

**Moray Licensing Board**  
**Formal Consultation on Draft Statement of Licensing Policy**  
**Responses**

**1. From Alcohol Focus Scotland**

**By email.**

**Received 28 June 2023**

“Good Morning,

Please find attached Alcohol Focus Scotland’s response to the Moray Licensing Policy Consultation.

Kind Regards

Garry Burns

Senior Coordinator (Policy)

Alcohol Focus Scotland, 166 Buchanan St, Glasgow, G1 2LW”



## **RESPONSE TO CONSULTATION ON STATEMENT OF LICENSING POLICY**

Alcohol Focus Scotland (AFS) welcomes the opportunity to provide comment on the development of local licensing policy statements. Their production provides licensing boards with an opportunity to stand back from routine administrative practice and consider the bigger picture in relation to licensing in their area. Once published, if effectively implemented, policy statements can help make licensing decisions more strategic, support consistent and well-reasoned decision-making, and make the licensing process more transparent.

### **1. About us**

AFS is the national charity working to prevent and reduce alcohol harm. Our strategic priorities include ensuring the effective implementation of licensing legislation by supporting licensing boards and forums to promote the licensing objectives. We regularly engage and work with a wide range of licensing stakeholders, including licensing board members, licensing clerks, Licensing Standards Officers, NHS, police, Alcohol and Drug Partnerships, communities, and local licensing forums.

AFS also provides training courses for those involved in the regulation of licensing to meet the requirements of the Licensing (Scotland) Act 2005; this includes the Licensing Board Members Training and Licensing Standards Officers Training in Scotland.

### **2. About our response**

As a national charity, AFS is not in a position to provide an individually tailored response to each of the 40 licensing boards in Scotland. However, we can offer our views on the general policy direction and emerging issues relevant to alcohol licensing, and suggestions about aspects of licensing policy that may warrant particular scrutiny during this round of policy development.

Our response has been informed by recent work AFS has undertaken to identify areas of progress and ongoing challenge within the licensing system, including a [review of the Statements of Licensing Policy for 2018-2023](#). We believe that this work and our ongoing engagement with a breadth of licensing stakeholders affords us a unique, national perspective on the licensing system. We hope that this insight and the suggestions we have provided below will be helpful to inform the Board's licensing policy review.

### **3. The national context**

The development of licensing policies provides boards with a timely opportunity to consider emerging issues and legislative developments, and to adapt their approaches accordingly. As such, this section sets out key national developments which may be of particular relevance to licensing boards.

### 3.1. Post-COVID Recovery

AFS expects that, during this round of policy development, boards will be particularly keen to consider the actual and projected impact of COVID-19 on the licensing objectives and the licensed sector. While we do not yet know the full impact of the pandemic, there is evidence of its effects in a number of areas. The following topics are highly relevant to licensing and AFS would therefore recommend that they are taken into consideration as part of the licensing policy review process:

***Changing drinking patterns:*** Evidence indicates that drinking habits have polarised as a result of the pandemic, with an overall decrease in consumption for lighter drinkers and an increase for heavier drinkers.<sup>1 2 3</sup> Of major concern is the increase in high-risk drinking observed in England,<sup>4 5</sup> which has sustained over the entirety of the pandemic.<sup>6</sup> While equivalent research is not yet available for Scotland, it is likely that we will be experiencing similar increases, especially considering our historically higher levels of alcohol consumption and harm compared to the rest of the UK.<sup>7</sup> Combined with reduced access to services, these changing drinking patterns have tragically translated into increased harm; alcohol-specific deaths in Scotland increased by 17% in 2020 and a further 5% in 2021.<sup>8</sup> However, it can take 20 years to see the full effects of changes in alcohol consumption on harms, such as for cancers.<sup>9</sup> The pandemic and economic crisis is also being experienced differently by different parts of our population, widening existing inequalities and creating new ones.

***Home drinking:*** Linked to the above, the pandemic has further shifted alcohol sales and drinking from the on-trade to the off-trade, exacerbating existing trends. In Scotland, 73% of alcohol was sold in off sales prior to the pandemic, with this proportion increasing to 90% in 2020 before decreasing slightly to 85% in 2021.<sup>10</sup> The home is an unregulated environment and the continued shift to home drinking may lead to long-term public health consequences and an upwards trend in alcohol-related injuries and accidents occurring at home. In addition, while alcohol itself does not directly cause domestic violence, there are strong associations between alcohol use and domestic violence and abuse.<sup>11</sup> Home drinking also poses potential risks for children and young people, such as neglect or modelling of parental drinking.<sup>12</sup> As such, it will be vital that boards consider the factors that can impact on the licensing objectives outwith a licensed setting, and that local licensing policies take account of alcohol-related harms occurring in private spheres as well as public.

***The hospitality sector:*** Although the licensing regime does not have responsibility for promoting business growth, a recurrent theme within existing licensing policies is the need for boards to strike an appropriate balance between supporting the local licensed economy, while also upholding the five licensing objectives. During the pandemic, the hospitality sector was severely affected, with sales of alcohol in bars and restaurants plummeting by 49% overall from 2019 to 2021, while off-premises sales, such as e-commerce and supermarkets, grew significantly (by 11% between 2019 and 2021).<sup>13</sup> In 2020, the Scottish Government issued guidance to advise that it “*considers flexibility and pragmatism in decision-making and sensitivity to the wider economic situation should be at the forefront of how a board decides to operate*”.<sup>14</sup> Boards will likely be very reluctant to be seen to hurt already suffering hospitality sectors but will also want to ensure that the licensing objectives continue to be promoted. As such, decision makers, advocates, and local stakeholders alike will need to identify policies that can do both. It has been suggested that policies which may protect on-trade businesses, while reshaping the night-time economy away from alcohol-related harms, could offer a ‘win-win’ for policymakers and health advocates.<sup>15</sup> However, this raises questions regarding how boards should seek to manage competing priorities within their policies and decision-making.

**Use of outdoor areas:** A growing trend for outside seating areas had been identified in many areas prior to the pandemic, with a number of boards setting out their expectations and requirements in this regard. However, COVID-19 related restrictions on sales of alcohol indoors led to an increase in applications from bars/pubs to serve alcohol in spaces outdoors e.g., car parks, pavements. If outdoor spaces are licensed on a permanent basis it could result in a significant increase in the overall capacity of venues and the visibility of alcohol, including to children and people in recovery who may be passing by. However, it is unclear how and whether boards will now seek to reverse outdoor licences granted during the pandemic, or whether the trend for outdoor seating areas will continue to grow.

**Online sales/deliveries:** The COVID-19 related restrictions have accelerated the general trend to online shopping and led to an increase in premises offering home deliveries of alcohol. The types of businesses that sell alcohol online now range from small independent traders, specialist drinks retailers/clubs, local convenience stores, and supermarkets through to multinational e-commerce companies (e.g., Amazon). There is also a growing variety of app-based retailers who have arrangements with restaurants, takeaways and off-licences to deliver alcohol directly to people's homes. Despite the reopening of physical stores, it is predicted that online sales will remain high as people have become more accustomed to online shopping. However, there is currently a distinct lack of information available about the business operations of online retailers in Scotland. In addition, it is unclear how age verification and other requirements can be effectively implemented when alcohol is being purchased on-line or delivered to people's homes. The majority of boards have responded to this issue at a local level by setting out their approach to alcohol deliveries within their policies, for example by making clear that delivery staff must be trained to the same level as those on licensed premises, that challenge 25 checks must be conducted, and that licensees using courier services must ensure that they are compliant with the Board's requirements.

