

East Dunbartonshire Licensing Board
Formal Consultation on Statement of Licensing Policy
Issues Paper for Formal Consultation
June 2023

East Dunbartonshire Licensing Board (“the Board”) is conducting a consultation for the review of its Statement of Licensing Policy. The Statement of Licensing Policy sets out how the Board will exercise its functions under the Act. The policy will be published by early November 2023 and will apply until 2027 unless a new policy is introduced by the Board.

The formal consultation is now open and responses are required by Monday 18 September 2023.

Prior to the current consultation, the Board undertook an initial, informal consultation exercise between 11 October 2022 and 10 January 2023 to obtain views on what should be included in the new Statement of Licensing Policy. Following this, an exercise was carried out to engage with key stakeholders in relation to the assessment of overprovision which forms part of the Statement of Licensing Policy.

A draft Statement of Licensing Policy has now been prepared which includes a draft statement as to the extent to which the Board considers there to be overprovision of off-sales premises within certain localities.

A copy of the draft Statement of Licensing Policy, the current Statement of Licensing Policy and all other relevant materials are available at www.eastdunbarton.gov.uk/Licensing-2023

Persons are welcome to comment on any aspect of the draft Statement of Licensing Policy or make comments on any issues that they feel should be covered by the Statement of Licensing Policy. However, the Board would particularly welcome views on the below matters which are the material changes to the current Statement of Licensing Policy.

Overprovision Assessment

In the current Statement of Licensing Policy, there are two localities assessed as being areas where there is an overprovision of off-sales licensed premises. These are the locality of Hillhead, Kirkintilloch and a locality within the Kirkintilloch West area. Full details of these areas are found on pages 17 and 18 of the current Statement of Licensing Policy.

As part of the initial, informal consultation, consultees were asked for views on what areas should be assessed as overprovided. Responses were received from the East Dunbartonshire Health & Social Care Partnership (“HSCP”), Police Scotland and the Council’s Community Protection Service. The Community Protection Service made no recommendation for overprovision. Police Scotland recommended that the two current localities remain in place and no other areas are added. The HSCP recommended that the Hillhead locality remains an area overprovision for off-sales

premises. The HSCP also recommended that East Clober & Mains Estate, Harestanes and Kirkintilloch South be considered areas of overprovision for off-sales. The HSCP also commented that Kirkintilloch West may no longer be considered an area of overprovision in terms of alcohol related health data but recommended that alcohol related crime and incidents be reviewed.

Following this, the Board carried out an information gathering exercise to obtain crime, incidents and health data on all five areas. The Board also had regard to available studies on Minimum Unit Pricing and deliveries of alcohol. The Board considered the evidence presented to it and had regard to matters the Board considered relevant including:

- The Scottish Government's Statutory Guidance on the Licensing (Scotland) Act 2005;
- The number and capacity of licensed premises in the five areas; and
- The licensed hours of the premises in the locality.

The Board noted that Minimum Unit Pricing appears to have had an impact on reducing alcohol related harm but further assessment is required to understand the full impact. Accordingly, the Board considered that it remains appropriate to set areas of overprovision for the purpose of reducing alcohol related harm. Similarly, the Board was of the view that it was unclear what impact on alcohol related harm the increase of the use of deliveries by premises has had. Therefore, the Board considered it appropriate to set areas of overprovision for the purpose of reducing alcohol related harm.

As part of its initial assessment, the Board proposes to retain the locality of Hillhead and the locality within the area of Kirkintilloch West as areas of overprovision for off-sales premises. In relation to Kirkintilloch West, Police Scotland recommended that this remain an area of overprovision due to having high numbers of alcohol related crimes and non-sexual crimes of violence. Moreover, the area had the highest number of incidents of disorder by far. Similarly, Police Scotland recommended that the Hillhead locality remain an area of overprovision as, like Kirkintilloch West, this remained a prevalent area for alcohol crimes and incidents of disorder when compared to other areas in East Dunbartonshire. The HSCP also provided data that demonstrated Hillhead continues to show high rates of alcohol related harm compared to the rest of East Dunbartonshire and Scotland. The HSCP also noted that while Kirkintilloch West has seen a reduction in alcohol related harm, it had the highest alcohol outlet density in East Dunbartonshire which is likely to impact on the surrounding areas and potentially further afield if premises are providing online sales and home deliveries.

Having regard to the data provided, the Board is of the view that the locality of Hillhead, Kirkintilloch and the locality within the Kirkintilloch West area should remain areas of overprovision for off-sales premises. The Board is of the view that an increase to off-sale capacities in the areas would likely result in adverse impact on the licensing objectives, in particular, preventing crime and disorder and protecting and improving public health. Moreover, the locality in Kirkintilloch West is a town

centre with a high number of commercial units and shops that serve the surrounding area. In relation to the other areas proposed by the HSCP, the Board is not currently of the view that these should be considered areas of overprovision. The data provided by Police Scotland does not support that these should be considered as areas of overprovision. Moreover, the Board is of the view that the health concerns raised by the HSCP in relation to Harestanes and Kirkintilloch South are best addressed by the current overprovision areas which are the central localities within Kirkintilloch where residents in the wider Kirkintilloch purchase alcohol. It should be noted that the HSCP presented information on areas known as intermediate datazones. There is some overlap between the datazone provided for Harestanes and the Board's Hillhead locality.

