to women and to society at large. It regards the demand to buy sex as the root cause and driving force behind prostitution markets and exploitation. It proposes a range of measures required in order to be effective:

- Decriminalising the selling of sex
- Quality and long term support to help people leave prostitution
- Development of viable alternatives
- Public education
- Criminalising the purchase of sex
- Effective enforced sanctions against those profiting from prostitution<sup>21</sup>

It is possible to change our attitudes towards the sex industry and this form of exploitation as entertainment or inevitable- other countries are working to do this. Iceland has now made “strip clubs”

18 The Scottish Challenging Demand (2008) Scottish study of 110 men who had purchased sexual activity.

19 Challenging Demand Report 2008 accessible via - [http://whiteribbonscotland.files.wordpress.com/2008/04/challenging\\_mens\\_demand.pdf](http://whiteribbonscotland.files.wordpress.com/2008/04/challenging_mens_demand.pdf)

20 Association of Directors of Social Work 2011, ‘Response to Consultation on “Criminalising the Purchase of sex”’. [www.adsw.org.uk/doc\\_get.aspx?DocID=408](http://www.adsw.org.uk/doc_get.aspx?DocID=408)

21 [www.feminismandhumanrights.files.wordpress.com/2013/04/briefing-law-and-policies-on-prostitution-and-thb-sweden-gunilla-s-ekberg-131213.pdf](http://www.feminismandhumanrights.files.wordpress.com/2013/04/briefing-law-and-policies-on-prostitution-and-thb-sweden-gunilla-s-ekberg-131213.pdf)

and the profit from the nudity of employees illegal. Sweden has decriminalised the sale of sex and made it illegal to buy sex. France is also looking to introduce similar approaches. Both Northern Ireland and The Republic of Ireland are currently assessing their legislative frameworks with views to criminalise the demand. MEPs recently overwhelmingly voted in the European Parliament in favour of approaches which criminalise the demand and offer support. Scotland now needs to be debating this approach on local, national and international levels.

### Harm Reduction

As shown in a local study - high numbers of those involved in selling sex would like stop - 91% had tried to leave, 91% said they'd like to leave.<sup>22</sup>

Harm reduction involves provision of health services and advice with the aim of reducing risk to individuals and to public health. Harm reduction services in Scotland are mainly focused around addictions support, health and homelessness. Provision of harm reduction services is vital but a harm reduction approach alone will not reduce or end prostitution itself and so it is not a long-term solution.

### Legislation

Legislation is the regulation of prostitution with laws regarding where, when, and how prostitution could take place. Some argue<sup>23</sup> that this regulatory approach would improve conditions and safety for those involved in selling and to break links with organised crime. Prostitution would become “just another job”, which would be regulated as with other forms of employment. Minimum standards would need to be developed and people involved in prostitution would be required to pay tax.

A new offence of loitering or soliciting in a public place to buy sex through the Prostitution (Public Places) (Scotland) Act 2007 has assisted Police and local authorities to better manage problems associated with kerb crawling and harassment. At this time the Scottish Government recognised that the criminal law alone is not sufficient to tackle the complex problems of street prostitution and also issued guidance on tackling street prostitution to local authorities and their planning partners.

Robust legislation should help to inform decision-making about priorities and service development based on statutory duties.

### Decriminalisation

Decriminalisation would remove all laws against prostitution and would prohibit the state and law-enforcement officials from intervening in any prostitution-related activities or transactions, unless other laws apply. New Zealand decriminalised in 2003. Whilst the New Zealand Government states that

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22 Judith Connell and THT's 2010 study found that 91% had tried to leave and 91% would like to leave.

23 <http://prostitution.procon.org/view.resource.php?resourceID=000115>

decriminalisation has impacted favourably on some aspects of working conditions<sup>24</sup>, others are calling for the law to be reversed and for buying sex to be criminalised.<sup>25</sup> Concerns have also been expressed over the lack of control of the rapid expansion and ‘industrialisation’ of the sex industry, including a planned 15-storey ‘super-brothel’.<sup>26</sup>

### Tackling CSE matters in policy

The UK has made commitments to tackling violence against women through different International Measures and Obligations, which we must work towards achieving (e.g. UN Convention on the Elimination of All Forms of Discrimination Against Women, UN Convention on the Rights of the Child, The Palermo Protocol). We cannot contribute towards achieving many of these if we do not take steps to address CSE, prostitution and trafficking. Many of the measures include:

- Raising awareness of the important roles and responsibilities of civil society in identifying the demand as a root causes of human trafficking
- Targeted information campaigns
- Preventive measures, including educational programmes on discrimination, gender equality and the dignity and integrity of every human being.

This policy context supports you, as an elected member to deliver your responsibilities around inequality and adopt or strengthen legislative, administrative, educational, social, cultural or other measures to discourage the demand that fosters all forms of exploitation of persons especially women and children.

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24 [www.parliament.nz/en-nz/parl-support/research-papers/00PLSocRP12051/prostitution-law-reform-in-new-zealand](http://www.parliament.nz/en-nz/parl-support/research-papers/00PLSocRP12051/prostitution-law-reform-in-new-zealand)

25 [www.stuff.co.nz/national/politics/9428778/Ex-prostitutes-call-for-law-change](http://www.stuff.co.nz/national/politics/9428778/Ex-prostitutes-call-for-law-change)

26 [www.stuff.co.nz/business/industries/8020161/Central-Auckland-super-brothel-approved](http://www.stuff.co.nz/business/industries/8020161/Central-Auckland-super-brothel-approved)

# Meeting the challenges: What can you do as an elected member?

Other countries have led the way in challenging and combatting the impacts of CSE. As with all other forms of VAW, we can aspire to a Scotland where commercial sexual exploitation is not accepted nor condoned. It is time for Scotland and local authorities led by elected members to re-debate the issues and engage possible solutions.

You may find it helpful to consider the following questions and suggestions to tackle CSE in your area and to review how you and your council currently engage with local people and communities and whether there is scope for improvement.

- Are there opportunities for you and other elected members to learn more about different approaches to tackle CSE and the experiences of those in prostitution and survivors?
- Are there ways you and your council can constructively reflect on and challenge policies and whether they support positive outcomes for those involved in selling sex and wider communities?
- How does your council support the VAW Partnerships and the approaches to tackle CSE?
- Are you helping to ensure that the issues and impacts of CSE are presented clearly and concisely to the council and its partners?
- Are you confident that communities (women and children) who have experienced CSE have access to the support and resources they need?
- Are you confident that those who have sexually exploited women and children are held accountable for their actions?

## Helpful actions for local authorities

- Nominate a local Councillor to act as a champion / ambassador to promote the issues.
- Give statements of support to media (press releases) about the local approaches being used to tackle CSE.
- Work with local and national campaigns to challenge sexual exploitation.
- Respond to local/national consultations on relevant issues.
- Support your local Violence Against Women partnership to lobby for restrictions on local adult entertainment venues, gentlemen's clubs, saunas etc.
- Consult with local networks e.g. child protection, adult support and protection and relevant networks and services such as addictions.

