

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO ABERDEENSHIRE LICENSING BOARD – 28th June 2023

LICENSING (SCOTLAND) ACT 2005

REVIEW OF STATEMENT OF LICENSING POLICY 2023-2028

APPROVAL OF DRAFT POLICY STATEMENT FOR CONSULTATION

1 Executive Summary / Recommendations

- 1.1 The Aberdeenshire Licensing Board must, by statute, review their Licensing Policy Statement within 18 months of the local government election in May 2023.

Following reports to the Board identifying main issues relating to the preparation of a new Policy Statement, and advising of the outcome of an engagement exercise in respect of the main issues identified by the Board, this report asks the Board to consider and approve the terms of a Draft Policy Statement, as set out at **Appendix 2** to this report, for the purposes of a formal consultation exercise thereon, before considering and approval a Final Policy Statement in October 2023 to take effect from 1st November 2023.

1.2 It is recommended that the Board: -

1.2.1 Note the terms of the updated Timeline for Review of the Policy Statement as set out in Appendix 1 to this Report;

1.2.2 Considers and approves the Draft Statement of Licensing Policy, as set out in Appendix 2 to this Report for the purposes of carrying out a formal consultation exercise;

1.2.3 Approves the terms of the Consultation Timeline attached as Appendix 3 to this Report, and, in particular –

- Agrees to consider approval of the Final Statement of Licensing Policy at a Special Meeting of the Licensing Board to be held on 25th October 2023**
- Authorises the Clerk to the Board to conduct the consultation exercise on behalf of the Board**

1.2.4 Notes the terms of the updated draft Integrated Impact Assessment in relation to the review process.

1.2.5 Notes that an update Report will be brought to the Board at their meeting on 16th August 2023.

2 Purpose and Decision-Making Route

- 2.1 At the meetings of each of the three former Divisional Licensing Boards held in October 2018 the Divisional Boards approved a Statement of Policy for the then three Aberdeenshire Divisional Board areas. The Divisional Boards agreed that the Statements of Policy should be amalgamated into one document, whilst respecting the regional variations. Aberdeenshire Council dissolved the three Divisional Boards, and the new Aberdeenshire Licensing Board adopted the previous policy, including the regional variations from the previous Boards, at their meeting on 29th April 2020, and following the local government election in May 2022 the Board adopted the existing policy.

- 2.2 The Board agreed there were a number of main issues to consider in the review of the existing Policy and approved the undertaking of an engagement exercise at their meeting on 12th October 2022 (Item 9(i)). The report can be accessed [here](#).¹
- 2.3 The engagement exercise was carried out between 31st October 2022 and 6th January 2023. A report on the results of the engagement exercise was presented to the Board at their meeting on 22nd February 2023 (Item 9(ii)). The report can be accessed [here](#).²
- 2.4 Following review of the evidence ingathered from the engagement exercise by the Licensing Team, the Board considered an analysis Report at their meeting on 28th April 2023 (item 13). The report can be accessed [here](#).³ The Board agreed the following for the purposes of drafting a Licensing Policy Statement to be submitted to the Board for approval on 28th June 2023 for the purposes of carrying out a formal consultation exercise:
1. That permitted operating hours be harmonised across Aberdeenshire.
 2. That the permitted hours be as follows:
 - Opening hours – Onsales
 - 10.00am
 - Terminal hour – Onsales
 - for premises other than nightclubs – 01.00am
 - Terminal hour for nightclubs – 02.00am (Sun – Thurs)
03.00am (Fri-Sat)
 - Private Function Hours – Onsales
 - There should be no additional operating hours for private functions
 - Festive Hours – Onsales
 - For premises other than nightclubs – 01.30am, 31st December only – 03.00am
 - Nightclubs – no additional hours
 - Dates Festive Hours Apply
 - Friday & Saturday preceding 25th December
 - 24th – 26th December inclusive
 - Friday & Saturday preceding 31st December
 - 31st December
 - 1st January
 - Hours for Occasional Licences and Occasional Extensions
 - 10.00am – 1.00am
 3. That the localities for the purpose of overprovision be local settlements based on the evidence provided in **Appendix 2** to the report

¹ <https://committees.aberdeenshire.gov.uk/committees.aspx?commid=516&meetid=20294> Item 9(i)

² <https://committees.aberdeenshire.gov.uk/committees.aspx?commid=516&meetid=20461> Item 9(ii)

³ <https://committees.aberdeenshire.gov.uk/committees.aspx?commid=516&meetid=20486> (Item 13)

4. that there was no evidence to date of overprovision in relation to on sale premises
5. That there was evidence to date that in relation to Off sale premises –
 - Overprovided:
 - Fraserburgh
 - Peterhead
 - Banff
 - Watching brief:
 - XXX
 - No overprovision
 - Remaining settlements
6. Authorised officers to consider options for setting an approved capacity for alcohol displays in off sales and present them at the June Board
7. Noted that further statistical data was still to be obtained
8. Agreed to retain the late applications policy for occasional licences
9. Noted that the local conditions for occasional licences would be reviewed
10. Agreed that the Premises Licence Conditions be reviewed and that they should incorporate the suggested additional conditions recommended in the report and that the terminal hour for outside drinking areas be amended to 10.00pm
11. Agreed to retain the provisions relating to the end of aisle alcohol displays
12. Agreed to retain the policy provisions relating to vertical drinking establishments
13. Noted that the formal consultation process would include exploring interest in and the potential for reinstating the Aberdeenshire Licensing Forum

For the avoidance of doubt, if the policy is changed in any respect, those existing licence holders retain their existing licensing arrangements unless they submit a variation to change to take advantage of any new policy changes. The new policy will be applicable to new applications only.

