

Orkney Islands Area Licensing Board – Public Consultation.

Licensing (Scotland) Act 2005.

Review of Statement of Alcohol Licensing Policy.

1.

Orkney Islands Area Licensing Board (the Board) is carrying out a review of its Statement of Alcohol Licensing Policy in terms of the Licensing (Scotland) Act 2005 (the Act) during 2018.

2.

The Board must ensure that its Statement of Alcohol Licensing Policy seeks to promote the five licensing objectives specified in the Act, being:

- Preventing crime and disorder.
- Securing public safety.
- Preventing public nuisance.
- Protecting and improving public health.
- Protecting children and young persons from harm.

3.

The Statement of Alcohol Licensing Policy requires to set out the policies to be applied by the Board to promote the licensing objectives when determining applications. In addition, regard must be had to Guidance issued by the Scottish Government.

4.

The Board's draft revised Policy is available as a Related Download forming part of the relevant public notice on the following Council webpage and paper copies are available on request to the contact details at the end of this document:

<http://www.orkney.gov.uk/Council/P/public-notices.htm>.

5.

Section 7 of the Act requires that each licensing policy statement published by a licensing board must, in particular, 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. Following amendments in terms of the Air Weapons and Licensing (Scotland) Act 2015, the Board may determine that the whole of the Board's area is a locality.

6.

Section 9 of the draft revised Policy indicates that on 25 January 2018, the Board determined that, for the purposes of consultation on the assessment of overprovision of alcohol licensed premises, the locality should be Orkney as a whole. A copy of the full report is available at <http://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board-25-january-2018.htm> and paper copies are available on request to the contact details at the end of this document.

7.

Section 9 of the draft revised Policy also indicates that on 3 May 2018, the Board determined that there is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.

8.

The Board concluded that there was not a dependable causal link between the evidence provided to the Board and the operation of licensed premises, to suggest that a saturation point had been reached, or was close to being reached, within the locality of Orkney defined by the Board. A copy of the full report is available at <http://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board-3-may-2018.htm> and paper copies are available on request to the contact details at the end of this document.

9.

Current Guidance issued to licensing boards by the Scottish Government under the Act provides that “the results of all consultation should be evaluated to identify robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached, always provided that a dependable causal link can be forged between that evidence and the operation of licensed premises in a locality”.

10.

The approach set out in sections 6 to 8 above does not preclude subsequent alternative findings by the Board. For example, after consideration of evidence received as a result of the consultation on the draft revised Policy, the Board could determine that a different locality or localities should apply and that overprovision of licensed premises or licensed premises of a particular description exists within that locality or those localities.

11.

However, it should be noted that each application requires to be determined on its own merits and there may be cases where the applicant could demonstrate that the grant of the licence or variation, as an exception to Policy, would not undermine the licensing objectives detailed above. A numerical limit of licensed premises or premises of a particular description in a locality cannot be set.

12.

In Orkney, there are currently:

- 16 on-sales premises with total capacity of 4,597 persons.
- 39 off-sale premises with total alcohol display capacity of 671.5 square metres.
- 46 premises licensed for both on and off-sales with total capacity of 7,159 persons and total alcohol display capacity of 357.12 square metres.

13.

Statistics relating to the geographical distribution of licensed premises in Orkney, including their capacities and operating hours, can be viewed at http://www.orkney.gov.uk/Files/Committees-and-Agendas/Licensing-Board/LB2018/03-05-2018/I05_App1_Statistics_Licensed_Premises.pdf. Members' clubs, of which there are 9 in Orkney, are not included in the statistics, in accordance with Scottish Government Guidance. Paper copies of the statistics can be provided on request to the contact details at the end of this document.

14.

The Board would like to hear from you with your views on its draft revised Policy.

15.

You can also submit your views on whether there is overprovision of licensed premises, or premises of a particular description, in Orkney or in any locality or localities within Orkney.

16.

As explained in paragraph 9 above, any suggestion that overprovision exists must be supported by robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached. There must be a dependable causal link forged between that evidence and the operation of licensed premises in a locality.

17.

Responses must be received in writing by **6 September 2018** to the email or postal addresses shown at the end of this Notice. All responses must identify the name and address of the responder.

18.

A report on the outcome of this consultation on the review of the Board's Statement of Alcohol Licensing Policy will be submitted to the Board in October 2018. The revised Policy must be in place by November 2018.

19.

Thank you for taking the time to take part in this consultation and please do not hesitate to contact this office should you wish to discuss the matter further. You can use the email address shown in paragraph 20 below or phone 01856 873535 extensions 2232 or 2229.

20.

The submission addresses referred to at paragraph 17 above are:

By e-mail to: licensing@orkney.gov.uk.

By letter to: The Clerk to the Licensing Board, Council Offices, Kirkwall, Orkney KW15 1NY.

Gavin Mitchell.

Clerk to the Licensing Board.

Corporate Services, Council Offices, Kirkwall, Orkney KW15 1NY.

4 July 2018.