# Further support and contacts

## Women's Support Project

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National Coordinator Challenging Demand  
[linda@womenssupportproject.org.uk](mailto:linda@womenssupportproject.org.uk)  
[www.womenssupportproject.com](http://www.womenssupportproject.com)  
Tel: 0141 4180748

## Improvement Service

Joanna McLaughlin  
National VAW Network Coordinator  
[joanna.mclaughlin@improvementservice.org.uk](mailto:joanna.mclaughlin@improvementservice.org.uk)

## Local services

Quay Services - Services to women involved in prostitution in Aberdeen  
[www.quayservices.co.uk](http://www.quayservices.co.uk)

Women's Rape and Sexual Abuse Centre's Vice Versa Project Dundee  
[www.wrasacdundee.org/vice-versa.html](http://www.wrasacdundee.org/vice-versa.html)

Aurora - support for those involved in selling sex, Edinburgh Women Rape and Sexual Assault centre  
[www.ewrasac.org.uk](http://www.ewrasac.org.uk)

Street Work - Outreach and support service Edinburgh  
[www.streetwork.org.uk/reach-out-project/](http://www.streetwork.org.uk/reach-out-project/)

SACRO Another Way service Edinburgh  
[www.sacro.org.uk/services/criminal-justice/another-way-service](http://www.sacro.org.uk/services/criminal-justice/another-way-service)

Open Road Project - a service for men involved in prostitution in Glasgow.  
[www.nhsopenroad.org](http://www.nhsopenroad.org)

TARA Trafficking Awareness Raising Alliance - a national project.  
[www.saferglasgow.com/what-we-do/support-services-for-victims/support-to-victims-of-human-trafficking.aspx](http://www.saferglasgow.com/what-we-do/support-services-for-victims/support-to-victims-of-human-trafficking.aspx)

Rape Crisis Scotland  
[www.rapecrisisscotland.org.uk](http://www.rapecrisisscotland.org.uk)

White Ribbon Scotland  
[www.whiteribbonScotland.org.uk](http://www.whiteribbonScotland.org.uk)

Zero Tolerance  
[www.zerotolerance.org.uk](http://www.zerotolerance.org.uk)





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## Alcohol Outlet Availability and Harm in Highland

April 2018

This document sets out the findings from research by Alcohol Focus Scotland (AFS) and the Centre for Research on Environment, Society and Health (CRESH), which investigated whether alcohol-related health harm (hospitalisations and deaths) and crime rates across Scotland were related to the local availability of alcohol outlets. The relationship between income deprivation and alcohol outlet availability was also examined.

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### Key findings

- Highland is **ranked 26th out of 30 local authority areas for alcohol outlet availability** in Scotland (19th for on-sales and 26th for off-sales outlets).
- **Alcohol-related death rates in the neighbourhoods with the most alcohol outlets were double** those in neighbourhoods with the least.
- **Alcohol-related hospitalisation rates in the neighbourhoods with the most alcohol outlets were 2.4 times higher** than in neighbourhoods with the least.
- **Crime rates in the neighbourhoods with the most alcohol outlets were 4.7 times higher** than in neighbourhoods with the least.
- The link between alcohol outlet availability and harm was **found even when other possible explanatory factors**, such as age, sex, urban/rural status and levels of income deprivation, **had been taken into account**.
- **The most deprived neighbourhoods had 6.5 times the number of alcohol outlets** than the least deprived neighbourhoods.
- The **total number of alcohol outlets in Highland increased by 26 (2.2%)** from 1190 in 2012 to 1216 in 2016.

## Introduction

Alcohol availability refers to the ease of access to alcohol, whether to drink on the premises (e.g. pubs, clubs or restaurants) or to drink off the premises (e.g. shops and supermarkets). Alcohol availability includes the number, capacity and opening hours of alcohol outlets. Studies from other countries have consistently found an association between alcohol availability and alcohol-related problems, particularly outlet availability (the number of alcohol outlets in a given area). [Previous research](#) carried out in 2014 by this research team (the Centre for Research on Environment, Society and Health at the Universities of Edinburgh and Glasgow) suggests that this relationship is also true for Scotland. This profile provides a summary of the updated analysis for Highland. A Scotland profile is also [available](#).

Information was gathered on the number of places selling alcohol, health harms and crime rates within neighbourhoods across the whole of Scotland and for each local authority area. Researchers compared data zones (small areas representing neighbourhoods that have between 500 and 1000 residents) to see if there was a relationship between the number of alcohol outlets in a neighbourhood and the rates of alcohol-related deaths and hospitalisations. The profiles also consider, for the first time, the relationships between alcohol outlet availability and crime and deprivation rates.

## Alcohol Outlet Availability in Highland

### *Alcohol outlet availability within neighbourhoods*

Alcohol outlet availability was calculated by measuring the number of outlets within 800m (approximately a ten minute walk) of each data zone (neighbourhood)'s population centre. There are 312 neighbourhoods in Highland. The average number of outlets for each neighbourhood was calculated to obtain ranks for outlet availability for all local authority areas within Scotland (with the area ranked 1st having the highest availability and 30th the lowest availability).

Highland is **ranked 26th out of 30 local authority areas for alcohol outlet availability** in Scotland (19th for on-sales and 26th for off-sales outlets). In Highland, in 2016:

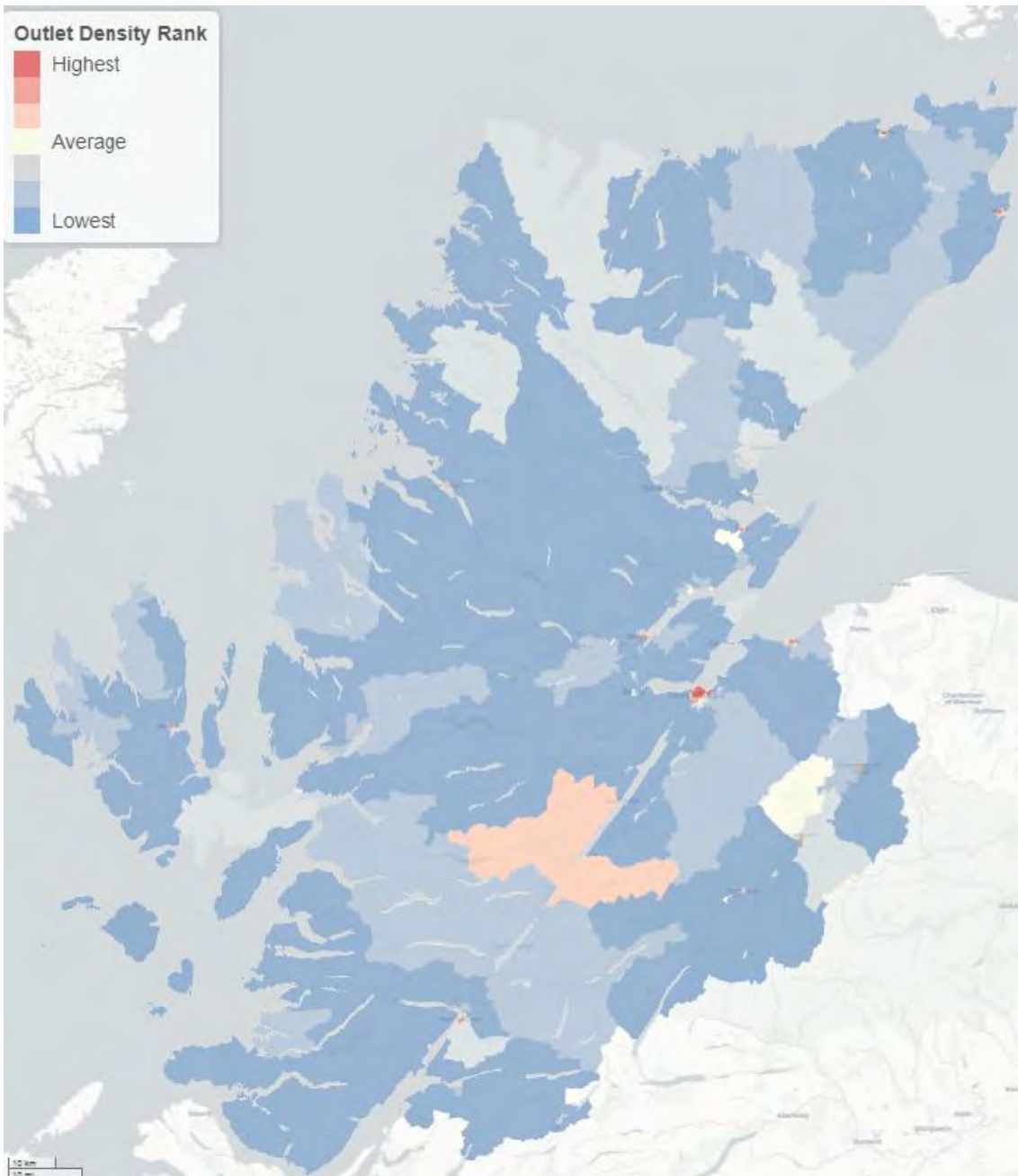
- There were **1216 alcohol outlets: 905 on-sales and 311 off-sales outlets**.
- Neighbourhoods had **between 0 and 124** alcohol outlets within 800m of the population centre.
- Neighbourhoods had an average of **8.9 alcohol outlets** within 800m of the population centre, compared to the Scottish average of 16.8 outlets. **13% of neighbourhoods had total outlet availability higher than the Scottish average.**
- Neighbourhoods had an **average of 6.4 on-sales outlets** within 800m of the population centre, compared to the Scottish average of 11.4 outlets. **14% of neighbourhoods had on-sales outlet availability higher than the Scottish average.**
- Neighbourhoods had an **average of 2.5 off-sales outlets** within 800m of the population centre, compared to the Scottish average of 5.4 outlets. **9% of neighbourhoods had off-sales outlet availability higher than the Scottish average.**

