

SPECIAL ANGUS LICENSING BOARD – 11 JUNE 2018
REVIEW OF STATEMENT OF LICENSING BOARD POLICY
REPORT BY THE CLERK TO THE BOARD

ABSTRACT

The purpose of this report is to advise Members of the Board of the responses to the consultation exercise undertaken between 17 January 2018 and 16 March 2018 and for Members to consider same in connection with the review of the Statement of Licensing Board Policies.

1. RECOMMENDATION

It is recommended that the Board:-

- (i) note and consider **Appendices 1 and 2** to this Report;
- (ii) direct the Clerk to revise the current Statement of Licensing Policy and Supplementary Statement of Licensing Policy by:
 - (a) merging the two documents into one Policy Statement;
 - (b) updating the Policy in terms of the process adopted during the recent consultations;
 - (c) updating the Policy with any legislative changes since 2013;
 - (d) updating the Scheme of Delegation as necessary;
 - (e) making any necessary minor amendments;
 - (f) making any changes agreed by Members in light of the consultation responses; and
 - (g) making any other changes as agreed by Members.
- (iii) determine whether there is overprovision of any type of licensed premises in one or more of the localities or other areas within Angus;
- (iv) if Members determine that there is overprovision of any type of licensed premises, agree to consult with the public, interested parties and organisations within the locality area or other areas identified prior to Members' finalising their decision.

2. BACKGROUND

2.1 Section 6 of the Licensing (Scotland) Act 2005 ("the Act") obliges every Licensing Board, before the beginning of each licensing policy period, to publish a statement of their policy with respect to the exercise of their functions under the Act during that period. In exercising their functions under the Act during the licensing policy period, the Board must have regard to the Statement of Licensing Policy. Members determined at the Board of 4 January 2018 to identify and examine the localities of Arbroath, Brechin, Carnoustie, Forfar, Kirriemuir, Monifieth and Montrose. The Board's new Statement of Licensing Policy must be published before 4 November 2018.

2.2 In preparing its new Statement of Licensing Policy, the Board must ensure that the policy stated in the Statement seeks to promote the licensing objectives. In addition, the Board must consult with Angus Local Licensing Forum. If membership of the Forum is not representative of holders of premises and personal licences, the Chief Constable, persons having functions relating to health, education or social work, young people and persons resident in the Forum's area then the Board must consult with such representatives as appear to the Board to be representative of those interests. In addition, the Board is required to consult with other such persons as the Board thinks appropriate.

2.3 Contacted directly as part of the consultation process were the following:

- Angus Local Licensing Forum
- Every Member of Angus Council
- Angus Council Education Department
- Angus Alcohol and Drugs Partnership
- Angus Health and Social Care Partnership
- Angus Council Housing Department
- Strategic Director, Angus Council – Place
- Strategic Director, Angus Council – People
- Chief Constable of Police Scotland
- NHS Tayside
- Angus Child Protection Committee
- Angus Adult Protection Committee
- Scottish Licensed Trade Association
- Scottish Grocers Federation
- Community Councils in the Angus area
- Professional Football Clubs in the Angus area

2.4 In addition, posts were placed on Angus Council's Facebook page and Twitter feed advising the public of the review of policy and how to make comments or suggestions. The "Have Your Say" area of Angus Council's website was utilised as a means of advertising the consultation exercise and providing an avenue for comment to be made. The Licensing Standards Officer circulated the link to the consultation by e-mail to those in the Trade who have provided e-mail addresses.

2.5 Report 53/17 provides details of the statistical information that should be collated and placed before Members in connection with the review. The statistical information can be found within **Appendix 1** to this Report.

2.6 Six responses were received to the consultation between 17 January 2018 and 16 March 2018. The responses received were from:

- Police Scotland
- Angus Alcohol and Drugs Partnership
- Mark Gillespie, Licensing Standards Officer
- Janet Hood, Solicitor
- Alcohol Focus Scotland
- Angus Local Licensing Forum

The responses can be found within **Appendix 2** to this Report together with the guidance issued by Scottish Government and the second part of the guidance titled "The Overprovision Assessment" (2.1)

2.7 Section 7 of the Act provides that each Statement of Licensing Policy must 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. In considering whether there is overprovision in any locality, the Board must have regard to the number and capacity of licensed premises in the locality and carry out requisite consultation.

2.8 The current Statement of Licensing Policy includes a policy statement to the effect that it has not been possible to identify any locality where data supports a robust and compelling argument that the prevalence of licensed premises has reached, or is close to reaching, overprovision. Therefore there is no presumption against the granting of new licences within any locality in Angus. However, the Board recognised that each application for a premises licence requires to be determined on its own merits and the Board may still refuse an application if it is satisfied, from evidence presented to it, that there would be an overprovision of licensed premises in that locality if the application were to be granted. The localities examined during the previous Policy Statement review were the same seven Burgh areas as Members are considering presently.

2.9 Information was requested from Police Scotland to provide evidence on crime statistics and information was requested from NHS Tayside to provide information on health statistics.

2.10 The figures provided from Police Scotland (**Appendix 2** (2.2) show recorded crime in Angus where alcohol had been identified as a contributing factor. For Members' information, section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 covers threatening or abusive behaviour.

2.11 Angus Alcohol and Drugs Partnership have provided two documents; the first entitled "The Public Health and Social Impact of Alcohol Availability in Angus" dated March 2018. The second entitled "Alcohol Related Crime Analysis 2015-2017". The documents can be found in **Appendix 2** (2.3 and 2.4) accordingly.

2.12 The remaining responses can be found at **Appendix 2** (2.5 to 2.8).

2.13 The level of provision that constitutes overprovision is for a Licensing Board to decide, taking into account representations which have been received, the evidence gathered by the Board and the Board's own experience and knowledge. There is no simple numerical formula for pinpointing the threshold between provision and overprovision. Determining overprovision involves the application of reason and judgement in the interest of the Angus community. Notwithstanding Members' decision as to whether there is or is not overprovision in terms of the Policy Statement, individual applications require to be determined on their own merits and the Board may still refuse an application if it is satisfied, from the evidence available to it, that there would be an overprovision of licensed premises of a particular description in a particular area.

2.14 Members are requested to direct the Clerk to update/change the current Policy Statement/s as per recommendation 1(ii) of this Report.

3. FINANCIAL IMPLICATIONS

3.1 There are no financial implications arising from this report.

4. HUMAN RIGHTS IMPLICATIONS

4.1 There are no human rights implications arising from this report.

5. EQUALITIES IMPLICATIONS

5.1 The proposals in this report have been considered from an equalities perspective and an equality impact assessment has been undertaken.

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