### **3.2. Policy and legislative developments**

**Alcohol Framework:** Scotland's current alcohol harm prevention framework was published in 2018 and takes a whole population approach to reducing alcohol harm. Whole population measures work to reduce and prevent alcohol harm across the entire population, reducing the likelihood of 'normal' drinkers becoming high risk. This is because targeting only harmful drinkers would not reach the majority of people who consume alcohol and who are therefore at risk of developing problems related to their alcohol consumption. Licensing is a whole population intervention. It works to safeguard individuals and communities from experiencing alcohol problems by controlling the overall availability of alcohol (through the number, type and opening hours of licensed premises), and by regulating the way individual on- and off-licences do business. The Framework therefore identifies the licensing system - alongside action on price and marketing - as being one of the key mechanisms through which the ambitions of the Alcohol Framework can be realised.

**Minimum Unit Pricing (MUP):** MUP came into force on 1st May 2018 and, along with restrictions on irresponsible promotions, there are now greater controls on the sale of alcohol from off-sales. Boards appear to be approaching these developments differently; for example, some state in their policies that these safeguards alone cannot adequately mitigate the link between the availability of responsibly sold alcohol and its unregulated consumption, while others state that the introduction of MUP of alcohol has the potential to be a more effective tool in reducing alcohol harm than overprovision. Many boards will be re-evaluating the relevance of MUP to their policies now that more information on the evaluation of the impact of MUP is available. In addition, in a recent legal case,<sup>16</sup> an overprovision policy was struck down as unlawful because the sheriff upheld the argument that it didn't take into account that MUP had come into force. The price, availability and marketing

of alcohol can all impact consumption levels, which can in turn impact on harm, and it will be important that boards consider how different measures to tackle alcohol harm can be mutually reinforcing. In any local area it is impossible to say with any certainty what percentage of changes in alcohol consumption and alcohol related harms are due to changes in price/income as compared to availability or marketing. Accordingly, it is important to focus on the local evidence of alcohol related harm, to determine whether there is sufficient evidence of harm to support a case for controlling availability using an overprovision policy. It may also be useful for boards to consider the differential in price between on- and off-sale, as although the introduction of MUP created a floor price, it did not elevate the price of off-trade alcohol enough to reduce the gap between on- and off-trade prices.

**Licensing Guidance update:** In January 2023 [new guidance](#) to Scottish licensing boards on carrying out their functions was issued by Scottish ministers. The revised 'section 142' guidance replaces the original version which was first issued in 2009 and had become outdated due to subsequent changes. The purpose of the guidance is to assist boards in carrying out their functions under the 2005 Act, including the preparation of statements of licensing policy. We have therefore highlighted relevant sections of the guidance within this response to assist boards to have regard to it when undertaking their policy reviews.

**Consultation on occasional licences:** In 2019 the Scottish Government consulted<sup>17</sup> on whether to raise the fee for an occasional licence from the current price of £10, and to seek views on considering a limit on the number and duration of occasional licences for premises licence holders and personal licence holders. The Scottish Government advised it would analyse the responses and, if considered appropriate, draft and lay secondary legislation embedding any new fee level or limit on the number and duration of occasional licences into Scottish law. At the time of writing there has been no secondary legislation proposed and AFS is not aware of any decisions as yet having been taken as a result of the consultation.

## **4. Issues to consider when reviewing the policy**

### **4.1. Promoting the licensing objectives**

It is a legal requirement that the policy must seek to promote the licensing objectives. For all objectives, AFS would suggest using the following format within the policy:

1. State the licensing objective.
2. Give a statement as to what the licensing board is trying to achieve with this objective.
3. Detail any concerns and/or trends in the area relating to this objective – identify what evidence was used to identify these.
4. List what the licensing board intends to do to promote the objective. Note that this could include actions like declaring overprovision, controlling licensed hours, or applying certain conditions (referring to the relevant section/s in the policy). However, other measures could include ensuring all policies are fit-for-purpose, working to ensure information is kept up-to-date and accessible, liaising with local partners, endorsing local initiatives relevant to the objectives, carrying out spot checks of premises, highlighting good practice, and conducting reviews of licences. A full list of board measures to promote the objectives is provided in our online resource: [Measures to promote the licensing objectives](#).
5. List any suggested actions the licensing board would like to see the licensed trade in the area undertake to meet this objective. The types of actions licensees can take often relate to specific control measures that can be put in place, the training and supervision of staff,

maintenance of premises, and co-operation with local stakeholders (e.g., LSO, police). A full list of example licensee measures to promote the objectives is provided in our online resource: [Measures to promote the licensing objectives](#).

Many boards have adopted new approaches to the promotion of objectives as knowledge and understanding of how to best promote them has evolved since the Licensing (Scotland) Act 2005 was first introduced. Examples of different policy approaches are now included within the section 142 guidance, including in relation to:

*Preventing crime and disorder: “Alcohol related crime and disorder does not only occur within or immediately outside licensed premises. A significant proportion of alcohol is bought to be consumed at home or in other private dwellings. Whilst alcohol licensing alone cannot directly address issues such as domestic violence, licensing boards may wish to consider supporting work in this regard through partnership working. One example of a licensing board demonstrating a wider understanding of alcohol related crime can be found within West Lothian Licensing Board’s statement of licensing policy 2018.”*

*Protecting children and young persons from harm: “Licensing Boards will wish to be mindful that children and young people can be impacted by exposure to marketing and promotion of alcohol within licensed premises. For example, Falkirk Licensing Board comments in its statement of licensing policy 2018 that: “Where licensed premises intend to hold events where alcohol is not provided and those events are specifically targeted at children or young persons (for, example, underage discos or parent and toddler groups), consideration should be given to taking steps to avoid any obvious promotion of alcohol”.”*

*Protecting and improving public health: “This licensing objective encourages licensing boards to consider the cumulative effect of licensed premises on alcohol-related harm, within their licensing area, rather than the actions of any individual premises. Collecting harm data for localities will build a picture of the health and wellbeing of the people in the locality, and doing so on a consistent basis over time means the long-term health and wellbeing of a locality can be monitored and improvements made. City of Glasgow Licensing Board is an example of one of a number of licensing boards which have adopted an approach of looking at alcohol and health issues at their local authority area level, and then made a policy that seeks to promote the public health objective”.*

In relation to the above, the Glasgow policy includes a section specifically pertaining to off-sales and the public health objective. This explains that the board is concerned by a number of areas suffering from high levels of alcohol-related harm but containing very few licensed premises. The board does not consider it appropriate to declare these areas as being overprovided for, but the policy makes clear that it may nonetheless be inconsistent with the public health objective to grant a licence which would enable easier access to alcohol – thereby having the potential to exacerbate existing alcohol-related health problems in the area. This is set out in section 9.2 of the [Glasgow Licensing Policy](#).