Highland has an **alcohol outlet availability lower than Scotland as a whole**. For a more complete picture, it is also useful to compare alcohol outlet availability between neighbourhoods *within* the local authority. This can be done by using the [CRESH WebMap](#), as demonstrated in the next section.

### **Highland Outlet Availability Map**

Using the WebMap available at <https://creshmap.com/shiny/alcoholtobacco/>, alcohol and outlet availability (or 'density') can be mapped for data zones across Scotland. This can be done for on-sales, off-sales, and total outlets. Options are to compare against the Scottish average, the rural/urban average, local authority average or deprivation average for each data zone.

The map below shows the total alcohol outlet availability within 800m of the data zone population centre for each neighbourhood within Highland. The areas are colour-coded depending on how they compared with the average outlet availability for neighbourhoods within Highland.



Data on each neighbourhood's alcohol availability can also be downloaded from the WebMap, alongside information on alcohol-related mortality, alcohol-related hospitalisations, crime rate and income deprivation.

### **Alcohol outlet availability in Highland from 2012 to 2016**

The change in the number of alcohol outlets within the local authority area was examined.

- The **total number** of alcohol outlets **increased by 26 (2.2%)** from 1190 in 2012 to 1216 in 2016. This is **similar to the 2.9% increase found across Scotland as a whole**.
- The **number of on-sales outlets increased by 23 (2.6%)** from 882 in 2012 to 905 in 2016. This is a **larger increase than that found across Scotland as a whole (1.5%)**.
- The **number of off-sales outlets increased by 3 (1%)** from 308 in 2012 to 311 in 2016. This is a **much smaller increase than that found across Scotland as a whole (6.4%)**.

To take account of any changes in population over time, changes in alcohol outlet availability were calculated per 10,000 adult population:

- The **total number** of alcohol outlets per adult population **increased by 0.5%**. This is **similar to the 0.6% increase found across Scotland as a whole**.
- The **number of on-sales outlets per adult population increased by 0.9%**. This is **in contrast to the 0.8% decrease found across Scotland as a whole**.
- The **number of off-sales outlets per adult population decreased by 0.7%**. This is **in contrast to the 4% increase found across Scotland as a whole**.

### **Alcohol-Related Health Harm and Crime in Highland**

The study looked at the relationship between alcohol outlet availability and alcohol-related deaths, alcohol-related hospitalisations and crime.

- Highland has an **annual average of 53.7 alcohol-related deaths** for those aged 20 and over (from 2011-2016). This is equivalent to **23 deaths per 100,000 adults**, which is **5% higher than the Scottish rate** of 21.8 deaths per 100,000 adults.
- The local authority has an **average hospitalisation rate ratio for neighbourhoods of 100.9**, which is **around the same as the ratio for Scotland** of 100.
- Highland's **average neighbourhood crime rate is 259.4 crimes per 10,000 population**, which is **22% lower than the Scottish average** of 331.2 per 10,000 population.

### Alcohol-Related Death Rates and Alcohol Outlet Availability

In Highland, a **statistically significant relationship was found between alcohol outlet availability and alcohol-related deaths**: neighbourhoods with more places to buy alcohol had higher alcohol-related death rates.

Alcohol-related death rates were associated with the number of total outlets:

- Alcohol-related death rates in the **neighbourhoods with the most alcohol outlets were double** those in neighbourhoods with the least.

The above relationship was found even when other explanatory factors were accounted for, namely income deprivation, urban/rural status and the age and sex demographics of the population. This means that **the association between outlet availability and alcohol-related deaths is not explained by the level of income deprivation, how urban or rural an area is, or the demographics of those living in an area.**

### Alcohol-Related Hospitalisation Rates and Alcohol Outlet Availability

In Highland, a **statistically significant relationship was found between alcohol outlet availability and alcohol-related hospitalisations**: neighbourhoods with more places to buy alcohol had higher alcohol-related hospitalisation rates.

Alcohol-related hospitalisation rates were associated with the number of all types of alcohol outlets (total, on-sales and off-sales):

- Alcohol-related hospitalisation rates in the **neighbourhoods with the most alcohol outlets were 2.4 times higher** than in neighbourhoods with the least.
- Alcohol-related hospitalisation rates in the **neighbourhoods with the most on-sales outlets were 2.5 times higher** than in neighbourhoods with the least.
- Alcohol-related hospitalisation rates in the **neighbourhoods with the most off-sales outlets were 2.5 times higher** than in neighbourhoods with the least.

The above relationships were found even when other explanatory factors were accounted for, namely income deprivation, urban/rural status and the age and sex demographics of the population. This means that **the association between outlet availability and alcohol-related hospitalisations is not explained by the level of income deprivation, how populated an area is, or the demographics of those living in an area.**

### Crime Rates and Alcohol Outlet Availability

In Highland, a **statistically significant relationship was found between alcohol outlet availability and crime rates**: neighbourhoods with more places to buy alcohol had higher crime rates than neighbourhoods with the least.

The data used was from the Crime Domain of the Scottish Index of Multiple Deprivation, which includes crimes of violence, sexual offences, domestic house breaking, vandalism, drug offences and common assault. The data however does not record whether the perpetrators of crime had consumed alcohol and excludes some offences which are commonly associated with alcohol consumption, such as breach of the peace, or anti-social behaviour.