3 Discussion

Legislative Background

- 3.1 Section 6 of the Licensing (Scotland) Act 2005 requires all Licensing Boards to have a written statement of policy and to have regard to it when exercising functions under the Act. The Policy Statement sets out the Board's policies on the sale and supply of alcohol in accordance with the Licensing (Scotland) Act 2005.

- 3.2 There is revised statutory guidance which sets out the areas that the Licensing Policy Statement must cover. This was included in the report to the Board on 22nd February 2022 and can be accessed [here](#)⁴. The draft Policy Statement has been reviewed and updated in line with the revised statutory guidance.
- 3.3 The current Statement of Licensing Policy can be found [online](#)⁵. The report presented to the Committee on [31st of August](#)⁶ set out the legislative requirements is therefore not repeated in this report.

Time Line Update

- 3.4 The Timeline for Reviewing the current Statement of Licensing Policy is as set out in **Appendix 1** to this report for noting.

Draft Statement of Licensing Policy

- 3.5 Following the decisions made by the Board at their meeting on 28th April 2023, as referred to at Section 2.4 above, Officers have reviewed the current Statement of Licensing Policy and revised its terms creating a draft Statement of Licensing Policy to be consulted on. The draft Statement of Licensing Policy is attached as **Appendix 2** to this Report. Changes are set out in red text for ease of reference.
- 3.6 The Board is asked to consider the revisions made, and approve the Draft for the purposes of carrying out a formal consultation exercise, the details of which are set out at Section 3.7 of this Report, below.

Formal Consultation Process

- 3.7 To enable the Board to meet the statutory deadline of publication of a new Statement of Licensing Policy by 1st November 2023 officers have drafted a Consultation Timeline to ensure the process stays on track. The draft Timeline is attached as **Appendix 3** to this Report and referred to for its terms.
- 3.8 The Board should note that the October Meeting of the Board is set for 4th October 2023 so as to avoid the Council's vacation period during October. However, this does not enable officers sufficient time to review the evidence ingathered from the Consultation Exercise and to finalise the terms of the Statement of Licensing Policy. The Board is therefore asked to approve a Special Meeting of the Board to be held on 25th October 2023 solely for the purpose of approving the Final Statement of Licensing Policy, as set out in the draft Timeline in the Appendix. Officers are aware that this is during the October

⁴ <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2023/01/licensing-scotland-act-2005-section-142-guidance-licensing-boards/documents/licensing-scotland-act-2005-section-142-guidance-licensing-boards/licensing-scotland-act-2005-section-142-guidance-licensing-boards/govscot%3Adocument/licensing-scotland-act-2005-section-142-guidance-licensing-boards.pdf#:~:text=Licensing%20%28Scotland%29%20Act%202005%20Statutory%20Guidance%201.1%20As,Scottish%20Ministers%20issued%20statutory%20guidance%20to%20Licensing%20Boards.>

⁵ <https://www.aberdeenshire.gov.uk/media/26667/licensing-policy-statement-2018-2023.pdf>

⁶ (<https://committees.aberdeenshire.gov.uk/FunctionsPage.aspx?dsid=113412&action=GetFileFromDB>)

vacation period, but this is unavoidable given the timescales for approval of the final Policy Statement.

- 3.9 Potential Engagement Sessions have been included in the draft Timeline. The need for these, and the format that will be used, will be kept under review and will be dependent upon the responses and evidence lodged as a result of the formal consultation exercise. An update will be provided to the Board at their meeting on 16th August 2023.

4 Council Priorities, Implications and Risk

- 4.1 This report is brought in accordance with the requirements of the Licensing (Scotland) Act 2005.

- 4.2 The table shows whether risks and implications apply if the recommendations (s) is (are) agreed:

Subject	Yes	No	N/A
Financial		X	
Staffing		X	
Equalities and Fairer Scotland Duty		X	
Children and Young Peoples' Rights and Wellbeing	X		
Climate Change and Sustainability		X	
Health and Wellbeing	X		
Town Centre First	X		

- 4.3 An Integrated Impact Assessment (IIA) has been drafted for the overall policy review. This has been updated considering the evidence gathered from the engagement exercise. A copy of the draft IIA is attached as **Appendix 4** to this Report. The IIA will continue to be reviewed and analysed as the Consultation exercise is undertaken and a final IIA will be submitted to the Board along with the final Policy Statement for approval in October 2023.

5 Governance

- 5.1 The Board can consider this matter as formulating Licensing Policy is a matter reserved to the Licensing Board in terms of the Licensing (Scotland) Act 2005.

Karen Wiles
Clerk to the Aberdeenshire Licensing Board

Report prepared by Fiona M Stewart, Senior Solicitor (Governance), Depute Clerk to the Board
Date 20th June 2023

List of Appendices

Appendix 1 – Updated Timeline for Review of the Policy Statement

Appendix 2 – Draft Statement of Licensing Policy

- Main Policy Statement
 - Appendix 1
 - Appendix 2
 - Appendix 3
- Supplementary Policy Statement 1
- Supplementary Policy Statement 2
- Supplementary Policy Statement 3
- Supplementary Policy Statement 4
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 - Appendix 1
 - Appendix 2
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- Supplementary Policy Statement 7
- Supplementary Policy Statement 8

Appendix 3 – Formal Consultation Timeline

Appendix 4 - Revised Draft Integrated Impact Assessment