

## MINUTES OF MEETING

MONDAY 13<sup>th</sup> AUGUST 2018

**Members present: Councillors Norman Work (Convener); Catherine Fullerton; Joanna Mowat; Cammy Day; Gillian Gloyer; Mary Campbell; David Key; Lezley Marion Cameron**

**Apologies: Councillors Callum Laidlaw; Nick Cook**

**Depute Clerk: Morag Leck**

1. Update report – formal consultation on draft revised Statement of Licensing Policy

The Depute Clerk referred Board members to the terms of a detailed report, which had been prepared following on from a report considered by the Board at its meeting on 30<sup>th</sup> July 2018 (erroneously narrated in the report as held on 31<sup>st</sup> July). The report set out the details of what was required in preparing a Statement of Licensing Policy, and the consultation requirements in terms of the 2005 Act.

The Depute Clerk advised the Board that a new draft Statement of Licensing Policy had been prepared for consideration taking account of the previous consultation and the Board's detailed consideration of responses received and the discussions at the meeting on 30<sup>th</sup> July 2018.

As agreed on 30<sup>th</sup> July, to assist the formal consultation process for the new draft Statement of Licensing Policy, a set of supplementary questions had been prepared, detailing particular questions for consultees to consider.

Board members discussed the terms of the report in some detail, and made reference to the draft Statement of Licensing Policy and associated set of supplementary questions. Members agreed the recommendations contained in the report, subject to some additions to the set of supplementary questions and minor typographical changes to the draft policy statement, and that a formal consultation should proceed.

Decision – the Board:

- (a) considered the terms of the finalised draft revised Statement of Licensing Policy for formal consultation, agreeing minor typographical changes;
- (b) considered the terms of the proposed draft "Supplementary Questions" document to be issued along with the draft policy, agreeing to amend its terms, as set out in the amended document attached to these minutes;
- (c) approved the terms of the finalised draft policy and "Supplementary Questions" document for formal consultation, authorising officers to consult on its terms all as set out at paragraph 4.2 of the report;

**All statutory references to Licensing (Scotland) Act 2005, unless stated otherwise**

- (d) agreed that the consultation should commence as at 14th August 2018 and end on 1<sup>st</sup> October 2018;
- (e) authorised the Clerk and his Deputes to take steps to publicise the consultation including use of the Council's Consultation Hub; and
- (f) authorised the Clerk and his Deputes, following the formal consultation, to report responses received to the Board, along with responses to the Board's consultation on its assessment of overprovision, to enable the Board to agree the terms of the Board's revised statement of Licensing Policy including its assessment of overprovision.

## 2. Update report – formal consultation on Assessment of Overprovision

The Depute Clerk referred the Board to the terms of a detailed update report, prepared following the Board's initial consideration of this matter in a report at its meeting on 30<sup>th</sup> July 2018. She confirmed what was required of the Board in considering its assessment of overprovision, as required in terms of the 2005 Act.

The Depute Clerk set out some context in terms of details of current numbers and capacity of premises licences in the Board's area, then went on to explain the consultation requirements in terms of the Act, and supporting statutory guidance.

She went on to provide detail of the outcome of the initial consultation, specifically about responses from consultees on the subject of overprovision. The Board had received responses from the EADP, Police Scotland and NHS Lothian on particular localities within the Board's area which they considered suggested possible overprovision of licensed premises and they had provided statistical information in support of this, as explained in the report.

The Board was provided with an LSO report, with details of the extent of noise nuisance complaints made in the Board's area.

