

## **Appendix 3.**

### **Orkney Islands Area Licensing Board – Public Consultation. Licensing (Scotland) Act 2005 – Overprovision Assessment.**

#### **1.**

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

#### **2.**

As part of that process, the Board is first consulting on whether there is overprovision of licensed premises, or licensed premises of any particular description, in particular localities within its area. The locality can be the whole Board area.

#### **3.**

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.

#### **4.**

In the event that the Board was to consider that there were already a sufficient number of premises or premises of a particular description in a particular locality, this would be included in the Board’s statement of overprovision. This would have the effect of creating a presumption against the grant of a new premises licence application or a variation seeking to increase alcohol availability. Such applications may be refused.

#### **5.**

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.

## **6.**

On 14 March 2013, the Board determined:

- That there are no specific localities within the Board's area which should be assessed in relation to overprovision and that Orkney should be treated as a whole.
- That there is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.

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.

## **7.**

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".

## **8.**

At its meeting on 25 January 2018, the Board considered a report from its Clerk, which can be viewed at <http://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board-25-january-2018.htm>.

## **9.**

The report explained that the Clerk had conducted a preliminary statistical data collection exercise from 11 October to 1 December 2017, to request statistical data to help the Board to identify localities where there is overprovision of licensed premises, or premises of a particular description, within its area.

## **10.**

One response was received, which concluded that the respondent "was in agreement with that of the Licensing Board's decision in 2013 that Orkney was not overprovided as a whole locality. Evidence to supplement this decision has been included within this letter:

- An extract from the recent Community Justice Partnership Needs Assessment and;
- Health data pulled together from Public Health, NHS Orkney."

## **11.**

The report also provided information regarding the number and capacity of licensed premises in Orkney, being:

- 16 on-sales premises with total capacity of 4,597 persons.
- 39 off-sale premises with total alcohol display capacity of 664.78 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.

## **12.**

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/LB2018/25-01-2018/I05\\_App1\\_Statistics\\_Licensed\\_Premises.pdf](http://www.orkney.gov.uk/Files/Committees-and-Agendas/Licensing-Board/LB2018/25-01-2018/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.

## **13.**

Taking into account the contents of the report referred to above, the Board has determined to approach its identification of the locality, for the purpose of consultation on the assessment of overprovision, as the whole of Orkney.

## **14.**

The approach set out in paragraph 13 above does not preclude subsequent alternative findings by the Board. For example, after consideration of evidence received as a result of this consultation, the Board could determine that a different locality or localities should apply.

## **15.**

The Board would like to hear from you with 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 7 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 **27 March 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 overprovision assessment will be submitted to the Board in May 2018.

**19.**

Further reports will be submitted to the Board in June and October 2018 in relation to the wider consultation on the whole Policy. The revised Policy must be in place by November 2018.

**20.**

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 21 below or phone 01856 873535 extensions 2232 or 2229.

**21.**

The submission addresses referred to at paragraph 17 above are:

By e-mail to: [licensing@orkney.gov.uk](mailto: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.**

**30 January 2018.**