



REPORT TO: MORAY LICENSING BOARD 8 FEBRUARY 2023

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – STATEMENT OF POLICY

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

- 1.1 To advise the Board with regard to the statutory obligation to develop, consult and publish a policy statement setting out the principles they propose to apply to the exercise of their functions under the Licensing (Scotland) Act 2005.

2. RECOMMENDATION

2.1 It is recommended that the Board:-

- i. Note the statutory obligation to develop, consult upon and publish a statement of licensing policy each licensing policy period and note that a revised policy must be in place and published by 29 November 2023;**
- ii. Note and approve the timetable for production of the policy at Appendix 1;**
- iii. Nominate and instruct a policy subgroup of five Board members, with a quorum of three, to meet as and when required to discuss policy matters with officers and other involved parties, the function of the subgroup being to provide input and recommendations in respect of certain matters on behalf of the Board during preparation and revision of this policy and other policies going forward;**
- iv. Note that the policy statement will require final approval by the full Board before publication; and**
- v. Note the contents of the newly issued statutory guidance issued under section 142 of the Licensing (Scotland) Act 2005 at Appendix 2 which the Board is to take into account when determining policy.**

3. BACKGROUND

- 3.1 The Licensing (Scotland) Act 2005 (“the Act”) requires the Board to publish a Statement of Policy before the beginning of every licensing policy period. The last policy statement came into force on the 29 November 2018 and can be viewed at http://www.moray.gov.uk/moray_standard/page_54055.html.
- 3.2 The licensing policy period is defined by reference to each date that is 18 months after the local government elections. The next policy statement must therefore be published by the 29 November 2023.
- 3.3 The Board may also choose to review the policy by publishing a supplementary statement at any time within the licensing policy period.
- 3.4 The Act sets out the persons/bodies that the Board is required to consult as part of the process of preparing or revising the policy statement. The persons/bodies are:
- The Local Licensing Forum (“Forum”) for the Board’s area (and if the membership of the Forum is not representative of the public interests then such other persons as appear to the Board to be representative of those interests); and
 - the relevant health board; and
 - such other persons as the Board thinks appropriate.
- 3.5 There has been no Forum operational in Moray for some time. In terms of the Act, the Forum should consist of at least five members. Membership must be representative of the interests of persons who have an interest which is relevant to the Forum’s general functions including; premises and personal licence holders, the chief constable, persons having functions relating to health, education or social work, young people and persons resident within the Forum’s area. In the absence of an operational Forum, the Board must ensure to consult with this group of persons as appear to the Board to be representative of those interests.
- 3.6 As part of the Statement of Policy the Act also requires that the Board 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 current policy contains such a statement to the effect that there is no overprovision within Moray.
- 3.7 A draft timetable for production of a new Statement of Policy, including proposed consultation exercises, has been produced and is attached at **Appendix 1**. It should be noted that there may be some individual variations from the draft timetable in practice but the overall timescale for publication remains fixed.
- 3.8 Part of the proposed timetable includes the nomination of a policy subgroup that can meet as and when required to discuss policy matters with officers and other involved parties and provide input and recommendations. This is considered a more flexible approach to policy development.

- 3.9 The Act makes it clear that the Board cannot delegate the final determination of a policy statement so any policy recommendations will be subject to final approval from the full Board.
- 3.10 The Policy Statement will ultimately be published on the Council's website and be available for inspection free of charge at Access points and main libraries. The publication of the statement will also be advertised in accordance with the Act.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Local Outcomes Improvement Plan (LOIP)) in relation to changing our relationship with alcohol where people are healthier and experience fewer harms as a result of alcohol use, a growing, diverse and sustainable economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

(b) Policy and Legal

Legal implications are detailed in the report.

(c) Financial implications

None.

(d) Risk Implications

None.

(e) Staffing Implications

Consultation and preparation of revised documents will involve a very considerable amount of staff time across several services. To date this has proven difficult to resource, hence the potential for variations within the timetable. Assistance has been secured from the Research and Information Officer to assist with the collection, collation and analysis of statistics.

(f) Property

None.

(g) Equalities/Socio Economic Impact

As part of the consultation process the draft policy will be referred to the Council's Equal Opportunities Officer for comment and to assist in terms of determining the need for an equality impact assessment before a final

decision is made on policy. The results will be brought back before the Board.

(h) Climate Change and Biodiversity Impacts

None.

(i) Consultations

Consultation will be required in accordance with the Act and is catered for in the proposed timetable at **Appendix 1**.

5. CONCLUSION

- 5.1 It is proposed that the Board note the requirement to develop, consult upon and publish a Statement of Policy, nominate a policy subgroup for all policy purposes and instruct the Clerk to proceed to develop and consult on the draft policy as per Appendix 1.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board
Background Papers: There are no background papers.
Ref: SAH