The Board had agreed at its meeting on 30<sup>th</sup> July that it wanted additional information about the 23 Intermediate Data Zone localities highlighted by EADP, Police and NHS Lothian, setting out the detail of licensed premises in each of the localities, together with their capacities. The Depute Clerk advised that reports were available for the following 23 IDZ localities:-

- Hyvots and Gilmerton
- Murrayburn and Wester Hailes North
- South Leith
- Niddrie
- Moredun and Craigour
- The Calders
- Leith (Albert Street)
- Restalrig and Lochend
- North Leith and Newhaven
- Granton South and Wardieburn
- Clovenstone and Wester Hailes

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- Muirhouse
- Bingham, Magdalene and the Christians
- Great Junction Street
- West Pilton
- The Shore and Constitution Street
- Dalry and Fountainbridge
- Restalrig (Loganlea) and Craigentenny West
- Easter Road and Hawkhill Avenue
- Gracemount, Southhouse and Burdiehouse
- Tollcross
- Old Town, Princes Street and Leith Street
- Deans Village

In addition, locality reports were now available for the additional 15 IDZ localities highlighted by NHS Lothian, as follows:-

- Bonnington
- Broomhouse and Bankhead
- Canongate, Southside & Dumbiedykes
- Colinton Mains & Firrhill
- Cramond
- Fernieside & Moredun South
- Gorgie East
- Granton & Royston Mains
- Leith (Hermitage & Prospect Bank)
- Liberton West & Braid Hills
- Oxfords
- Pilrig
- Portobello
- The Inch
- Trinity

Locality reports confirming the numbers and capacities of premises in the Board's existing overprovision locality of the Grassmarket and Cowgate had also been made available for consideration by the Board. The Board noted that the existing locality overlapped with the Tollcross IDZ and Old Town, Princes Street and Leith Street IDZ. The Board agreed that the existing overprovision locality should be included in the consultation, to allow consultees to comment on whether the existing street-based locality should be replaced by IDZ-based localities.

Finally the Depute Clerk set out the detail of next steps to be taken by the Board if it considered that it wished to formally consult on any of the localities referred to above. The Board discussed the terms of the report in detail, and considered the various locality reports provided. Members agreed the recommendations as set out in the report.

Decision:- the Board

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- (a) Further considered the written responses received to the informal consultation on the Board's Statement of Licensing Policy previously provided to the Board for its meeting on 30<sup>th</sup> July 2018 where those responses specifically relate to overprovision;
- (b) Further considered the summary of the Board's workshop on overprovision previously provided to the Board for its meeting on 30<sup>th</sup> July 2018.
- (c) Further considered the summary detailing oral evidence provided to the Board during hearings held previously provided to the Board for its meeting on 30<sup>th</sup> July 2018.
- (d) Considered the information detailed in the report regarding the current number of licensed premises within Edinburgh
- (e) Considered the LSO information provided with the report regarding noise complaints within Edinburgh
- (f) Agreed to determine the localities (including the current area of overprovision) being the thirty-eight IDZ localities referred to above, as being the subject of formal consultation on an assessment of overprovision
- (g) Agreed to determine the existing Grassmarket/Cowgate overprovision locality as being the subject of formal consultation on an assessment of overprovision, to allow consultees to comment on whether the existing street-based locality should be replaced by IDZ-based localities.
- (h) Agreed that the areas of serious special concern set out in the current policy should be removed, and to consult thereon
- (i) Authorised the Clerk and his Deputes, in consultation with the Convener, to prepare a short consultation document which will be added to the current draft revised policy at the Chapter on Overprovision and which will set out the consultation process to date and detail the localities identified by the Board for the purpose of formal consultation on its required assessment of overprovision (finalised document attached).
- (j) Authorised the Clerk and his Deputes to consult formally in relation to the localities determined by the Board, as to whether overprovision of all licensed premises or premises of a particular type, exists in respect of any of those localities, in accordance with section 7 of the Act including with the Chief Constable, NHS Lothian, Community Councils, Premises Licence Holders and the Licensing Forum
- (k) Authorised the Clerk and his Deputes to consult more widely by agreeing that the above consultation should both be circulated and run in tandem with the timescale for the Board's consultation on the draft revised Statement of Licensing Policy to allow for responses from any interested party
- (l) Authorised the Clerk and his Deputes to take steps to publicise the consultation including use of the Council's consultation hub

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(m) Agreed that following formal consultation, a further report will be provided to the Board who will then consider if there is over provision of licensed premises or licensed premises of any type in the localities identified by the Board.