In addition, many policies set out local conditions that may and/or will be applied by the board in pursuance of the objectives. Including local conditions within policies not only provides an important indication of the ways in which the board will promote the objectives, it also provides examples of what conditions applicants could be subject to or volunteer themselves, and provides people making representations/ objections with suggestions of the kinds of conditions they can suggest. A full list of example conditions is set out in our online resource: [Examples of conditions to promote the objectives](#).

## 4.2. Overprovision

Overprovision is undoubtedly one of the most complex and contentious areas of licensing. AFS's review of the current licensing policies identified that boards have adopted differing approaches to how overprovision should be assessed, and seem to have different understandings of what is required in order to meet the legal tests that apply.

The primary cause of this divergence appears to be the way in which boards have interpreted and understood the concept of 'causal link'. While decisions are to be made on a balance of probabilities, there is wide variation between boards' interpretations of what evidence is required in order to meet the legal test to evidence a causal link. Although some boards seem confident to declare overprovision applying a test that considers on a balance of probabilities whether there are links between numbers of premises and levels of harm, others appear to consider that a higher bar requires to be met for causal link to be established. However, the updated guidance provides clarity around approaches to overprovision assessments and interpreting the causal link, stating that:

- *"If a Licensing Board considers there is at least potential for, or a reasonable basis for, concluding that there will be a risk of adverse impact on the objectives (should more premises licences be granted), it is entitled to come to the view that there is a state of overprovision."*
- *"Consideration should be given as to whether aggregate information and evidence from a number of sources demonstrates a link between the availability of alcohol in an area and alcohol-related harm."*
- *"To demonstrate a "dependable causal link", the proof of the link must be on a balance of probabilities. What this means in practice is that based on the evidence of harm in a locality, it is more likely than not that alcohol availability is a cause, or that increasing the availability of alcohol in that area will increase that harm."*

Boards have the flexibility to decide the approach they take to addressing overprovision in their area and can choose to focus on only the factors that cause them concern in the light of the evidence. It is likely that many boards will be keen to identify how the pandemic has impacted on the licensed economy in their area and will be considering this as part of their overprovision assessment.

At a national level, the number of off-licences in Scotland has reached the highest level since 2010, when the relevant statistics first started to be collected.<sup>1</sup> The closure of pubs and restaurants during the pandemic caused people to buy alcohol from other outlets and more shops and supermarkets applied for licences to meet demand. The number of off licences increased by 133 between March 2020 - March 2022, reaching a total of 5,155. Conversely, the nature of Covid-19, and the measures needed to reduce transmission, invariably had a disproportionate impact on the hospitality sector. While it is likely that many bars, pubs and other licensed premises will have closed permanently as a result, the available statistics don't enable for an assessment of how many licences were surrendered or lost. As such, it may be that the overprovision assessments will have a particular focus on the disparities between on and off sales, and the continued shift to home drinking.

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<sup>1</sup> While the number of off-sales only premises is at its highest level since records began, due to variations in how the available statistics have been published in different years, it is impossible to say for certain whether this is true for all off-sales i.e., off-sales only premises combined with those providing both on-sales and offsales.

The boards consideration of overprovision need not be confined to only considering numbers and capacity but can take account of other factors. For example, inequality is a particularly important consideration in relation to overprovision. There is a stark inequalities gradient to alcohol harm, and a growing awareness that the impact of harmful drinking and alcohol dependence is much greater for those experiencing the highest levels of deprivation. For example, in 2021 alcohol-specific deaths were 5.6 times as frequent in the most deprived areas of Scotland compared to the least deprived areas. This compares to a ratio of 1.9 times for all causes of death.<sup>18</sup> By taking account of evidence of inequalities, boards are able to meaningfully consider how different communities are impacted differently by alcohol and formulate an appropriate policy response.

### **4.3. Licensed hours**

Policy statements should provide information on a licensing board's policy on licensed hours, which are important not only to individual licensed premises but can have a wider impact for an area.

AFS has identified numerous studies into the links between temporal availability and alcohol harm, which found that policies regulating times of alcohol trading can contribute to reductions in injuries, alcohol-related hospitalisations/ emergency department visits, homicides and crime.<sup>19</sup> The vast majority of boards permit off-sales between 10am and 10pm each day, which is the maximum allowed by law. However, boards can stipulate shorter hours if they consider it to be appropriate. AFS believes that the maximum permitted off-sales hours should be the exception and not the norm, particularly in areas of high-rates of alcohol harm. In addition, the hours permitted for onsales and the night-time economy can have implications for matters such as crime and public order.

Boards can also grant a general extension of licensed hours for particular specified occasions. As such, AFS would recommend that the policy outlines the principles that the board will apply when considering applications for extended hours. For example, some policies make clear that if regular applications are made for the same premises, then applicants will be expected to consider whether they should apply to vary the premises licence. Others outline what might constitute an event of national or local significance. AFS believes that, in many cases, events and festivals can be appropriately accommodated within normal licensing hours and should not serve as automatic justification for extended licensed hours.

### **4.4. Children and young persons' access**

It is largely for licensing boards to set out their expectations regarding factors like when children and young people should normally be allowed entry to licensed premises, including the ages at which they should be allowed entry, and the types, times and parts of premises to which they should have access. It is also for boards to determine the measures that may be necessary to protect children and young people from harm.

As such, AFS would recommend that the policy provides a clear indication of what the board might deem to be acceptable in terms of children and young peoples' access. Overall, it is the extent to which premises are likely to provide a family-friendly environment that tends to be the determining factor in boards' approaches to children's access. Conversely, premises where the supply of alcohol is the primary purpose of the service provided are frequently cited by boards as being unsuitable for children and young people.

The updated guidance provides examples of how different boards have approached this issue. Some restrict children's access to licensed premises for the primary purpose of consuming a meal or attending an event, while others set out expectations with regards to young peoples' access to



specific parts of premises, or specify the hours when young people should normally be allowed entry.

It is apparent that the majority of boards are seeking to encourage licensed premises to become more child and family friendly within their policies. However, it can also be seen that they are giving consideration to the potential impacts of alcohol on children and young people, and the objective to protect children and young people from harm. In particular, there is increased recognition that the scope of this objective is not restricted to preventing people under the legal purchase age from being sold/supplied with alcohol. Boards are also seeking to address impacts on children and young people resulting from the drinking behaviours they observe, adults drinking, and their general exposure to alcohol. Some boards are also being more directive in their approach than others, by setting out their expectations regarding children's access and applying relevant conditions as standard practice.

#### **4.5. Supporting public participation**

The updated guidance states that *"licensing boards should have effective engagement strategies in place to enable them to engage with and seek the views of their local community."* Given the public interest purpose that underpins alcohol licensing, AFS believes it essential that communities are empowered to participate in licensing processes and can feel confident that their contributions will be given due regard. The publication of policy statements provides an opportunity to set out the mechanisms available to enable community engagement and participation.

