

◆ EDINBURGH ◆

LICENSING BOARD

J Loudon Esq., Convener
The City of Edinburgh Licensing Forum
Committee Services
City of Edinburgh Council
City Chambers
High Street
Edinburgh EH1 1YJ

Date 6 January 2012

Our Ref RJM/L/L

Your Ref

Dear John

Licensing (Scotland) Act 2005 Consultation with Local Licensing Forum

At its meeting on 28 November 2011, the Licensing Board considered a report on a proposal to publish a supplementary statement of licensing policy regarding its approach to overprovision. I am enclosing a copy of the report with this letter.

The Board resolved to consult on the proposal and the amended paragraph 9.3 attached in terms of section 6 of the above Act. It further instructed that the consultation should commence early in 2012 to avoid criticism that it had been conducted over the holiday period.

The Board is particularly interested to have views on the following questions and accordingly a separate questionnaire (enclosed) has been prepared. Please complete and return this along with any submission:-

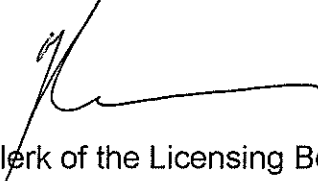
- Do you consider that there is a high level of availability of alcohol within Edinburgh?
- Do you consider that the entire area might be overprovided with off-sales premises?
- Do you consider that the applications increasing off-sales capacity in Edinburgh are likely to be inconsistent with any or all of the licensing objectives of preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and, protecting children from harm?

I look forward to learning the views of the Forum in due course. I regret that the time for consultation is short since the Board had hoped to have any supplementary policy

Robert Millar – Depute Clerk of the Licensing Board
City Chambers Business Centre G.3
249 High Street Edinburgh, EH1 1YJ
0131 529 3223 Fax: 0131 529 4207 Legal Post 4 – Edinburgh 8
Email: robert.millar@edinburgh.gov.uk

in place by end February 2012. I am therefore seeking a formal response by 17 February 2012 but if the Forum intend to make a formal response and cannot meet this date please let me know. I am not sure when your next meeting is to take place but I would be happy to attend that meeting if it would assist in answering questions from members etc.

Yours sincerely,


R J Millar
Depute Clerk of the Licensing Board

Questionnaire on Overprovision

Name

Organisation.....

1. Do you consider that there is a high or low level of availability of alcohol within Edinburgh?

- High
- Low

2. Do you consider that the entire area might be overprovided with off-sales premises?

- Strongly agree
- Slightly agree
- No strong view
- Slightly disagree
- Strongly disagree

3. Do you consider that the applications increasing off-sales capacity in Edinburgh are likely to be inconsistent with any or all of the licensing objectives of preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and, protecting children from harm?

- Strongly agree
- Slightly agree
- No strong view
- Slightly disagree
- Strongly disagree

4. Please provide any further comments below or on a separate sheet.

THE CITY OF EDINBURGH LICENSING BOARD

28 NOVEMBER 2011

SUPPLEMENTARY STATEMENT OF LICENSING POLICY 2011 - OVERPROVISION

REPORT BY DEPUTE CLERK OF THE LICENSING BOARD

Contact Officer Robert Millar, Depute Clerk of the Licensing Board (0131-529-4150)

Wards Affected City-wide

1. Purpose

- 1.1. To seek a decision from the Board on an amendment to the current Statement of Policy in relation to the issue of overprovision.

2. Recommendation

- 2.1 The Board is recommended to commence consultation on the amendment proposed.