3. Scottish Government Consultation – Renewal Fee for Personal Licences  
<https://consult.gov.scot/criminal-justice/alcohol-personal-licence-renewal-fee/>

This item was not considered, due to lack of available time.

Councillor Norman Work  
Convener of the Licensing Board

## **Formal Consultation on Statement of Licensing Policy Supplementary Questions for Consultees**

**August 2018**

The City of Edinburgh Licensing Board requires to carry out a detailed consultation exercise in relation to the review of its Statement of Licensing Policy (“the Policy”) in terms of the Licensing (Scotland) Act 2005 (“the Act”). The Licensing Board will have regard to its policy in respect of decisions on how the Board regulate the sale of alcohol in Edinburgh. The Policy will be published in November 2018 and apply until 2022 when it will require to be updated.

The formal consultation is now open and responses are required by 1st October 2018.

Prior to the current consultation, the Licensing Board undertook an initial informal consultation exercise between October and December 2017 to obtain a range of views on issues covered by the Policy. Following that initial informal consultation the Board held a licensing workshop on overprovision and also held two days of hearings for those consultees who had responded to the initial consultation to provide oral evidence to the Licensing Board.

A draft Statement of Licensing Policy has now been prepared for the purposes of consultation. A link to this draft is available at

<https://consultationhub.edinburgh.gov.uk/>

In addition, the Board has approved this “Supplementary Questions” document to assist consultees in responding. The Board welcomes comments from those who wish to respond in relation to the questions set out below:-

1. Children and Young Persons’ Access (Chapter 26)

It has been suggested during the informal consultation that the Board should indicate suitable terminal hours for children and young persons in licensed premises in the Policy. Police Scotland suggest the terminal hour could vary depending on the type of premises.

The Act defines “child” as a person under 16 and “young person” as a person aged 16 or 17.

At the present time the Board does not specify policy hours within the Statement of Licensing Policy, and where children and young persons’ access is sought in applications for licences, then hours are dealt with on a case by case basis.

However as a generality the Board has granted hours in the following terms:-

Restaurants, Hotels (non residents) and similar type premises

Terminal hour for children’s access - 11.00 p.m.

Terminal hour for young persons’ access - 1.00 a.m.

Children can also generally remain on the premises until 1.00 a.m. when a private function is taking place and accompanied by an adult.

Pubs and similar type premises

Terminal hour for children – 8.00/10.00 p.m.

Young persons – 11.00 p.m.

**Question One**

***Do consultees consider that the Board should continue to look at applications on a case by case basis or should specific terminal hours for children and young persons be included in the Statement of Licensing Policy? The Board welcomes consultees' views on such hours.***

2. Extended Use of Occasional Licences (Chapter 5)

Concerns have been expressed during the informal consultation in relation to situations where occasional licences are being applied for over a lengthy period of time to allow premises to sell alcohol with no application made for a full premises licence. Council Officers have suggested that an indicative limit on the number of applications which the Board considers appropriate for occasional licences should be given.

If the Board were to provide an indicative limit then any further application for occasional licences may require to be referred to the Licensing Board for consideration automatically rather than the current procedure which involves applications for occasional licences generally being considered under the Licensing Board Scheme of Delegation.

**Question Two**

***The Board asks consultees to consider – should an indicative number of licences/number of applications be included in the Statement of Licensing Policy? The Board welcomes consultees' views on such a number.***

3. Extended hours for events in Licensed Premises (Chapter 5)

It has been suggested during the informal consultation that the Board considers developing guidelines as to what would constitute an event of

national or local significance where premises are applying for extended hours to sell alcohol. The Board gives examples of events in the draft Policy such as Halloween, St Patrick's Day and the Super Bowl.