Crime rates were associated with the number of all types of alcohol outlets (total, on-sales and off-sales):

- Crime rates in the **neighbourhoods with the most alcohol outlets** were **4.7 times higher** than in neighbourhoods with the least.
- Crime rates in the **neighbourhoods with the most on-sales outlets** were **5.3 times higher** than in neighbourhoods with the least.
- Crime rates in the **neighbourhoods with the most off-sales outlets** were **5.2 times higher** than in neighbourhoods with the least.

The above relationships were found even when other explanatory factors were accounted for, namely urban/rural status of the neighbourhoods and level of income deprivation. This means that **the association between outlet availability and crime rate is not explained by more crime being committed in more urban or deprived areas.**

### **Income Deprivation and Alcohol Outlet Availability**

Highland has an **average income deprivation rate for neighbourhoods of 9.7%**. This is **23% lower than the Scottish average** of 12.5%. Data for income deprivation were obtained from the Scottish Index of Multiple Deprivation 2016 Income Domain, which is represented as a percentage of the total population in receipt of benefits. More information on this measure is available in the [Methodology](#) section.

In Highland, **a statistically significant relationship was found between alcohol outlet availability and degree of income deprivation:** the most deprived neighbourhoods had more places to buy alcohol than the least deprived neighbourhoods.

A difference in the number of all types of alcohol outlets (total, on-sales and off-sales) was found between the most deprived and least deprived neighbourhoods:

- **The most deprived neighbourhoods had 6.5 times the number of alcohol outlets** than the least deprived neighbourhoods.
- **The most deprived neighbourhoods had 7.5 times the number of on-sales outlets** than the least deprived neighbourhoods.
- **The most deprived neighbourhoods had 4.9 times the number of off-sales outlets** than the least deprived neighbourhoods.

The above relationships were found even when other explanatory factors were accounted for, namely population levels. This means that **the association between outlet availability and income deprivation is not explained by the size of populations in a neighbourhood.**



## Interpreting the Findings

### *The relationship between alcohol outlet availability and health and social harms*

The strong relationship found in Scotland between the number of alcohol outlets, crime rates and alcohol-related health outcomes suggests that the local availability of alcohol may influence drinking behaviours and associated alcohol-related problems. This relationship meets the criteria of statistical tests and is termed **statistically significant**. Judgements as to statistical significance of each result were made throughout by applying a 95% significance level ( $p < 0.05$ ).

These results agree with findings from other studies in Scotland and beyond showing that there is an association between alcohol outlet availability and many types of health and social harms, such as violence, hospital attendance, underage drinking, and drink driving. See Section 5 of the [Alcohol Focus Scotland Licensing Resource Pack](#) for more detailed evidence.

### *A relationship was found between outlet availability and harm in both urban and rural areas*

There is a significant relationship between outlet availability and harm in both the urban and the rural areas of Scotland. However, in some very rural local authorities (e.g. Orkney Islands, Shetland Islands and Eilean Siar) no statistically significant relationship between alcohol outlet availability and alcohol-related health harm was found. These areas have relatively low population and fewer data zones, which can make it difficult to find a statistical relationship between any two factors.

### *Other explanatory factors were taken into account*

When assessing whether there is a relationship between alcohol outlet availability and harm, a number of other factors that may explain the results were taken into account in the analysis. When looking at whether alcohol outlet availability was related to alcohol-related deaths, alcohol-related hospitalisations and crime, the degree of income deprivation and the rural/urban status of the area were taken into account. For alcohol-related deaths and hospitalisations, the analysis also took into account the age and sex demographics of the population. This means that the relationships found are not explained by levels of deprivation, how populated an area is, or the demographics of the population. When looking at the relationship between income deprivation and outlet availability, population levels were taken in account. This means that the relationships found are not explained by the size of populations in a neighbourhood.

### *Factors affecting whether a statistically significant relationship can be found*

When looking at areas smaller than the whole of Scotland a number of factors can influence if a statistically significant relationship is found. Being able to assess whether there is a relationship depends on the ability to compare areas of high alcohol outlet availability with areas of low availability. At a national level, there is sufficient variation in the number of alcohol outlets across the country to be able to make this comparison. However, within some local authorities, where the alcohol outlet availability is more evenly spread across the area, there may not be enough variation in exposure to outlet availability to enable a comparison. In addition, if the whole area is over-supplied then it will not be possible to detect a difference between one locality and another.

For the smaller local authority areas it can be difficult to find a statistical relationship between outlet availability and harm if there are too few neighbourhoods. For example, both Clackmannanshire and the Islands authority areas have less than 100 neighbourhood areas. In addition, outlet availability tells us something about the amount of alcohol available in an area but there are also other factors such as the size of the premises, level of alcohol sales, the opening hours and how far people travel to buy alcohol.

Deaths in particular are rare events that are especially difficult to analyse in areas with relatively small populations. In addition to this, mortality data was only available for a 6 year period, compared to the 10 year period available for the previous analysis; the boundaries of data zones changed between 2012 and 2016, limiting the number of years of death data that could be included. For this reason, coupled with falling mortality in general, the number of deaths analysed are small in some local authorities.

Whilst taking all of these factors into account, not finding a statistically significant relationship between alcohol outlet availability and harm may simply be because there is no relationship within that area.

### ***Developing the most accurate picture of alcohol availability***

The number of alcohol outlets in an area tells us something about the amount of alcohol available in an area but there are other factors that affect how readily accessible alcohol is. For example, the size of the premises (a supermarket will provide a greater volume and variety of alcohol than a small corner shop), the opening hours of the premises and how far people travel to buy alcohol. Currently, the number of alcohol outlets is the only information available for the whole of Scotland.

If more detailed information on the alcohol capacity of premises, their opening hours, alcohol sales and the catchment of the customers were collected this would enable further improvements in our understanding of the relationship between alcohol outlet availability and alcohol-related harm. Even without this more detailed information, a clear and statistically significant relationship between the availability of alcohol outlets and alcohol-related harm was found for Scotland as a whole.

## **Methodology**

### ***Summary***

We investigated whether alcohol outlet availability was associated with alcohol-related health outcomes (hospitalisations and deaths) and overall crime rates for Scottish data zones. This analysis builds on [previous research](#), updating analysis of the relationship between alcohol outlet availability and harm in Scotland using more recent outlet availability, mortality and hospitalisation data. It also expands the analysis of alcohol-related harms to include crime data, and assesses whether the availability of alcohol outlets found in Scottish neighbourhoods is related to the degree of income deprivation in these areas. This builds upon [analysis published in 2015](#), using a similar methodology.