3. Background

- 3.1 On 22 November 2010 the Licensing Board adopted and published a new licensing policy statement. In terms of section 7 of the Licensing (Scotland) Act 2005 ('the Act') each licensing policy statement must include a statement as to the extent to which the Board considers there to be overprovision of (a) licensed premises, or (b) licensed premises of a particular description in any locality within the Board's area.
- 3.2 The 2007 Ministerial Guidance suggested that the approach of the new legislation recognised that halting the growth of licensed premises in localities is not intended to restrict trade but may be required to preserve public order, protect the amenity of local communities, and mitigate the adverse health effects of increased alcohol consumption resulting from growing outlet density. The traditional approach of selecting localities by reference to the town or city centre in which the premises will be situated or by taking a radius from the application premises or site has been replaced by the requirement to conduct a detailed examination of licensed premises across a Board area and make a determination of those localities which the Board proposes to examine.
- 3.3 The Board's licensing policy statement adopted November 2010 sets out in paragraph 9 the approach then being taken to the issue of overprovision in Edinburgh. The Board indicated that it was not satisfied that it had all the information available to enable it to make a final determination and that it intended to continue consultation with the Forum, Chief Constable and other persons prior to making a final decision and if appropriate a supplementary licensing policy statement.
- 3.4 At its away-day on 14 November 2011 the Board considered a report assessing the overprovision of licensed premises in Edinburgh and instructed the Clerk to bring forward a proposal for adoption as a basis for statutory consultation on any amendment to the statement of policy. The

appendix to this report sets out the amendment proposed taking the form of a new paragraph 9.3 in place of that currently in the statement.

- 3.5 The Board will require to consult on the amendment to the statement of policy in terms of section 6 of the Licensing (Scotland) Act 2005. It is proposed to carry out this consultation in the early part of 2012 with a view to considering any comments and representations received at the meeting of the Board on 20 February 2012.

4.0 Summary of Implications

- 4.1 Finance - None
- 4.2 Personnel - None
- 4.3 Equality - None
- 4.4 Strategic Policy Objectives – None

5.0 Background Papers

- 5.1 List of premises licences in Edinburgh sorted by category (available from Clerk's office)
- 5.2 Report on assessing the overprovision of licences in Edinburgh by Jim Sherval, NHS Lothian November 2011 (available from Clerk's office)

Depute Clerk of the Licensing Board
28 November 2011

APPENDIX TO THE FOREGOING REPORT

New paragraph 9.3

During the course of 2011 a programme of work was conducted by a partnership of officers from the Board, NHS Lothian and Edinburgh Alcohol and Drug Partnership to identify further localities within the area where there may be overprovision of certain types of licensed premises. The Board have carefully considered over a series of meetings the outcome of this work in the report "Assessing the overprovision of Alcohol Licences in Edinburgh" and in supplementary analyses, and have accepted that there are localities (referred to as intermediate zones in the final report) exhibiting significant alcohol related health, crime and disorder problems. While these are not necessarily the localities with the highest number of licensed premises, the Board accepts that there is a generally high level of availability of alcohol within Edinburgh and in the view of the Board it is clear that a substantial number of individuals are travelling within the City to purchase alcohol from the large number of off-sales outlets available. There is therefore an argument that the entire area might be overprovided with certain types of licensed premises and that addressing individual localities within that area will be stigmatising to certain areas and ignore the mobility of consumers and therefore not advance the issue. The Board is aware that there is a view that the area for the assessment of overprovision cannot be the entire Board area and that the report 'Re-thinking alcohol licensing' published September 2011 incorporating thinking from an expert group on public health and licensing calls on the Scottish Government to amend current legislation to state that the locality for assessment of overprovision can be the entire Board area. The Board currently awaits the response of the Scottish Government to the recent report and will continue to monitor developments in this area. It is satisfied for the present that the terms of paragraphs 9.4 and 9.7 of this statement identify how the Board will deal with individual applications. However, the number of premises in the City whose operation includes off-sales, as highlighted by recent work, has persuaded the Board that it must consider the fine detail of any licence application or variation which would have the effect of increasing the present off-sales capacity within the area. In relation to any such application or variation the Board may well call for further reports to assist in its determination. Unless there are strong counter indications, any such application or variation will be viewed by the Board as likely to be inconsistent with one or more of the licensing objectives.