**Question Three**

***The Board would ask consultees to provide views on the type of events which are considered to be events of national or local significance?***

4. Amplified music in Licensed premises (Chapter 7)

The Board is aware that an amended policy in relation to amplified music in licensed premises has been in place since September 2016.

***Question Four***

***The Board is seeking the views of consultees as to whether the Board should commence the ingathering of information on the effectiveness of its policy since the change in 2016 and whether an evaluation and specific review of this aspect of the Board's policy should be undertaken?***

5. Licensed hours (Chapter 11)

It has been suggested during the informal consultation that the Board's current policy as regards trading hours for different types of premises in the city should be reviewed, in particular as regards whether 3am is a suitable terminal hour for some premises outwith the city centre.

***Question Five***

***The Board is aware that there may no longer may be public satisfaction with the general approach to the same opening hours for similar licensed premises across the city depending on location and seeks the views of consultees as to whether the current policy should be reviewed and in particular if the terminal hours should vary across the city?***



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The Board specifically welcomes consultees' views in response to the above questions. The Board also welcomes comments from consultees on any other matters contained in the draft Licensing Policy Statement. All responses should be submitted by 1 October 2018.

Thank you.

Nick Smith  
Clerk of the City of Edinburgh Licensing Board

August 2018

## Consultation on Statement of Licensing Policy

### Assessment of Overprovision

August 2018

#### Background – Why consult?

The Licensing Board requires to carry out an assessment of overprovision of licensed premises within its area to be included within its Statement of Licensing policy in terms of the Licensing (Scotland) Act 2005 (“the Act”). In doing so, the Board may decide that its whole area is overprovided, that specific localities are overprovided, or that there are no overprovision localities in its area.

The current Statement of Licensing Policy is under review and formal consultation on the review of the current policy is underway. During its initial informal consultation on its policy between October and December 2017 the Board invited comment on the overprovision assessment contained in its policy as one of the issues where it specifically sought views. A range of written responses were received and the Board held hearings in May to consider these further. The Board also hosted a workshop in May on the general subject of overprovision to encourage discussion among all interested parties and Board members.

#### What information has the Board received?

Amongst the consultation responses received, specific localities were highlighted to the Board for consideration as potentially showing characteristics of overprovision. In particular, the Board was asked to consider the localities highlighted by Police Scotland, the Edinburgh Alcohol and Drugs Partnership and NHS Lothian and the statistical evidence provided by each consultee in support of these localities. Police Scotland, EADP and NHS Lothian highlighted 23 localities identified by reference to Intermediate Data Zone geographical areas (IDZs) within Edinburgh where statistics about alcohol-related health harms and alcohol-related crime were above the Edinburgh average by 50% or more. NHS Lothian identified a further 15 localities also identified as IDZ geographical areas where the alcohol-related health harms were above the Edinburgh average by 20% or more.

The Board requested details of the numbers of premises and details of on and off sales capacities for each of the suggested localities. Details of numbers and capacities of premises in the current policy which identifies an overprovision locality of Grassmarket/Cowgate were also provided to the Board.

At its meeting on 13 August 2018 the Board considered all of the information which it had received during its informal consultation process and in particular the statistical information which had been provided. The Board had regard to the terms of the Act, statutory Guidance and more recent informal Guidance issued by Scottish Government to assist Boards when determining localities for the purpose of an assessment of overprovision.

