

Summary of Review of Statements of Licensing Policy 2013 – 16 and Scottish Borders Position

Background

This paper outlines findings from Alcohol Focus Scotland Review of Statements of Licensing Policy for the Scottish Borders Local Licensing Forum and Scottish Borders Licensing Board.

Duty to produce Statement of Licensing Policy

Every three years Licensing Boards have a legal duty to produce a Statement of Licensing Policy. Policy statements for 2013 – 2016 are the third policy that Boards have produced. In producing these policies, Boards must consider:

- Consultation in preparation of licensing policy
- Measures contained in the licensing policy to seek to promote the licensing objectives
- A statement as to the extent to which the board considers there to be over provision of licensed premises in any locality within its area
- the content of its policy when making licensing decisions

Alcohol Focus Scotland recently carried out a review of the most recent statements of licensing policy for 2013 to 2016 with the aim of identifying to what extent the statements meet the legal purpose and any lessons to be learned to inform future policy statements.

25 of 36 policy statements were available at April 2014. Six of 25 published statements did not include a statement on overprovision.

Scottish Borders position: Board had published its Policy by end of April 2014 and included a statement on over - provision .

Presentation and readability

Policy statements have been noted to vary considerably in structure and length. Most contain information on matters that cannot really be regarded as policy. Some are written in very legalistic language making them challenging to read and therefore could be seen as a barrier to community engagement.

Use of evidence

Licensing Boards have a statutory duty to ensure the measures included in their policy seek to promote the licensing objectives. To enable this information needs to be sought by Boards including local licensing statistics, population size, and evidence relating to the licensing objectives. AFS noted that:

- In the majority of policy statements reviewed, the evidence base for the policy is not demonstrated. Little or no explanation is provided for why particular policy positions are adopted.
- Four policies stand out for presenting licensing policy in context: Glasgow City, Aberdeen City, Dumfries & Galloway, and Highland.
- More policy statements highlight the contribution of the licensed trade to the economy and tourism of a local area, than mention any adverse health and social consequences linked to alcohol, which the licensing system is there to address.

AFS is aware of evidence gathering exercises involving licensing board members of officials being undertaken as part of the policy development process. However, in the published policy statements the use of evidence is not well demonstrated. It is therefore not clear whether evidence gathered was applied to policy formation, or if so, in what way.

In the absence of supporting evidence, it is difficult to judge whether measures included within a policy statement are appropriate, proportionate, or sufficient for the purpose of achieving the licensing objectives.

NB: This is one of the issues presenting when licensing boards are taken to appeal over decisions.

Scottish Borders position: Boards policy included summary information from the Alcohol Profile which was developed to support the evidence required.

Process of consultation

Licensing boards must consult with the Local Licensing Forum and any other people it thinks appropriate. Increasing community involvement in the licensing process was one of the aims of the Nicholson Committee. Consultation on a new policy statement gives local people an opportunity to participate in shaping the licensed environment in their area.

Consultation methods and the extent of engagement with stakeholders varied from board to board.

- Most of the policy statements refer to a consultation being carried out in preparation of the statements.
- Most policy statements make reference to the board giving 'due consideration', 'took account of', or 'had regard to' the views of consultees, but very few actually demonstrate how.
- Those boards that refer to the views of consultees include Glasgow City, North Ayrshire, Aberdeen City, Dumfries & Galloway, Highland and East Lothian.

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

Scottish Borders position: Boards policy includes list on consultees only.

Overprovision

In deciding whether there is overprovision, licensing boards are required to consider the number, type and capacity of licensed premises in a locality. Overprovision in an area is one of the grounds for refusing to grant a new premises licence.

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

- 10 licensing boards find overprovision of licensed premises to some extent within their area, four more than in 2010 (Aberdeen, Western Isles, D&G, Edinburgh, East Lothian, Glasgow, Highland, Inverclyde, North Ayrshire, West Dunbartonshire).
- 5 declare overprovision across a large part of their area (East Lothian, North Ayrshire, West Dunbartonshire (Aberdeen and Highland off-sales only)).
- 13 determine that there is no overprovision of licensed premises in their area. 17 had not published an overprovision statement by the end of April 2014.
- 8 licensing boards do not provide any explanation of how they reached their decision that there is no overprovision in their areas or the evidence that they took into account in formulating their position.
- 1 licensing policy statement expresses scepticism as to whether there is a causal link between the number of licensed premises and the incidence of alcohol-related health problems, crime, disorder and antisocial behaviour.

Scottish Borders Position: Boards Policy identified there is no overprovision but identified that any increase on nightclub premises in Hawick and Galashiels (2 in Hawick and 2 in Galashiels) may constitute overprovision.