There are numerous ways in which the general public can choose to engage with the licensing system, ranging from commenting on applications and observing/participating at board meetings, to joining their local licensing forum. However, communities may not currently be aware of the various ways in which they can get involved or the types of information/supports available to enable them to participate. For example, some boards have developed pro formas to assist anyone wishing to make an objection or representation, while others highlight that LSOs are available to offer appropriate support. Many boards include a commitment in their policies that they will conduct business in a way that is not off-putting to members of the public. For example, by creating a less formal and more relaxed atmosphere so as not to intimidate parties.

#### **4.6. Identifying strategic links**

Although boards are quasi-judicial and need to undertake their decision-making independently, this does not prevent them from considering their policies in the broader context of identified local and national priorities etc. The pandemic has also highlighted the importance of partnership working across sectors. As such, the policy should indicate how the board will take into account other matters relating to alcohol, for example local crime prevention, community safety strategies, and health.

Boards in many areas have adopted a collaborative approach and committed to work with local partners where they share common objectives. As such, AFS would recommend the policy includes reference to Local Outcome Improvement Plans (LOIPs), Alcohol and Drug Partnership strategic plans, and the strategic plans of the Health and Social Care Partnerships (HSCP). Scotland's alcohol strategy 'Changing Scotland's relationship with Alcohol a Framework for Action' is of key relevance to the policy and should also be referenced. The Board should also take into account the views of local partners, the Forum, communities, when developing and implementing their new policy. The Licensing (Scotland) Act 2005 and accompanying guidance should inform the Board's approach to how this can best be achieved, for example the updated guidance states:

*“The alcohol licensing regime in Scotland does not exist in a vacuum and Licensing Boards should clearly explain how they will take into account other pertinent strategies and regimes when developing their statement of licensing policy. For example, the Western Isles Licensing Board statement of licensing policy comments that “The Board will work and appoint a Board Member to work with the Outer Hebrides Alcohol and Drug Partnership and the Outer Hebrides Community Safety Partnership in the Western Isles; the importance of such co-operation is recognised as part of the wider alcohol agenda”.*”

#### **4.7. Occasional licences**

During 2021-2022, 23,269 occasional licences were granted in Scotland.<sup>20</sup> Occasional licence applications can be granted under delegated powers, a limited number of people are required to be notified of occasional licence applications, and the consultation period is much shorter than that for new premises applications – reducing the scope for objections or representations.

This has led to concern that some applicants have sought to use the occasional licence process as an alternative to applying for a full premises licence. As such, AFS would recommend that boards set out measures to ensure that this type of application is subject to appropriate scrutiny. For example, by including a provision to ensure that repeated occasional applications from the same applicant will be automatically referred to the board for a decision.

In addition, AFS would recommend that boards set out conditions that will specifically apply to occasional licences, either as standard practice or on a case-by-case basis. These could relate to issues such as management, supervision, security, signage and training.

#### **4.8. Presentation and readability**

Legislation does not specify how a policy statement should be organised and presented and consequently the 2018 published policy statements vary considerably in structure and length. AFS’s review of the documents identified that shortest was 25 pages while the longest policy statement was 166 pages (including appendices). Some policy statements, but not all, were written in legalistic language and provided excessive detail of administrative processes and procedures, making them somewhat laborious and difficult to read.

The updated guidance states that licensing policies:

*“Must also not simply be a repeat of what is set out in legislation or statutory guidance. It should provide a clear indication to the local community as to the Licensing Board’s evidenced based policy and should seek to promote the licensing objectives (see Chapter 2 for more about the licensing objectives) set out in the 2005 Act. It is important that statement of licensing policies should be written in terms that can be easily understood by the local community as consultation with the local community (including Local Licensing Forums), is a key part of providing feedback to Licensing Boards.”*

Lengthy policy statements written in legalistic and bureaucratic language can be off-putting for some stakeholders and potentially act as a barrier to community engagement in the licensing process. As such, AFS recommends that boards make conscientious efforts to create policies that are accessible to all. For example, by providing definitions of terms used throughout the policy within an appendix, and providing links to statutory provisions, guidance etc. wherever possible. Web-links and signposting can similarly be used to direct interested parties to more detailed information where required.

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- <sup>1</sup> Alcohol Focus Scotland (23 April 2020). [Scots report changing drinking patterns during coronavirus lockdown](#). Alcohol Focus Scotland.
- <sup>2</sup> Alcohol Focus Scotland (23 July 2020). [Survey shows Scots lockdown drinking rise caused by stress](#). Alcohol Focus Scotland.
- <sup>3</sup> Angus, C. et al. (2022). [Modelling the impact of changes in alcohol consumption during the COVID-19 pandemic on future alcohol-related harm in England](#). The University of Sheffield.
- <sup>4</sup> Jackson, S.E. et al. (2021). [Moderators of changes in smoking, drinking and quitting behaviour associated with the first COVID-19 lockdown in England](#). *Addiction*, 117(3), 772-783.
- <sup>5</sup> Jackson, S.E. et al. (2021). [Association of the COVID-19 lockdown with smoking, drinking and attempts to quit in England: an analysis of 2019–20 data](#). *Addiction*, 116(5):1233–44.
- <sup>6</sup> Angus, C. et al. (2022). [Modelling the impact of changes in alcohol consumption during the COVID-19 pandemic on future alcohol-related harm in England](#). The University of Sheffield.
- <sup>7</sup> Ponce Hardy, V. & Giles, L. (2022). [Monitoring and Evaluating Scotland’s Alcohol Strategy: Monitoring Report 2022](#). Public Health Scotland.
- <sup>8</sup> National Records of Scotland (2022). [Alcohol specific deaths 2021](#).
- <sup>9</sup> Holmes, J. et al. (2012). [The temporal relationship between per capita alcohol consumption and harm: a systematic review of time lag specifications in aggregate time series analyses](#). *Drug and Alcohol Dependence*, 123(1-3), 7-14.
- <sup>10</sup> Ponce Hardy, V. & Giles, L. (2022). [Monitoring and Evaluating Scotland’s Alcohol Strategy: Monitoring Report 2022](#). Public Health Scotland.
- <sup>11</sup> World Health Organization (2006). [Intimate partner violence and alcohol](#).
- <sup>12</sup> Alcohol Focus Scotland (2019). [Parental Drinking in Scotland Discussion Paper](#).
- <sup>13</sup> Ponce Hardy, V. & Giles, L. (2022). [Monitoring and Evaluating Scotland’s Alcohol Strategy: Monitoring Report 2022](#). Public Health Scotland.
- <sup>14</sup> Scottish Government (2022). [Coronavirus \(COVID-19\): Licensing \(Scotland\) Act 2005 section 142 – statutory guidance](#).
- <sup>15</sup> Fitzgerald, N. et al. (2021). [Lockdown and licensed premises: COVID-19 lessons for alcohol policy](#). *Drug and Alcohol Review*, 41(3), 533-545.
- <sup>16</sup> Aldi Stores Limited Vs Dundee City Licensing Board, Case Number: B109/21, March 2022
- <sup>17</sup> Scottish Government (2019). The Licensing (Scotland) Act 2005: [Consultation on Occasional Licences](#), Published 23 April 2019
- <sup>18</sup> National Records of Scotland (2022). [Alcohol-specific deaths 2021](#).
- <sup>19</sup> For example: 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.
- <sup>20</sup> Scottish Government (2022). [Liquor Licensing Statistics for Period 01/04/2021 to 31/03/2022](#)

**2. From Alcohol Focus Scotland**  
**By email.**  
**Received 14 July 2023**

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Many thanks,

Aidan

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The development of licensing policies provides boards with a timely opportunity to consider emerging issues and legislative developments, and to adapt their approaches accordingly. As such, this section sets out key national developments which may be of particular relevance to licensing boards.