### ***Geographical units***

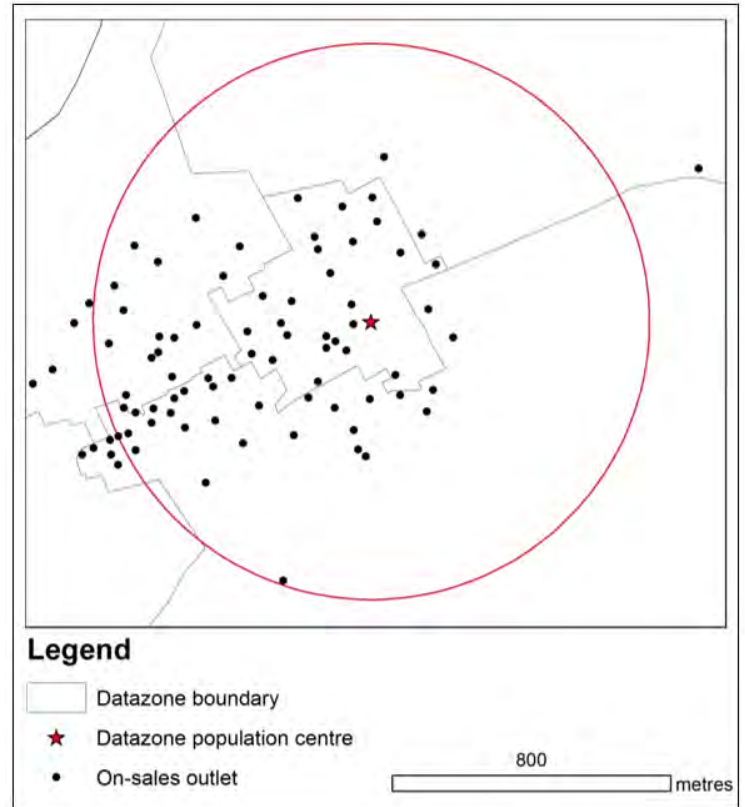
The data zone is the key small-area (neighbourhood) geographical unit used by the Scottish Government in the dissemination of official statistics, with populations of between 500 and 1000. There are 6,976 data zones in Scotland; the data zones used were devised for the 2011 census. Differences for data zones were compared across Scotland as a whole, and within 30 local authority areas. Twenty-nine of the local authority areas in place since 1996 were used. The three island local authorities (Shetland Islands, Orkney Islands and Eilean Siar) were grouped together as separately they have too few data zones to be able to carry out these analyses.

### **Alcohol outlet availability**

The locations of outlets licensed to sell alcohol for consumption on the premises (on-sales) and off the premises (off-sales) were obtained in 2016 from each local licensing board. The datasets were checked for errors (e.g. duplications), resulting in verified locations for 11,522 on-sales alcohol outlets and 5,107 off-sales outlets. Outlets selling alcohol for consumption both on and off the premises were counted as on-sales outlets. The resulting dataset corresponds closely with official figures (counts by local authority) from the Scottish Liquor Licensing Statistics 2015-16.

Alcohol outlet availability was measured for each data zone as the number of on-sales, off-sales, or total outlets within 800m of the population centre of the data zone (800m represents a 10-minute walk at average pace). This 800m zone (area 2.0 km<sup>2</sup>) was assumed to represent the typical neighbourhood experienced by the population of a data zone.

The example in Figure 5 shows that a circle with a radius of 800m around this data zone's population centre (red star) contains 73 on-sales outlets: including a number within neighbouring data zones. Data zones were grouped into five availability groups, from lowest (group 1) to highest (group 5). The highest availability group contains the 5% of data zones with the greatest outlet availability. Groups 2-4 were defined by dividing the remaining data zones into four groups containing equal numbers of neighbourhoods based on rank of outlet availability.



**Figure 7. Calculating alcohol outlet availability for a data zone**

For very rural areas, where the population is widely dispersed across the data zone, this measure might be a less accurate representation of numbers of outlets that are easily accessible.

### **Analysis**

Multivariate regression models were used to assess whether alcohol outlet availability was related to alcohol-related deaths, alcohol-related hospitalisations and crime within data zones, independent of the degree of income deprivation in the areas and their rural/urban status. For both alcohol-related deaths and hospitalisations, the analysis also took into account the age and sex structure of the population. The models estimated the risk of alcohol-related harms in each of the outlet availability groups relative to a reference group, the group containing the neighbourhoods with the lowest outlet availability.

In testing the relationship between outlet availability and income deprivation, a bivariate analysis was used to compare the mean alcohol outlet availability rates per 10,000 population over 18 years old in groups of data zones with different levels of income deprivation. The 'high' and 'low' income deprivation groups of areas compared in the analysis contained the fifth of data zone areas with the greatest and least income deprivation.

### Population

Data zone population data was used in the analysis of the relationship between outlet availability and income deprivation, and between outlet availability and alcohol-related deaths. Population data from the National Records of Scotland was used to describe data zone populations from 2011-2016.

### Mortality

The mortality data were supplied by the National Records of Scotland. These data were given for data zones for the period 2011-2016 combined. The time period was set due to the availability of population estimates at 2011 data zone level. The definition of an alcohol-related death is based on [International Classification of Diseases codes](#), and the [2006 National Statistics definition](#) of alcohol-related deaths.

### Hospitalisations

The hospitalisations data were extracted from the [Scottish Index of Multiple Deprivation 2016](#) Health Domain. SIMD alcohol-related hospitalisation was based upon the number of continuous inpatient stays, 2011-2014, with a diagnosis of an alcohol-related condition. Hospitalisations are represented for each data zone as a ratio of the number of hospitalisations recorded in the data zone relative to the number that would have been 'expected' based upon the average rates for Scotland, standardised by age and sex.

### Crime

The crime data were extracted from the [Scottish Index of Multiple Deprivation 2016](#) Crime Domain. Crimes included in the domain are crimes of violence, sexual offences, domestic house breaking, vandalism, drug offences and common assault recorded during 2014-15, per 10,000 population.





### Income Deprivation

Data for income deprivation were obtained from the [Scottish Index of Multiple Deprivation 2016](#) Income Domain. The Income Domain is a count of the number of people claiming selected means-tested benefits in 2013-14 and 2015 divided by the total population in 2014. It is therefore a percentage of the total population in receipt of benefits. The benefit data originates from the Department of Work and Pensions and HMRC.

### Urban/Rural

The urban/rural status of data zones were defined using the [Scottish Government 6 Fold Urban Rural Classification](#). In this analysis the six classifications were combined into three categories 'urban' (combining 'large urban areas' and 'other urban areas'), 'small towns' (combining 'accessible small towns' and 'remote small town') and 'rural' (combining 'accessible rural' and 'remote rural').

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Off-sales capacities – Multiple Grocery Stores 2018<sup>1</sup>

| Capacity in m <sup>2</sup>   | TESCO | MORRISONS | ASDA | SAINSBURY | M&S | LIDL | ALDI | SOMERFIELD | CO-OP | SCOTMID | SPAR | OTHER STORES <sup>i</sup> | TOTAL 2018 (2013) |
|------------------------------|-------|-----------|------|-----------|-----|------|------|------------|-------|---------|------|---------------------------|-------------------|
| 00.01 – 10.00                |       |           |      |           | 1   |      |      |            |       |         | 3    | 114                       | 118 (118)         |
| 10.01 – 20.00                |       |           |      |           |     |      |      |            | 1     |         | 10   | 38                        | 49 (59)           |
| 20.01 – 30.00                |       |           |      |           |     |      | 2    |            | 17    | 3       | 7    | 12                        | 41 (34)           |
| 30.01 – 40.00                |       |           |      |           | 1   | 5    |      |            | 5     | 7       | 3    | 5                         | 26 (23)           |
| <b>Total 40.00 or under</b>  |       |           |      |           |     |      |      |            |       |         |      |                           | <b>234 (234)</b>  |
| 40.01 – 50.00                | 1     |           |      |           |     | 2    |      |            | 5     |         |      | 1                         | 9 (11)            |
| 50.01 – 60.00                |       |           |      |           | 1   |      |      |            | 3     |         |      |                           | 4 (4)             |
| 60.01 – 70.00                |       |           |      |           |     |      |      |            | 2     |         |      |                           | 2 (2)             |
| 70.01 – 80.00                | 2     |           |      |           |     |      |      |            | 1     |         |      |                           | 3 (3)             |
| 80.01 – 90.00                |       |           |      |           |     |      |      |            | 1     |         |      |                           | 1 (2)             |
| 90.01 – 100.00               | 1     |           |      |           |     |      |      |            |       |         |      |                           | 1 (1)             |
| <b>Total 40.01 – 100.00</b>  |       |           |      |           |     |      |      |            |       |         |      |                           | <b>20 (23)</b>    |
| 100.01 – 150.00              | 2     | 1         |      |           |     |      |      |            |       |         |      |                           | 3 (3)             |
| 150.01 – 200.00              | 1     |           | 1    | 1         |     |      |      |            |       |         |      |                           | 3 (3)             |
| 200.01 – 250.00              | 2     | 2         |      |           |     |      |      |            |       |         |      | 1 <sup>2</sup>            | 5 (5)             |
| 250.01 – 300.00              | 1     |           |      |           |     |      |      |            |       |         |      |                           | 1 (1)             |
| 300.01 – 350.00              |       |           | 1    |           |     |      |      |            |       |         |      |                           | 1 (1)             |
| 350.01 – 400.00              | 1     |           |      |           |     |      |      |            |       |         |      |                           | 1 (1)             |
| <b>Total 100.01 – 400.00</b> |       |           |      |           |     |      |      |            |       |         |      |                           | <b>14 (14)</b>    |

