

**North Ayrshire Licensing Board
19 November 2018**

Irvine, 19 November 2018 - At a special meeting of the North Ayrshire Licensing Board at 10.00 am in the Irvine & Kilwinning Committee Room, Cunninghame House, Irvine.

Present

Councillors Ronnie McNicol (Convenor), Todd Ferguson, John Easdale, Donald L. Reid, Jean McClung, Scott Gallacher and Davina McTiernan.

In Attendance

A Fraser, Head of Service Democratic Services, A Craig, Senior Manager Legal Services, W O'Brien, Solicitor (Licensing) and C Pollock, Licensing Administration Officer.

Also In Attendance

Convenor

Councillor McNicol.

Apologies for Absence

Councillors Robert Barr and Angela Stephen.

Declarations of Interest

None.

1. Licensing Policy Statement 2018 - 2022

The Board were asked to consider a report by the Clerk informing them of the procedure relating to the preparation of the draft Licensing Policy Statement (LPS) 2022, and recommending that the Board consider the draft LPS and approve it, with or without amendment.

The Board's Convenor, Councillor McNicol, welcomed everyone to the special meeting, the purpose of which was to consider the Board's proposed Licensing Policy Statement, 2018-2022. The Convenor confirmed that the Board's Solicitor, Mr O'Brien, would be coordinating the meeting and briefing the Members on all the documentation before them.

Mr O'Brien referred the Board to the Report, and specifically paragraph 2.2 which explains the layout of the background papers which had been circulated to the Members. In summary the draft LPS is much the same as before, but with 10 proposed changes, each of which is marked **, and each of which will be discussed in turn.

Referring to one of the background papers noted in the Report, the Paper Apart, Mr O'Brien informed the Board that representations received from 3 of the bodies who had been consulted on this matter were highlighted and detailed within section 2 of the document. These bodies were a) NHS Ayrshire and Arran b) Alcohol /Focus Scotland, and c) the Local Licensing Forum.

In response to a question from Councillor Easdale, Mr O'Brien confirmed that Police Scotland had responded to the consultation by providing data to the Board, as had the Fire Service.

Mr O'Brien then went on to further explain the format and content of all of the relevant documents, highlighting that there were 16 documents containing data for the Board to take into consideration, and he would brief the Board on each document individually.

Referring the Board briefly to Document (b) Traffic Light Chart (NALB), Mr O'Brien said that there is a whole variety of health data available but the Health Board were of the view that 3 specific statistical indicators were most appropriate for the Board's purposes, and these were 1. Life expectancy – males, 2. Life expectancy – females, and 3. Alcohol related hospital stays. In response to a question from Councillor Easdale, Mr O'Brien confirmed that the data provided by the Health Board does reflect the overall population figures, including and accounting for under 18s. Mr O'Brien also added that with reference to the Scottish Government's Guidance, the law permits Licensing Board's to look at the overall health situation.

In response to a question from Councillor Reid, Mr O'Brien confirmed that 13 applications for off sales premises licences had been refused by North Ayrshire Licensing Board in the last 5 years.

Having briefed the Board on the remainder of the Report, Mr O'Brien moved on to discussing the Paper Apart document itself. Focusing on Section 2 (Summary of Consultation responses and officer's comments), he then detailed the Health Board's representations and highlighted the Board's comments in response.

Mr O'Brien emphasised that while the Board should, and does indeed give the Protecting and Improving Public Health Licensing Objective (PHLO) its proper place, in cases of refusal overprovision is vital and it is insufficient just to cite the PHLO. Mr O'Brien explained to the Board the process of issuing a Statement of Reasons and how overprovision tends to feature prominently in these documents.

With regards to on sales early opening Mr O'Brien reminded the Board of the matter of 'grandfather rights' at the commencement of the Licensing (Scotland) Act 2005. He referred to a previous attempt by NALB to 'claw back' early hours, which had to be abandoned, and it was not realistic to expect the Board to pursue this issue again.

In terms of the Health Board's suggestion of the application of similar policies to the grant of occasional licences to those used for premises licences, Mr O'Brien this is not legally possible.

The meeting was then adjourned for a short break at 11.27 am and was re-convened at 11.43 am.

The Board then considered each of the following 16 documents containing data:

(a) Alcohol facts and figures

A summary of alcohol statistics prepared by Alcohol Focus Scotland.

(b) Traffic Light Chart (NALB)

This data generated extensive general discussion and observations were made about changes and comparisons between the 2 time periods.

(c) Monitoring Report 2018 (Alcoholic Specific Deaths) (MESAS)

Mr O'Brien highlighted the summary chart comparing numbers of alcohol specific deaths in Scotland to those in England and Wales.

(d) Alcohol Related Harm in Scotland 2016 (MESAS)

Infographic containing data detailing alcohol related harm in Scotland in 2016.