### 3.1. Post-COVID Recovery

AFS expects that, during this round of policy development, boards will be particularly keen to consider the actual and projected impact of COVID-19 on the licensing objectives and the licensed sector. While we do not yet know the full impact of the pandemic, there is evidence of its effects in a number of areas. The following topics are highly relevant to licensing and AFS would therefore recommend that they are taken into consideration as part of the licensing policy review process:

**Changing drinking patterns:** Evidence indicates that drinking habits have polarised as a result of the pandemic, with an overall decrease in consumption for lighter drinkers and an increase for heavier drinkers.<sup>1 2 3</sup> Of major concern is the increase in high-risk drinking observed in England,<sup>4 5</sup> which has sustained over the entirety of the pandemic.<sup>6</sup> While equivalent research is not yet available for Scotland, it is likely that we will be experiencing similar increases, especially considering our historically higher levels of alcohol consumption and harm compared to the rest of the UK.<sup>7</sup> Combined with reduced access to services, these changing drinking patterns have tragically translated into increased harm; alcohol-specific deaths in Scotland increased by 17% in 2020 and a further 5% in 2021.<sup>8</sup> However, it can take 20 years to see the full effects of changes in alcohol consumption on harms, such as for cancers.<sup>9</sup> The pandemic and economic crisis is also being experienced differently by different parts of our population, widening existing inequalities and creating new ones.

**Home drinking:** Linked to the above, the pandemic has further shifted alcohol sales and drinking from the on-trade to the off-trade, exacerbating existing trends. In Scotland, 73% of alcohol was sold in off sales prior to the pandemic, with this proportion increasing to 90% in 2020 before decreasing slightly to 85% in 2021.<sup>10</sup> The home is an unregulated environment and the continued shift to home drinking may lead to long-term public health consequences and an upwards trend in alcohol-related injuries and accidents occurring at home. In addition, while alcohol itself does not directly cause domestic violence, there are strong associations between alcohol use and domestic violence and abuse.<sup>11</sup> Home drinking also poses potential risks for children and young people, such as neglect or modelling of parental drinking.<sup>12</sup> As such, it will be vital that boards consider the factors that can impact on the licensing objectives outwith a licensed setting, and that local licensing policies take account of alcohol-related harms occurring in private spheres as well as public.

**The hospitality sector:** Although the licensing regime does not have responsibility for promoting business growth, a recurrent theme within existing licensing policies is the need for boards to strike an appropriate balance between supporting the local licensed economy, while also upholding the five licensing objectives. During the pandemic, the hospitality sector was severely affected, with sales of alcohol in bars and restaurants plummeting by 49% overall from 2019 to 2021, while off-premises sales, such as e-commerce and supermarkets, grew significantly (by 11% between 2019 and 2021).<sup>13</sup> In 2020, the Scottish Government issued guidance to advise that it “*considers flexibility and pragmatism in decision-making and sensitivity to the wider economic situation should be at the forefront of how a board decides to operate*”.<sup>14</sup> Boards will likely be very reluctant to be seen to hurt already suffering hospitality sectors but will also want to ensure that the licensing objectives continue to be promoted. As such, decision makers, advocates, and local stakeholders alike will need to identify policies that can do both. It has been suggested that policies which may protect on-trade businesses, while reshaping the night-time economy away from alcohol-related harms, could offer a ‘win-win’ for policymakers and health advocates.<sup>15</sup> However, this raises questions regarding how boards should seek to manage competing priorities within their policies and decision-making.

**Use of outdoor areas:** A growing trend for outside seating areas had been identified in many areas prior to the pandemic, with a number of boards setting out their expectations and requirements in this regard. However, COVID-19 related restrictions on sales of alcohol indoors led to an increase in applications from bars/pubs to serve alcohol in spaces outdoors e.g., car parks, pavements. If outdoor spaces are licensed on a permanent basis it could result in a significant increase in the overall capacity of venues and the visibility of alcohol, including to children and people in recovery who may be passing by. However, it is unclear how and whether boards will now seek to reverse outdoor licences granted during the pandemic, or whether the trend for outdoor seating areas will continue to grow.

**Online sales/deliveries:** The COVID-19 related restrictions have accelerated the general trend to online shopping and led to an increase in premises offering home deliveries of alcohol. The types of businesses that sell alcohol online now range from small independent traders, specialist drinks retailers/clubs, local convenience stores, and supermarkets through to multinational e-commerce companies (e.g., Amazon). There is also a growing variety of app-based retailers who have arrangements with restaurants, takeaways and off-licences to deliver alcohol directly to people's homes. Despite the reopening of physical stores, it is predicted that online sales will remain high as people have become more accustomed to online shopping. However, there is currently a distinct lack of information available about the business operations of online retailers in Scotland. In addition, it is unclear how age verification and other requirements can be effectively implemented when alcohol is being purchased on-line or delivered to people's homes. The majority of boards have responded to this issue at a local level by setting out their approach to alcohol deliveries within their policies, for example by making clear that delivery staff must be trained to the same level as those on licensed premises, that challenge 25 checks must be conducted, and that licensees using courier services must ensure that they are compliant with the Board's requirements.

### **3.2. Policy and legislative developments**

**Alcohol Framework:** Scotland's current alcohol harm prevention framework was published in 2018 and takes a whole population approach to reducing alcohol harm. Whole population measures work to reduce and prevent alcohol harm across the entire population, reducing the likelihood of 'normal' drinkers becoming high risk. This is because targeting only harmful drinkers would not reach the majority of people who consume alcohol and who are therefore at risk of developing problems related to their alcohol consumption. Licensing is a whole population intervention. It works to safeguard individuals and communities from experiencing alcohol problems by controlling the overall availability of alcohol (through the number, type and opening hours of licensed premises), and by regulating the way individual on- and off-licences do business. The Framework therefore identifies the licensing system - alongside action on price and marketing - as being one of the key mechanisms through which the ambitions of the Alcohol Framework can be realised.

**Minimum Unit Pricing (MUP):** MUP came into force on 1st May 2018 and, along with restrictions on irresponsible promotions, there are now greater controls on the sale of alcohol from off-sales. Boards appear to be approaching these developments differently; for example, some state in their policies that these safeguards alone cannot adequately mitigate the link between the availability of responsibly sold alcohol and its unregulated consumption, while others state that the introduction of MUP of alcohol has the potential to be a more effective tool in reducing alcohol harm than overprovision. Many boards will be re-evaluating the relevance of MUP to their policies now that more information on the evaluation of the impact of MUP is available. In addition, in a recent legal case,<sup>16</sup> an overprovision policy was struck down as unlawful because the sheriff upheld the argument that it didn't take into account that MUP had come into force. The price, availability and marketing

of alcohol can all impact consumption levels, which can in turn impact on harm, and it will be important that boards consider how different measures to tackle alcohol harm can be mutually reinforcing. In any local area it is impossible to say with any certainty what percentage of changes in alcohol consumption and alcohol related harms are due to changes in price/income as compared to availability or marketing. Accordingly, it is important to focus on the local evidence of alcohol related harm, to determine whether there is sufficient evidence of harm to support a case for controlling availability using an overprovision policy. It may also be useful for boards to consider the differential in price between on- and off-sale, as although the introduction of MUP created a floor price, it did not elevate the price of off-trade alcohol enough to reduce the gap between on- and off-trade prices.