<sup>1</sup> Includes off-sales at garages selling groceries<sup>2</sup> Refers to Bookers, Inverness, which sells mainly to trade but also to the general public

**Other predominantly off sales premises<sup>3</sup>**

| Capacity in m <sup>2</sup>   | Distillery shops | Brewery shops | Specialist beer/ale shops | Specialist whisky shops | General off-sales/wine shops | Tourist/Gift shops | Other visitor centres | Total            |
|------------------------------|------------------|---------------|---------------------------|-------------------------|------------------------------|--------------------|-----------------------|------------------|
| 00.01 – 10.00                | 7                |               |                           |                         |                              | 10                 | 11                    | <b>28</b>        |
| 10.01 – 20.00                | 1                | 4             |                           |                         |                              | 2                  |                       | <b>7</b>         |
| 20.01 – 30.00                | 3                |               | 1                         |                         | 1                            | 1                  |                       | <b>6</b>         |
| 30.01 – 40.00                | 2                |               |                           | 1                       | 1                            |                    |                       | <b>4</b>         |
| <b>Total 40.00 or under</b>  |                  |               |                           |                         |                              |                    |                       | <b><u>45</u></b> |
| 40.01 – 50.00                |                  | 1             |                           | 1                       | 1                            |                    |                       | <b>3</b>         |
| 50.01 – 60.00                | 1                |               |                           |                         |                              | 1                  |                       | <b>1</b>         |
| 60.01 – 70.00                |                  |               |                           |                         |                              |                    |                       | <b>1</b>         |
| 70.01 – 80.00                |                  |               |                           | 1                       |                              |                    |                       | <b>1</b>         |
| 80.01 – 90.00                |                  |               |                           |                         |                              |                    |                       | <b>0</b>         |
| 90.01 – 100.00               |                  |               |                           |                         |                              |                    |                       | <b>0</b>         |
| <b>Total 40.01 – 100.00</b>  |                  |               |                           |                         |                              |                    |                       | <b><u>6</u></b>  |
| 100.01 – 150.00              |                  |               |                           |                         |                              |                    |                       | <b>0</b>         |
| 150.01 – 200.00              |                  |               |                           |                         |                              |                    | 1                     | <b>1</b>         |
| 200.01 – 250.00              |                  |               |                           |                         |                              |                    |                       | <b>0</b>         |
| 250.01 – 300.00              |                  |               |                           |                         |                              |                    |                       | <b>0</b>         |
| 300.01 – 350.00              |                  |               |                           |                         |                              |                    |                       | <b>0</b>         |
| 350.01 – 400.00              |                  |               |                           |                         |                              |                    |                       | <b>0</b>         |
| 400.01 – 450.00              |                  |               |                           |                         | 1                            |                    |                       | <b>1</b>         |
| <b>Total 100.01 – 450.00</b> |                  |               |                           |                         |                              |                    |                       | <b><u>2</u></b>  |

<sup>3</sup> Includes specialist shops and visitor centres which may also do on sales for tutored tastings etc.

## APPENDIX 6

The following is a brief summary of the overprovision statements of the 32 Scottish Licensing Boards as at July 2018. Most of these Boards will currently be undertaking the 5-yearly review of their Policy Statements, so their overprovision statements may be amended later in 2018.

| Board Area        | Overprovision statement summary   |
|-------------------|---|
| Aberdeen City     | <p>Two localities in the area identified as having overprovision of premises licensed for on sales in the form of pubs, entertainment venues (night clubs) and hybrid premises.</p> <p>Whole area (except two localities) identified as having overprovision of off sales premises (but not premises which operate both on and off sales).</p> <p>Presumption against grant of new licences of these types in these areas.</p>              |
| Aberdeenshire     | <p>North, Central and South Aberdeenshire Divisional Licensing Boards each found no evidence to make a direct causal link between alcohol-related harm and the number of licensed premises in any locality. They each found that the harm caused by alcohol is not a direct and sole consequence of the number of premises but is a result of a wider, complex set of factors. Accordingly, they have made no finding of overprovision.</p> |
| Angus             | <p>Board found that it has not been possible to identify any locality where data supports a robust and compelling argument that the prevalence of licensed premises has reached, or is close to reaching, overprovision. They therefore have no presumption against the grant of any new premises licences anywhere in the area.</p>  |
| Argyll and Bute   | <p>Board did not consider that there was any evidence of a saturation point having been reached in respect of licensed premises generally or in respect of any particular type of licensed premises which would indicate a current difficulty with overprovision.</p>   |
| City of Edinburgh | <p>Grassmarket and Cowgate localities identified as having overprovision of (1) pubs where the consumption of alcohol is the principal attraction, and (2) off sales premises.</p> <p>Presumption against the grant of new licences of these types in these two localities.</p>   |

|                           |   |
|---------------------------|---|
| (Edinburgh cont.)         | Various other localities identified as areas of “serious special concern”, but no presumption against new grants.   |
| Clackmannanshire          | <p>Board remains sceptical as to whether there is a causal link between number of premises licences and the incidence of the [alcohol-related] problems in any locality. It is of the view that the main issue is one of attitude and culture to consumption of alcohol.</p> <p>Found no information indicating that there are localities in Clackmannanshire where overprovision exists or is close to existing.</p> |
| Comhairle nan Eilean Siar | <p>Board concluded that there were sufficient “vertical drinking establishments and off-sales only establishments” within Stornoway Town Centre.</p> <p>Presumption against grant of new licences of these types in this locality.</p>  |
| Dumfries and Galloway     | <p>Found overprovision of off sales premises in Stranraer Central locality.</p> <p>Presumption against grant of licences for any new off sales premises and against granting any increase in alcohol display areas in existing off sales premises in that locality.</p>   |
| Dundee City               | <p>January 2018 supplementary statement finding overprovision of off sales premises throughout the Board’s area.</p> <p>Presumption against grant of any new off sales licences anywhere in the Board’s area.</p>   |
| East Ayrshire             | Found no overprovision of licensed premises, or licensed premises of a particular description, anywhere in the Board’s area.  |
| East Dunbartonshire       | <p>Found overprovision of off sales premises in locality of Hillhead, Kirkintilloch.</p> <p>Presumption against the grant licences for any new off sales premises in that locality.</p>   |