#### What is being consulted on?

The Board agreed, following consideration of all of the above that the following 23 localities being the IDZs highlighted by Police Scotland, the EADP and NHS Lothian showed potential characteristics of overprovision having regard to the licensing objectives set out in the Act

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particularly with regard to the health and crime objectives and that accordingly it would consult further in relation to all licensed premises in those localities which are listed below:-

1. Hyvots and Gilmerton
2. Murrayburn and Wester Hailes North
3. South Leith
4. Niddrie
5. Moredun and Craigour
6. The Calders
7. Leith (Albert Street)
8. Restalrig and Lochend
9. North Leith and Newhaven
10. Granton South and Wardieburn
11. Clovenstone and Wester Hailes
12. Muirhouse
13. Bingham, Magdalene and the Christians
14. Great Junction Street
15. West Pilton
16. The Shore and Constitution Street
17. Dalry and Fountainbridge
18. Restalrig (Loganlea) and Craigentenny West
19. Easter Road and Hawkhill Avenue
20. Gracemount, Southhouse and Burdiehouse
21. Tollcross
22. Old Town, Princes Street and Leith Street
23. Deans Village

**The Board welcomes views during the consultation as to whether all or any of these localities should be included in the policy as areas of overprovision for all licensed premises or particular types of premises.**

The Board also agreed that the additional 15 localities being the IDZs highlighted by NHS Lothian also showed potential characteristics of overprovision having regard to the licensing objectives set out in the Act particularly with regard to the health objective and that the Board would consult upon further in relation to all licensed premises in those localities as well.

These are listed below:-

1. Bonnington
2. Broomhouse and Bankhead
3. Canongate, Southside & Dumbiedykes
4. Colinton Mains & Firrhill
5. Cramond
6. Fernieside & Moredun South
7. Gorgie East
8. Granton & Royston Mains
9. Leith (Hermitage & Prospect Bank)
10. Liberton West & Braid Hills
11. Oxgangs
12. Pilrig
13. Portobello
14. The Inch
15. Trinity

**The Board welcomes views during the consultation as to whether all or any of these localities should be included in the policy as areas of overprovision for all licensed premises or particular types of premises.**

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### Current Policy - overprovision

The current area of overprovision in the Grassmarket/ Cowgate relates only to particular types of licensed premises. These are traditional pubs where consumption of alcohol is the principal attraction and premises offering off sales. The current area of overprovision is street based with a list of streets set out in the policy, at Chapter 9 of the policy ([http://www.edinburgh.gov.uk/downloads/file/3083/licensing\\_board\\_policy\\_november\\_2013](http://www.edinburgh.gov.uk/downloads/file/3083/licensing_board_policy_november_2013)).

The Board agreed that it would include the current area of overprovision in the Grassmarket/ Cowgate area as part of its consultation on its assessment of overprovision. However the Board is aware that the current area overlaps with the other proposed localities which are based on IDZs. Accordingly, as part of the consultation process, **the Board welcomes views on whether the Board's updated assessment of overprovision should be wholly based on IDZs rather than street based as at present.**

Links to plans and numbers and capacities of premise in all the identified localities are available online with this consultation, and will be available online on the Board's website - [http://www.edinburgh.gov.uk/info/20023/licences\\_and\\_permits/960/edinburghs\\_licensing\\_board](http://www.edinburgh.gov.uk/info/20023/licences_and_permits/960/edinburghs_licensing_board)

The Board also took into account the responses received during their informal consultation as regards the IDZs identified in the Board's current policy as "areas of serious special concern." The Board agreed that the formal consultation should include reference to the Board's proposal that the areas of serious special concern should not be retained in the updated policy. **The Board welcomes the views of consultees on this proposal.**

### Consultation duties and next steps

In carrying out a consultation on its assessment of overprovision the Board has to consult with a number of organisations and people.

These include: - Police Scotland, NHS Lothian, the Local Licensing Forum, and representatives of the interests of premises licence holders and persons resident in the localities which have identified.

In addition to statutory consultees, the Board wishes to consult as widely as possible and welcomes views from all interested parties during this consultation. The consultation will run in tandem with the Board's consultation on its updated policy.

Once the consultation period is complete, the Board will consider all responses received and the Statement of Licensing Policy when agreed by the Board for publication will include an updated Chapter on the Board's Assessment of Overprovision.

Thank you

Nick Smith  
Clerk of the City of Edinburgh Licensing Board

August 2018