**Licensing Guidance update:** In January 2023 [new guidance](#) to Scottish licensing boards on carrying out their functions was issued by Scottish ministers. The revised 'section 142' guidance replaces the original version which was first issued in 2009 and had become outdated due to subsequent changes. The purpose of the guidance is to assist boards in carrying out their functions under the 2005 Act, including the preparation of statements of licensing policy. We have therefore highlighted relevant sections of the guidance within this response to assist boards to have regard to it when undertaking their policy reviews.

**Consultation on occasional licences:** In 2019 the Scottish Government consulted<sup>17</sup> on whether to raise the fee for an occasional licence from the current price of £10, and to seek views on considering a limit on the number and duration of occasional licences for premises licence holders and personal licence holders. The Scottish Government advised it would analyse the responses and, if considered appropriate, draft and lay secondary legislation embedding any new fee level or limit on the number and duration of occasional licences into Scottish law. At the time of writing there has been no secondary legislation proposed and AFS is not aware of any decisions as yet having been taken as a result of the consultation.

## **4. Issues to consider when reviewing the policy**

### **4.1. Promoting the licensing objectives**

It is a legal requirement that the policy must seek to promote the licensing objectives. For all objectives, AFS would suggest using the following format within the policy:

1. State the licensing objective.
2. Give a statement as to what the licensing board is trying to achieve with this objective.
3. Detail any concerns and/or trends in the area relating to this objective – identify what evidence was used to identify these.
4. List what the licensing board intends to do to promote the objective. Note that this could include actions like declaring overprovision, controlling licensed hours, or applying certain conditions (referring to the relevant section/s in the policy). However, other measures could include ensuring all policies are fit-for-purpose, working to ensure information is kept up-to-date and accessible, liaising with local partners, endorsing local initiatives relevant to the objectives, carrying out spot checks of premises, highlighting good practice, and conducting reviews of licences. A full list of board measures to promote the objectives is provided in our online resource: [Measures to promote the licensing objectives](#).
5. List any suggested actions the licensing board would like to see the licensed trade in the area undertake to meet this objective. The types of actions licensees can take often relate to specific control measures that can be put in place, the training and supervision of staff,



maintenance of premises, and co-operation with local stakeholders (e.g., LSO, police). A full list of example licensee measures to promote the objectives is provided in our online resource: [Measures to promote the licensing objectives](#).

Many boards have adopted new approaches to the promotion of objectives as knowledge and understanding of how to best promote them has evolved since the Licensing (Scotland) Act 2005 was first introduced. Examples of different policy approaches are now included within the section 142 guidance, including in relation to:

*Preventing crime and disorder: “Alcohol related crime and disorder does not only occur within or immediately outside licensed premises. A significant proportion of alcohol is bought to be consumed at home or in other private dwellings. Whilst alcohol licensing alone cannot directly address issues such as domestic violence, licensing boards may wish to consider supporting work in this regard through partnership working. One example of a licensing board demonstrating a wider understanding of alcohol related crime can be found within West Lothian Licensing Board’s statement of licensing policy 2018.”*

*Protecting children and young persons from harm: “Licensing Boards will wish to be mindful that children and young people can be impacted by exposure to marketing and promotion of alcohol within licensed premises. For example, Falkirk Licensing Board comments in its statement of licensing policy 2018 that: “Where licensed premises intend to hold events where alcohol is not provided and those events are specifically targeted at children or young persons (for, example, underage discos or parent and toddler groups), consideration should be given to taking steps to avoid any obvious promotion of alcohol”.”*

*Protecting and improving public health: “This licensing objective encourages licensing boards to consider the cumulative effect of licensed premises on alcohol-related harm, within their licensing area, rather than the actions of any individual premises. Collecting harm data for localities will build a picture of the health and wellbeing of the people in the locality, and doing so on a consistent basis over time means the long-term health and wellbeing of a locality can be monitored and improvements made. City of Glasgow Licensing Board is an example of one of a number of licensing boards which have adopted an approach of looking at alcohol and health issues at their local authority area level, and then made a policy that seeks to promote the public health objective”.*

In relation to the above, the Glasgow policy includes a section specifically pertaining to off-sales and the public health objective. This explains that the board is concerned by a number of areas suffering from high levels of alcohol-related harm but containing very few licensed premises. The board does not consider it appropriate to declare these areas as being overprovided for, but the policy makes clear that it may nonetheless be inconsistent with the public health objective to grant a licence which would enable easier access to alcohol – thereby having the potential to exacerbate existing alcohol-related health problems in the area. This is set out in section 9.2 of the [Glasgow Licensing Policy](#).

In addition, many policies set out local conditions that may and/or will be applied by the board in pursuance of the objectives. Including local conditions within policies not only provides an important indication of the ways in which the board will promote the objectives, it also provides examples of what conditions applicants could be subject to or volunteer themselves, and provides people making representations/ objections with suggestions of the kinds of conditions they can suggest. A full list of example conditions is set out in our online resource: [Examples of conditions to promote the objectives](#).

## 4.2. Overprovision

Overprovision is undoubtedly one of the most complex and contentious areas of licensing. AFS's review of the current licensing policies identified that boards have adopted differing approaches to how overprovision should be assessed, and seem to have different understandings of what is required in order to meet the legal tests that apply.

The primary cause of this divergence appears to be the way in which boards have interpreted and understood the concept of 'causal link'. While decisions are to be made on a balance of probabilities, there is wide variation between boards' interpretations of what evidence is required in order to meet the legal test to evidence a causal link. Although some boards seem confident to declare overprovision applying a test that considers on a balance of probabilities whether there are links between numbers of premises and levels of harm, others appear to consider that a higher bar requires to be met for causal link to be established. However, the updated guidance provides clarity around approaches to overprovision assessments and interpreting the causal link, stating that:

- *"If a Licensing Board considers there is at least potential for, or a reasonable basis for, concluding that there will be a risk of adverse impact on the objectives (should more premises licences be granted), it is entitled to come to the view that there is a state of overprovision."*
- *"Consideration should be given as to whether aggregate information and evidence from a number of sources demonstrates a link between the availability of alcohol in an area and alcohol-related harm."*
- *"To demonstrate a "dependable causal link", the proof of the link must be on a balance of probabilities. What this means in practice is that based on the evidence of harm in a locality, it is more likely than not that alcohol availability is a cause, or that increasing the availability of alcohol in that area will increase that harm."*

Boards have the flexibility to decide the approach they take to addressing overprovision in their area and can choose to focus on only the factors that cause them concern in the light of the evidence. It is likely that many boards will be keen to identify how the pandemic has impacted on the licensed economy in their area and will be considering this as part of their overprovision assessment.