|                   |  |
|-------------------|--|
| East Lothian      | <p>Found overprovision of licensed premises of all descriptions in the Board's whole area.</p> <p>Presumption against the grant of any new premises licences and against granting any increase in capacity at any existing licensed premises, anywhere in Board's area.</p>  |
| East Renfrewshire | <p>Found there was no need for any localities in the area to be deemed as overprovided.</p>  |
| Falkirk           | <p>While acknowledging the issue of <b>over consumption</b> of alcohol, the Board has not been able to make a sustainable causal link to an <b>over provision</b> of premises generally or specifically within the Falkirk area.</p>   |
| Fife              | <p>No current overprovision statement concluded.</p> <p><u>Consultation draft policy 2018-23</u></p> <p>Board finds the evidence indicates that there is a correlation between the density of off sales outlets and alcohol related problems in the Cowdenbeath, Levenmouth and Kirkcaldy Fife Council areas, and having regard to its duty to promote the licensing objectives, has reached the preliminary view that there is overprovision of premises offering the sale of alcohol for consumption off the premises, namely off sales, local convenience stores and supermarkets in these three areas.</p> <p>If adopted, would create presumption against the grant of applications for any new off sales licences (or an increase on the the capacity of existing off sales licences) in these localities.</p> |
| Glasgow City      | <p>Board satisfied that there is sufficient evidence to establish the required causal link between alcohol-related harm and the number and capacity of licensed premises at the level of an intermediate data zone for the purposes of creating a pro-active presumption against the grant of further licences in the following intermediate data zone localities:-</p> <ul style="list-style-type: none"> <li>• <b>Calton, Gallowgate and Bridgeton</b></li> <li>• <b>Carntyne West and Haghill</b></li> <li>• <b>Govan and Linthouse</b></li> <li>• <b>Ibrox</b></li> <li>• <b>Laurieston and Tradeston</b></li> <li>• <b>Parkhead West and Barrowfield</b></li> <li>• <b>Shettleston North</b></li> </ul>   |

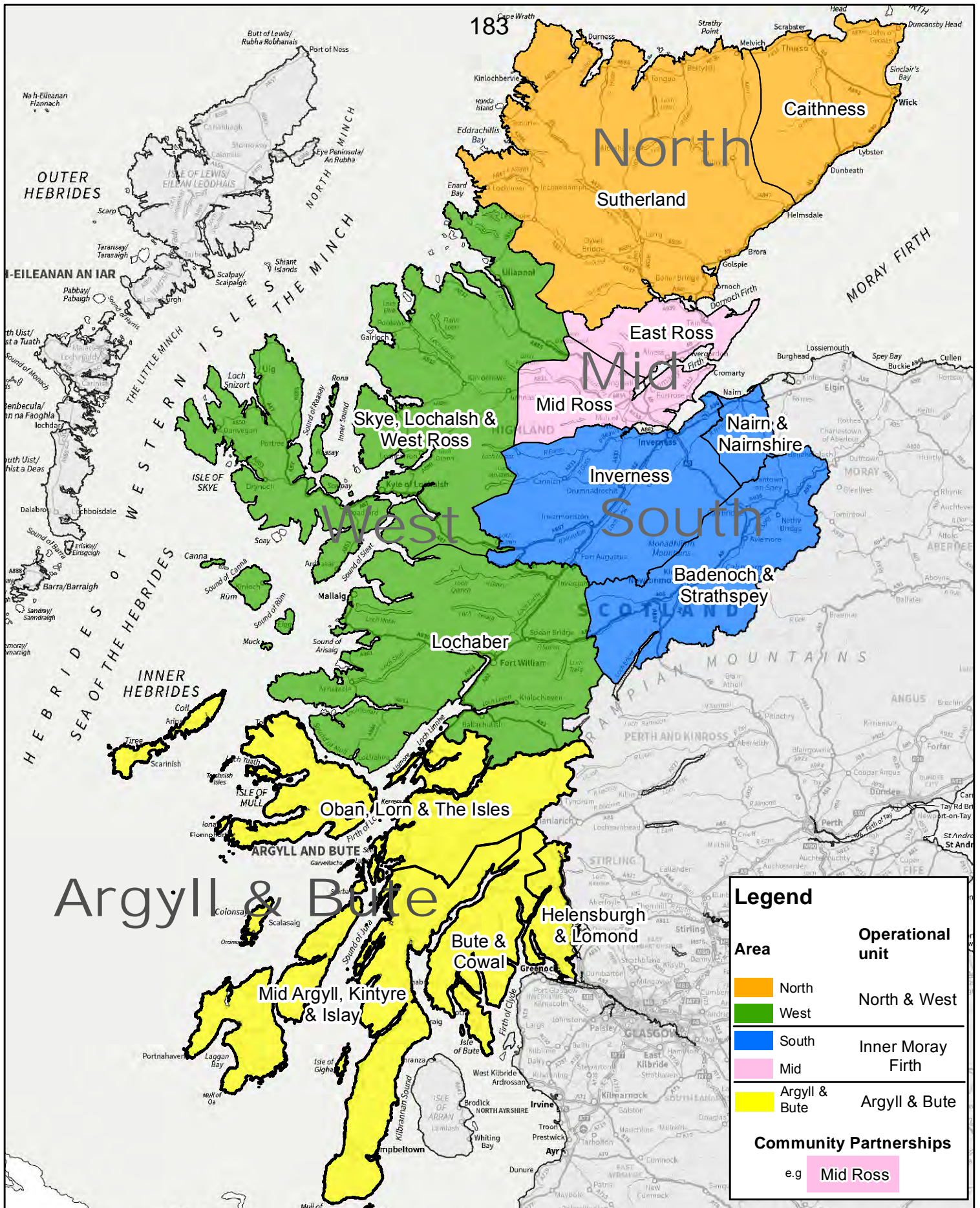
|                 |  |
|-----------------|--|
| (Glasgow cont.) | <p>• <b>Whiteinch</b></p> <p>Board identified these localities as areas of overprovision in order to promote the Licensing Objectives of Preventing Crime and Disorder and Protecting and Improving Public Health.</p> <p>Presumption against the grant of any new premises licences, provisional premises licences and, potentially, major variations to existing premises licences within these localities.</p>  |
| Highland        | <p>Found overprovision of larger-capacity off sales premises (display area exceeding 40 square metres) throughout all Highland wards.</p> <p>Presumption against the grant of premises licences, provisional premises licences or variations of premises where the grant of the application would result in the premises having an off sales capacity in excess of 40 square metres.</p> <p>For premises which already have off sales capacity in excess of 40 square metres, presumption against the grant of any variation which would result in an increase in that off sales capacity.</p> |
| Inverclyde      | <p>Found overprovision of all types of licensed premises in various localities effectively comprising Greenock Town Centre and its immediate vicinity.</p> <p>Presumption against the grant of any new licence in those localities.</p>  |
| Midlothian      | <p>Found overprovision of all types of licensed premises in the Dalkeith, Thornybank and Eskbank locality.</p> <p>Presumption against the grant of any new licence, or any major variation to increase capacity at existing premises, in that locality.</p>  |
| Moray           | <p>Found it had not been possible to identify any locality within Moray where data supports a robust and compelling argument that the prevalence of licensed premises has reached, or is close to reaching, saturation point.</p> <p>Therefore there is no presumption against the granting of new licences within any locality within Moray.</p>  |