In relation to East Clober & Mains Estate, the Board does not currently consider, when taking account of the evidence and relevant matters, that this should be assessed as being an area of overprovision.

As part of its initial overprovision assessment, the Board considers that the locality within the Kirkintilloch West area should be increased slightly to the north and to the south so that other commercial/shopping areas bordering the current locality be brought within this locality. These areas within the commercial/shopping area of Kirkintilloch properly form part of the locality within the Kirkintilloch West area and if they are not included then the integrity of the overprovision area would be prejudiced.

The Board is not minded to introduce overprovision in relation to on-sales. No stakeholder or consultee has advised that this is necessary in order to address alcohol related harm. The Board is aware of the Monitoring and Evaluating Scotland's Alcohol Strategy Monitoring Report 2019, which is referenced in the Scottish Government's Statutory Guidance and the Scottish Government's strong support for focusing on tackling alcohol related harm in relation to off-sales. Accordingly, the Board's overprovision assessment is focused on addressing alcohol related harm in relation to off-sales.

All materials that the Board has considered, except for confidential data provided by Police Scotland, are available to view on www.eastdunbarton.gov.uk/Licensing-2023

Consultees are invited to comment on whether they agree with this initial assessment by the Board on Overprovision and to provide reasons for any views.

Descriptions of Licensed Premises

The current Statement of Licensing Policy, at paragraph 15.6, makes reference to entertainment premises which take advantage of different on-sales policy hours to other types of premises. The new draft Statement of Licensing Policy removes reference to entertainment premises as it was felt that it was not sufficiently clear in terms of what would constitute an entertainment premises. Applicants with premises that do not constitute a night club but still wish hours outwith the standard on-sales hours will be entitled to make an application on that basis. It will be for the Applicants to demonstrate why an exception to policy hours should be made.

The removal of entertainment premises on-sales hours will not affect any premises which currently have those hours within the premises' operating plan.

Licensing Conditions for Alcohol Delivery

The Board has noted that in recent years an increasing number of premises are seeking permission to deliver alcohol to customers. The Licensing (Scotland) Act 2005 includes provisions regulating the delivery of alcohol. This includes the requirement to keep records of deliveries and the prohibition of delivering alcohol between midnight and 6am.

The draft Statement of Licensing Policy makes it clear that for a premises to carry out deliveries of alcohol then the delivery of alcohol must be listed as an activity on the Premises Licence. Deliveries can only take place during a premises' off-sales hours. The draft Statement of Licensing Policy also includes local conditions that will likely be added to any premises seeking to add delivery of alcohol as a condition.

The conditions are:

1. A robust age verification policy requires to be in place for deliveries that include alcohol and must be strictly adhered to by all delivery staff, incorporating a Challenge 25 approach. Documentation presented as verification of age requires to be of a type prescribed in the Licensing (Scotland) Act 2005 or Regulations under that Act as suitable for that purpose.
2. If the Premises uses a third party to deliver alcohol, then the licence holder must ensure that the delivery partner follows the Challenge 25 age verification process when delivering items including alcohol.
3. No delivery of alcohol should be left unattended or with a child or young person where there is no adult available to accept delivery.
4. No delivery of alcohol should be left with anyone who is visibly intoxicated or drunk.
5. Delivery of alcohol must only take place within the off-sales hours permitted by the operating plan and must not take place during any hours prohibited by the Licensing (Scotland) Act 2005.

The HSCP also recommended that the following be created as a local condition:

"Deliveries containing alcohol should only be permitted when delivering with food unless the licenced premises is a dedicated off sales premises"

This has not been included as a local condition in the draft Statement of Licensing Policy. It has been the Board's practice to consider the nature of a premises and whether a restriction should be made on a case by case base. However, the Board is not currently of the view that this should be added as a local condition.

Supplementary Statement of Licensing Policy

In 2021, the Licensing Board introduced a Supplementary Statement of Licensing Policy. This Supplementary Statement sets out issues to which the Board may have regard to when considering applications for on-sale premises seeking to extend their terminal hour to 1am or for new applications seeking a 1am terminal hour. The content of the Supplementary Statement of Licensing Policy has been added to chapter 15 of the draft Statement of Licensing Policy. In addition, “evidence of a commitment to ongoing staff training and social responsibility, including late night transport arrangements for staff” has been added to suggested measures for promoting relevant licensing objectives. It has also been made clear that the list of potential considerations will be used by the Licensing Standards Officers as a guide when discussing applications with applicants.

Scheme of Delegation

The Board is also carrying out a review of its scheme of delegation. These are the functions delegated to Officers. If consultees wish to make comments on what should be included in the scheme of delegation then reference should be made to the current scheme of delegation. A copy of the scheme of delegation can be found in the current Statement of Licensing Policy at appendix 3.

Submitting Consultation Responses

Consultation responses should be submitted by Monday 18 September 2023 by email to liquor.licensing@eastdunbarton.gov.uk or in writing to:

The Clerk of the Licensing Board
East Dunbartonshire Council
12 Strathkelvin Place
Kirkintilloch
G66 1TJ