At a national level, the number of off-licences in Scotland has reached the highest level since 2010, when the relevant statistics first started to be collected.<sup>1</sup> The closure of pubs and restaurants during the pandemic caused people to buy alcohol from other outlets and more shops and supermarkets applied for licences to meet demand. The number of off licences increased by 133 between March 2020 - March 2022, reaching a total of 5,155. Conversely, the nature of Covid-19, and the measures needed to reduce transmission, invariably had a disproportionate impact on the hospitality sector. While it is likely that many bars, pubs and other licensed premises will have closed permanently as a result, the available statistics don't enable for an assessment of how many licences were surrendered or lost. As such, it may be that the overprovision assessments will have a particular focus on the disparities between on and off sales, and the continued shift to home drinking.

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<sup>1</sup> While the number of off-sales only premises is at its highest level since records began, due to variations in how the available statistics have been published in different years, it is impossible to say for certain whether this is true for all off-sales i.e., off-sales only premises combined with those providing both on-sales and offsales.

The boards consideration of overprovision need not be confined to only considering numbers and capacity but can take account of other factors. For example, inequality is a particularly important consideration in relation to overprovision. There is a stark inequalities gradient to alcohol harm, and a growing awareness that the impact of harmful drinking and alcohol dependence is much greater for those experiencing the highest levels of deprivation. For example, in 2021 alcohol-specific deaths were 5.6 times as frequent in the most deprived areas of Scotland compared to the least deprived areas. This compares to a ratio of 1.9 times for all causes of death.<sup>18</sup> By taking account of evidence of inequalities, boards are able to meaningfully consider how different communities are impacted differently by alcohol and formulate an appropriate policy response.

### **4.3. Licensed hours**

Policy statements should provide information on a licensing board's policy on licensed hours, which are important not only to individual licensed premises but can have a wider impact for an area.

AFS has identified numerous studies into the links between temporal availability and alcohol harm, which found that policies regulating times of alcohol trading can contribute to reductions in injuries, alcohol-related hospitalisations/ emergency department visits, homicides and crime.<sup>19</sup> The vast majority of boards permit off-sales between 10am and 10pm each day, which is the maximum allowed by law. However, boards can stipulate shorter hours if they consider it to be appropriate. AFS believes that the maximum permitted off-sales hours should be the exception and not the norm, particularly in areas of high-rates of alcohol harm. In addition, the hours permitted for onsales and the night-time economy can have implications for matters such as crime and public order.

Boards can also grant a general extension of licensed hours for particular specified occasions. As such, AFS would recommend that the policy outlines the principles that the board will apply when considering applications for extended hours. For example, some policies make clear that if regular applications are made for the same premises, then applicants will be expected to consider whether they should apply to vary the premises licence. Others outline what might constitute an event of national or local significance. AFS believes that, in many cases, events and festivals can be appropriately accommodated within normal licensing hours and should not serve as automatic justification for extended licensed hours.

### **4.4. Children and young persons' access**

It is largely for licensing boards to set out their expectations regarding factors like when children and young people should normally be allowed entry to licensed premises, including the ages at which they should be allowed entry, and the types, times and parts of premises to which they should have access. It is also for boards to determine the measures that may be necessary to protect children and young people from harm.

As such, AFS would recommend that the policy provides a clear indication of what the board might deem to be acceptable in terms of children and young peoples' access. Overall, it is the extent to which premises are likely to provide a family-friendly environment that tends to be the determining factor in boards' approaches to children's access. Conversely, premises where the supply of alcohol is the primary purpose of the service provided are frequently cited by boards as being unsuitable for children and young people.

The updated guidance provides examples of how different boards have approached this issue. Some restrict children's access to licensed premises for the primary purpose of consuming a meal or attending an event, while others set out expectations with regards to young peoples' access to

specific parts of premises, or specify the hours when young people should normally be allowed entry.

It is apparent that the majority of boards are seeking to encourage licensed premises to become more child and family friendly within their policies. However, it can also be seen that they are giving consideration to the potential impacts of alcohol on children and young people, and the objective to protect children and young people from harm. In particular, there is increased recognition that the scope of this objective is not restricted to preventing people under the legal purchase age from being sold/supplied with alcohol. Boards are also seeking to address impacts on children and young people resulting from the drinking behaviours they observe, adults drinking, and their general exposure to alcohol. Some boards are also being more directive in their approach than others, by setting out their expectations regarding children's access and applying relevant conditions as standard practice.

#### **4.5. Supporting public participation**

The updated guidance states that *"licensing boards should have effective engagement strategies in place to enable them to engage with and seek the views of their local community."* Given the public interest purpose that underpins alcohol licensing, AFS believes it essential that communities are empowered to participate in licensing processes and can feel confident that their contributions will be given due regard. The publication of policy statements provides an opportunity to set out the mechanisms available to enable community engagement and participation.

There are numerous ways in which the general public can choose to engage with the licensing system, ranging from commenting on applications and observing/participating at board meetings, to joining their local licensing forum. However, communities may not currently be aware of the various ways in which they can get involved or the types of information/supports available to enable them to participate. For example, some boards have developed pro formas to assist anyone wishing to make an objection or representation, while others highlight that LSOs are available to offer appropriate support. Many boards include a commitment in their policies that they will conduct business in a way that is not off-putting to members of the public. For example, by creating a less formal and more relaxed atmosphere so as not to intimidate parties.

#### **4.6. Identifying strategic links**

Although boards are quasi-judicial and need to undertake their decision-making independently, this does not prevent them from considering their policies in the broader context of identified local and national priorities etc. The pandemic has also highlighted the importance of partnership working across sectors. As such, the policy should indicate how the board will take into account other matters relating to alcohol, for example local crime prevention, community safety strategies, and health.

Boards in many areas have adopted a collaborative approach and committed to work with local partners where they share common objectives. As such, AFS would recommend the policy includes reference to Local Outcome Improvement Plans (LOIPs), Alcohol and Drug Partnership strategic plans, and the strategic plans of the Health and Social Care Partnerships (HSCP). Scotland's alcohol strategy 'Changing Scotland's relationship with Alcohol a Framework for Action' is of key relevance to the policy and should also be referenced. The Board should also take into account the views of local partners, the Forum, communities, when developing and implementing their new policy. The Licensing (Scotland) Act 2005 and accompanying guidance should inform the Board's approach to how this can best be achieved, for example the updated guidance states:

*“The alcohol licensing regime in Scotland does not exist in a vacuum and Licensing Boards should clearly explain how they will take into account other pertinent strategies and regimes when developing their statement of licensing policy. For example, the Western Isles Licensing Board statement of licensing policy comments that “The Board will work and appoint a Board Member to work with the Outer Hebrides Alcohol and Drug Partnership and the Outer Hebrides Community Safety Partnership in the Western Isles; the importance of such co-operation is recognised as part of the wider alcohol agenda”.*”

#### **4.7. Occasional licences**

During 2021-2022, 23,269 occasional licences were granted in Scotland.<sup>20</sup> Occasional licence applications can be granted under delegated powers, a limited number of people are required to be notified of occasional licence applications, and the consultation period is much shorter than that for new premises applications – reducing the scope for objections or representations.