(e) Alcohol Information – North Ayrshire (NHS)

Mr O'Brien highlighted the information regarding alcohol related deaths across Ayrshire and noted that North Ayrshire was significantly worse than East Ayrshire and South Ayrshire. Mr Fraser said that alcohol related deaths are difficult to analyse. Broadly speaking, the World Health Organisation say that increasing price, tackling marketing, and limiting availability are the 3 tools to tackle alcohol related harm.

Mr Fraser then gave some data in relation to Minimum Unit Pricing (MUP) and said that the early evidence was indicating that people are moving away from cheaper products and are purchasing more 'up market' products.

In terms of deaths, Mr O'Brien said that there was a clear link between prosperity and alcohol related death.

(f) Alcohol Outlet and Harm (NA) (CRESH) (AFS)

Mr O'Brien said that most of the data in this document is what would be expected, except perhaps the conclusion that there is a significant positive relationship found between alcohol on sales outlet density in North Ayrshire and alcohol related harm.

(g) Licensing Indicators (NHS – NALB)

Mr O'Brien explained to the Board that several indicators are used because if you focus on just 1 indicator that may suggest that a particular area has a problem, but really several indicators need to be looked at before a conclusion can be drawn.

The Convenor noted it strange that Ardrossan Central features (in terms of North Ayrshire) highest on the Scottish Index of Multiple Deprivation (SIMD) the worst intermediate zone in North Ayrshire in terms of alcohol related hospital stays, yet from his local knowledge there was only 2 pubs and 1 off sales shop in that zone.

Mr Fraser informed the Board that, in relation to MUP the Supreme Court accepted that there was a direct link between deprivation and alcohol related harm. MUP is targeted to have the most effect in the most deprived areas of society in order to result in the biggest health benefits for the most deprived members of society.

There was then further extensive general discussion about the Intermediate Zone trends and accompanying maps

Mr Fraser commented that some of the health improvements observed in recent years could perhaps be explained the recession, although in recent times it has been noticed that some of the alcohol related harms are returning or getting worse again.

In response to a question from Councillor Ferguson, Mr O'Brien confirmed that figures are recorded and based upon where people are domiciled.

(h) Alcohol Statistics (Scotland and North Ayrshire)

Liquor Licensing statistics for 2016-17, compiled by the Office of National Statistics for 2016-17 for the whole of Scotland and for North Ayrshire specifically.

(i) Alcohol related crimes in North Ayrshire (Police)

Information provided by Police Scotland for the period January – June 2018 regarding particular crimes where alcohol consumption is often a factor.

(j) Fires and Alcohol related incidents (SFRS)

Information provided by Scottish Fire and Rescue, covering the last 3 years, regarding accidental fires in North Ayrshire where alcohol is a factor.

(k) Premises Licences in North Ayrshire

Mr O'Brien highlighted to the Board that this data forms part of the Overprovision Assessment. He then asked the Board Members to reflect on their current Overprovision Policy which has been in place since 2013 and he asked for their view in terms of whether it should be kept as it is. On behalf of the Board, the Convenor stated that the Policy should continue as it is. It is a reliable, robust guideline which still has flexibility within it to allow the consideration of cases on an individual basis.

Mr O'Brien then referred the Board to the draft Licensing Policy Statement (2018-2022), informing them that it was drafted based on the current LPS 2013 – 2018, and updated to reflective legislative changes and decisions taken by the Board in individual cases and policy matters since 2013. Mr O'Brien requested that the Board consider the draft and suggested amendments detailed at the following Sections:

- Licensed Hours and Extended Hours - 7.19 & 7.20
- Occasional Licences - 8.6

Whilst discussing this proposed amendment, Board Members expressed their concern regarding regular Occasional Licence applications being used for premises which are to all intents and purposes being run as Pubs without the Premises Licence, and associated regulations and fees that apply to Premises Licences.

The meeting was then adjourned for a lunch break at 1.23 pm and was re-convened at 2.18 pm in the Council Chambers.

The Board resumed consideration of the draft Licensing Policy Statement (2018-2022) and suggested amendments detailed at the following Sections:

- Occasional Licences - 8.14, 8.15, 8.21 & 8.22

Mr O'Brien highlighted to the Board that within the suggested amendment 8.22 (c) there is a reference to Annex H which should in fact be Annex F, this is a typing error and will be corrected.

- Members Clubs - 9.5
- Personal Licences - 10.1, 10.3 10.5 & 10.7
- Annex C (Statement of Practice for Occasional Licences and Extended Hours)

- Annex D (Overprovision) 3.2

Having considered the terms of the Report and all of the information and data contained within the accompanying background papers, the Convenor proposed that the draft Licensing Policy Statement 2018 – 2022 be approved, incorporating all of the changes suggested by the Clerk. Councillor Gallacher seconded the motion. There was no counter-motion and the Board unanimously agreed without dissent or abstention to approve the draft Licensing Policy Statement 2018 – 2022, incorporating all of the suggested changes.

The meeting ended at 2.52 pm.