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| North Ayrshire    | <p>Found overprovision of all types of licensed premises in all localities in the Board's area.</p> <p>Presumption against the grant of any new licence, or any major variation to increase capacity at existing premises, throughout the Board's area.</p>  |
| North Lanarkshire | <p>Board has not made any determination that there are areas within North Lanarkshire where the concentration of licensed premises or particular types of licensed premises are having an adverse impact.</p> <p>Accordingly at this point in time there is no presumption that no further licences should be granted in any part of North Lanarkshire.</p>  |
| Orkney Islands    | <p>Found that there is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.</p> <p>The Board concluded that there was not a dependable causal link between the evidence provided to the Board and the operation of licensed premises, to suggest that a saturation point had been reached, or was close to being reached, within the Board's area.</p>   |
| Perth and Kinross | <p>No current overprovision statement. Board's current position is as follows:</p> <p>"During 2016, Perth and Kinross Licensing Board consulted on whether there is overprovision of licensed premises within its area. Following recent case law, the Board decided not to proceed further with their assessment of overprovision. Instead, it will reconsider the extent of the localities to be assessed and what information is relevant to that assessment. This process will now form part of the review of the Board's next policy statement due by 3 November 2018. It is expected there will be further consultation before that date."</p> |
| Renfrewshire      | <p>Found that the Paisley Town Centre locality remains overprovided in respect of "Liquor or Pub Type Premises". The Board considers "Liquor or Pub Type Premises" includes Pub Type Premises used exclusively or predominantly for the sale of alcohol and, as such, does not include restaurant, hotel or nightclub premises.</p>  |

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| (Renfrewshire cont.) | Presumption against the grant of applications for any further licences (or to increase the capacity of existing licences) of the description stated in the Paisley Town Centre localities.  |
| Scottish Borders     | <p>Presumption against the grant of an off sales licence for the following types of premises:</p> <p>(a) off sales premises which are neither “<i>larger type supermarkets outwith town centres</i>” nor “<i>small convenience type shops offering a full range of goods</i>” and which are a vital part of a small rural community, or</p> <p>(b) off sales premises which “<i>replicate a similar off sales business in a particular area</i>”</p> <p>unless, in either case, the applicant can demonstrate “<i>how the proposal differs from what already exists in the area and how it likely to benefit the area as a whole</i>”, and</p> <p>(c) off sales premises with a display area in excess of 10% of the overall sales area (calculated in m<sup>2</sup>) of the premises (other than dedicated wine and spirit merchants)</p> <p>unless, in the case of (c), a “<i>detailed justification</i>” for exceeding this size of display area is provided.</p> <p>Put in context, parts (a) and (b) of this policy would presume against the grant of a licence for</p> <ul style="list-style-type: none"> <li>• larger type supermarkets in town centres</li> <li>• larger type supermarkets outwith town centres but in the same area as another larger type supermarket</li> <li>• small convenience type shops offering a full range of goods but which are not a vital part of a small rural community (eg, small convenience shops in towns or the city)</li> <li>• small convenience shops offering a full range of goods but which “<i>replicate</i>” a similar shop in the same area</li> <li>• shops dedicated purely to off sales of alcohol (including specialist whisky, wine, craft beer, etc. shops)</li> <li>• distillery shops and visitor centres which do not also sell alcohol for consumption on the premises</li> </ul> |

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| (Scottish Borders cont.) | <p>In addition, part (c) of this policy (the 10% of total sales area restriction) would also have the effect that:</p> <ul style="list-style-type: none"> <li>• hypermarkets (stores with sales areas typically over 5,600 m<sup>2</sup>) would be permitted an alcohol display area of 560 m<sup>2</sup> or more depending on their size,</li> <li>• supermarkets (stores with sales areas typically between 280 m<sup>2</sup> and 5,600 m<sup>2</sup>) would be permitted an alcohol display area between 28 m<sup>2</sup> and 560 m<sup>2</sup> depending on their size, and</li> <li>• convenience stores (stores with sales areas typically up to 280 m<sup>2</sup>) would be permitted an alcohol display area of up to 28 m<sup>2</sup> depending on their size.</li> </ul>  |
| Shetland Islands         | <p>Found no overprovision of licensed premises or licensed premises of a particular description in any locality within the area of the Board.</p>   |
| South Ayrshire           | <p>Board considered that the information contained in the [South Ayrshire ADP] report did not of itself lead to an automatic conclusion that there is overprovision within South Ayrshire. The findings indicated where there may be overprovision in an area, but did “not determine the correct number of premises which will effectively limit or reduce alcohol related harm”.</p> <p>On this basis, the Board determined that there is no over provision either (a) of licensed premises or (b) of licensed premises of a particular description in any locality within South Ayrshire.</p>  |
| South Lanarkshire        | <p><u>Divisional Board 1 (Clydesdale area)</u>: Board not satisfied there was sufficient link between the number of outlets selling alcohol and alcohol-related problems in its area to make a finding of overprovision.</p> <p><u>Divisional Board 2 (East Kilbride area)</u>: as Divisional Board 1.</p> <p><u>Divisional Board 3 (Hamilton area)</u>: Board found overprovision in two localities in its divisional area. One overprovided with on and off sales and the other overprovided with off sales. Presumption against grant of new licences of these types in those two localities.</p> <p><u>Divisional Board 4 (Rutherglen and Cambuslang area)</u>: Board found overprovision of off sales in all localities within its divisional area (barring some small sub-localities). Presumption against grant of new off sales licences in these localities.</p> |

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| Stirling            | <p>Board adopted the Stirling City Centre area as a locality in which there is overprovision of on sales premises “where consumption of alcohol is the principal attraction”.</p> <p>Presumption against grant of new on sales licences of this description in this locality.</p>   |
| West Dunbartonshire | <p>Board considered there to be overprovision of:</p> <p style="padding-left: 40px;">Public Houses.<br/>Nightclubs<br/>Off-sales and local convenience stores<br/>Supermarkets</p> <p>Agreed the definition of the categories of premises would be by reference to the definitions contained in the Town and Country Planning (Use Classed) (Scotland) Order 1997:</p> <ul style="list-style-type: none"> <li>• Public Houses – use as a public house paragraph 3(5)(h) of the Town and Country Planning (Use Classes)(Scotland) Order 1997. This also includes use as a hotel or hostel licensed for the sale of alcoholic liquor to persons other than residents or persons other than consuming meals on the premises (exclusion from Class 7 Use Classes Order).</li> <li>• Restaurants – Class 3 Use Classes Order.</li> <li>• Nightclubs – Class 11(d) Use Classes Order.</li> <li>• Town Hotel – Class 7 Use Classes Order.</li> <li>• Large supermarkets – these are primarily Class 1 Use Classes Order but may contain other uses in addition.</li> <li>• Off-sales and local convenience stores – Class 1 Use Classes Order.</li> </ul> <p>Overprovision of these types of licensed premises found in 17 of the 18 sub-localities forming the Board’s area.</p> <p>Presumption against the grant of an application within this locality for the foregoing types of licensed premise.</p> |
| West Lothian        | <p>Still carrying out research on the question of overprovision (begun in May 2014). No completed overprovision assessment as yet.</p>  |



## NHS Highland: Health & Social Care Partnership (HSCP) Areas and Community Partnerships



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