This has led to concern that some applicants have sought to use the occasional licence process as an alternative to applying for a full premises licence. As such, AFS would recommend that boards set out measures to ensure that this type of application is subject to appropriate scrutiny. For example, by including a provision to ensure that repeated occasional applications from the same applicant will be automatically referred to the board for a decision.

In addition, AFS would recommend that boards set out conditions that will specifically apply to occasional licences, either as standard practice or on a case-by-case basis. These could relate to issues such as management, supervision, security, signage and training.

#### **4.8. Presentation and readability**

Legislation does not specify how a policy statement should be organised and presented and consequently the 2018 published policy statements vary considerably in structure and length. AFS’s review of the documents identified that shortest was 25 pages while the longest policy statement was 166 pages (including appendices). Some policy statements, but not all, were written in legalistic language and provided excessive detail of administrative processes and procedures, making them somewhat laborious and difficult to read.

The updated guidance states that licensing policies:

*“Must also not simply be a repeat of what is set out in legislation or statutory guidance. It should provide a clear indication to the local community as to the Licensing Board’s evidenced based policy and should seek to promote the licensing objectives (see Chapter 2 for more about the licensing objectives) set out in the 2005 Act. It is important that statement of licensing policies should be written in terms that can be easily understood by the local community as consultation with the local community (including Local Licensing Forums), is a key part of providing feedback to Licensing Boards.”*

Lengthy policy statements written in legalistic and bureaucratic language can be off-putting for some stakeholders and potentially act as a barrier to community engagement in the licensing process. As such, AFS recommends that boards make conscientious efforts to create policies that are accessible to all. For example, by providing definitions of terms used throughout the policy within an appendix, and providing links to statutory provisions, guidance etc. wherever possible. Web-links and signposting can similarly be used to direct interested parties to more detailed information where required.

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- <sup>1</sup> Alcohol Focus Scotland (23 April 2020). [Scots report changing drinking patterns during coronavirus lockdown](#). Alcohol Focus Scotland.
- <sup>2</sup> Alcohol Focus Scotland (23 July 2020). [Survey shows Scots lockdown drinking rise caused by stress](#). Alcohol Focus Scotland.
- <sup>3</sup> Angus, C. et al. (2022). [Modelling the impact of changes in alcohol consumption during the COVID-19 pandemic on future alcohol-related harm in England](#). The University of Sheffield.
- <sup>4</sup> Jackson, S.E. et al. (2021). [Moderators of changes in smoking, drinking and quitting behaviour associated with the first COVID-19 lockdown in England](#). *Addiction*, 117(3), 772-783.
- <sup>5</sup> Jackson, S.E. et al. (2021). [Association of the COVID-19 lockdown with smoking, drinking and attempts to quit in England: an analysis of 2019–20 data](#). *Addiction*, 116(5):1233–44.
- <sup>6</sup> Angus, C. et al. (2022). [Modelling the impact of changes in alcohol consumption during the COVID-19 pandemic on future alcohol-related harm in England](#). The University of Sheffield.
- <sup>7</sup> Ponce Hardy, V. & Giles, L. (2022). [Monitoring and Evaluating Scotland’s Alcohol Strategy: Monitoring Report 2022](#). Public Health Scotland.
- <sup>8</sup> National Records of Scotland (2022). [Alcohol specific deaths 2021](#).
- <sup>9</sup> Holmes, J. et al. (2012). [The temporal relationship between per capita alcohol consumption and harm: a systematic review of time lag specifications in aggregate time series analyses](#). *Drug and Alcohol Dependence*, 123(1-3), 7-14.
- <sup>10</sup> Ponce Hardy, V. & Giles, L. (2022). [Monitoring and Evaluating Scotland’s Alcohol Strategy: Monitoring Report 2022](#). Public Health Scotland.
- <sup>11</sup> World Health Organization (2006). [Intimate partner violence and alcohol](#).
- <sup>12</sup> Alcohol Focus Scotland (2019). [Parental Drinking in Scotland Discussion Paper](#).
- <sup>13</sup> Ponce Hardy, V. & Giles, L. (2022). [Monitoring and Evaluating Scotland’s Alcohol Strategy: Monitoring Report 2022](#). Public Health Scotland.
- <sup>14</sup> Scottish Government (2022). [Coronavirus \(COVID-19\): Licensing \(Scotland\) Act 2005 section 142 – statutory guidance](#).
- <sup>15</sup> Fitzgerald, N. et al. (2021). [Lockdown and licensed premises: COVID-19 lessons for alcohol policy](#). *Drug and Alcohol Review*, 41(3), 533-545.
- <sup>16</sup> Aldi Stores Limited Vs Dundee City Licensing Board, Case Number: B109/21, March 2022
- <sup>17</sup> Scottish Government (2019). The Licensing (Scotland) Act 2005: [Consultation on Occasional Licences](#), Published 23 April 2019
- <sup>18</sup> National Records of Scotland (2022). [Alcohol-specific deaths 2021](#).
- <sup>19</sup> For example: 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.
- <sup>20</sup> Scottish Government (2022). [Liquor Licensing Statistics for Period 01/04/2021 to 31/03/2022](#)

**3. From Police Scotland**  
**By email.**  
**Received 11 August 2023**

“Good afternoon,

I've had a look through the draft Policy and I wish to highlight the following;

6.1 – Refer to Bystander Training as well as 'Who are You' video (whoareyou.nz)

6.5 – In respect of Members Clubs, what is the natural limit for the number of guests allowed to be signed in by one member? Perhaps a prescribed limit would be more appropriate?

6.6.4.2 - The Board will continue to support local Schemes such as Pub Watch, Safer City Centre Initiatives, Door Safe Schemes and Best Bar None. Are Moray Council looking to actively promote these schemes? For example Aberdeen city recently relaunched the Best Bar None scheme, are we likely to see a similar approach in Moray?

6.6.5 – What evidence has the Board received that leads it to conclude that the curfew for late opening premises is no longer required?

7. Is there likely to be an increase in the number of LSO's in Moray?

8.1.1 April Doig from the SIA has agreed to prepare this instead of Police Scotland.

Kind regards

Neil

**Neil Grant**  
**Sergeant A9888**

**Licensing Sergeant | Partnerships, Preventions and Interventions | Police Service of Scotland**

Internal 64154 Telephone 101 | Email [neil.grant@scotland.police.uk](mailto:neil.grant@scotland.police.uk) Stonehaven Police Office, Dunnottar Avenue, Stonehaven



**4. From Moray Council Community Council Liaison Officer**  
**By email**  
**Received 17 August 2023**

“Good afternoon,

Apologies as I am aware that the closing date for the consultation has now passed.

I took the details to the Joint Community Councils of Moray meeting on 10 August.

No specific comments about the policy were made. However, they wanted it to be recorded that a 7 week consultation period over the summer does not enable all community councils to be able to respond. Six out of the 17 community councils did not meet over the period of the consultation. Most do meet monthly, but a couple meet every six weeks, and all of them (except Elgin) do not hold a meeting in either July or August.

Any queries please do not hesitate to contact me.

Kind regards

Debra

**Debra Duke | Community Council Liaison Officer | Education  
Resources and Communities”**