

SGF response: Overprovision of Licensed Premises

Edinburgh Licensing Board

13th May 2024

To whom it may concern,

Introduction

The Scottish Grocers' Federation (SGF) is a trade association for the Scottish Convenience store sector. There are 5,171 convenience stores in Scotland, which includes all the major symbol groups, co-ops, and convenience multiples in Scotland. SGF promotes responsible community retailing and works with key stakeholders to encourage a greater understanding of the contribution convenience retailers make to Scotland's communities.

Convenience stores are known to be economic multipliers and an important source of local employment, providing over 49,000 jobs in Scotland (Scottish Local Shop Report 2023)¹. With the UK convenience sector expected to grow to £50.9bn by 2026, the sector is more relevant than ever to every type of customer and has key social benefits and is of key economic value to the economy.

Many convenience retail businesses are operating in an extremely challenging trading environment, and the Scottish Government has acknowledged that continuing to add to the legislative burden could put businesses at risk. In addition to meeting the requirements of new regulations, such as Minimum Unit Pricing; potential restrictions to the promotion of alcohol products and foods high in fat, sugar, or salt; and the Deposit Return Scheme, the sector is among the hardest hit by issues such as food inflation, cost-of-living and rising energy costs. The cumulative cost burden of legislation on top of the pressure of these other factors are significantly adding to the vulnerability of many businesses.

SGF welcomes the opportunity to contribute to the consultation exercise and we very much appreciate our continued engagement with both the Edinburgh Licensing Forum and the members of the Licensing Board. We trust that you will find our comments helpful.



Promoting Responsible Community Retailing Since 1918

Working in partnership and prosperity to realise the benefits of retailing in Scotland



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Scottish Local Shop Report 2023

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(Answers 1-3 are included at the bottom of the page)

4. Do you think the council should continue to have areas of overprovision or should they be removed entirely?

No, I don't think we should have this classification anymore.

As set out in section 14.1 of the statement of licencing policy 2023, we recognise the Board's duty to assess overprovision under Section 7 of the Licensing (Scotland) Act 2005 in respect of licensed premises or licensed premises of a particular description in any locality within the Board's area.

We also recognise that, in determining if there is overprovision, the Board must have regard to the number and capacity of licensed premises in the locality together with any other matter the Board sees fit.

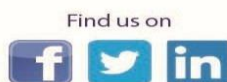
We respectfully suggest, however, that overprovision is a blunt instrument and does little to reduce alcohol related harm. Our reasons for this are detailed in the answers below.

5. Do you think there should continue to be overprovision of licensed premises in any of the localities designated by the Board as being subject to overprovision in its 2018 assessment?

Old Town, Princes Street and Leith Street	See general answer below
Tollcross	See general answer below
Deans Village (covering the Dean Village area)	See general answer below
Southside, Canongate and Dumbiedykes	See general answer below



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Section 14.4 makes the case that in these four areas, there was a dependable causal link that could be demonstrated between alcohol-related health harms and alcohol related crime and the number and capacity of licenced premises in these localities.

SGF believes there is no simple cause-and-effect relationship between the number of premises and alcohol-related problems and overall, it is becoming increasingly difficult to make a link between individual premises and problems in a specific locality. Inequality continues to be the main determining factor: alcohol-related harm in Scotland is still disproportionately experienced by those from more deprived areas.

Rather than taking a 'blanket' approach to overprovision regarding off-sales and public house type premises, the Board should continue to take into account the specific activities and mode of operation of the applicant. It is important to note that arguably the number or capacity of premises in a locality is unlikely to be the key factor in deciding whether there is overprovision. Instead, the determining factor is the extent to which there are alcoholrelated, health, and crime problems in the area. In addition, the case law has shown that a licensing board must base any decision around overprovision in a targeted, evidenced basis. Decisions from Aberdeen and Dundee have shown that selecting an arbitrary location which is not based on probative evidence would be unlawful. In addition, boards must consider the positive benefits that a thriving local convenience sector can bring to communities, and that evidence should be weighed up as part of the exercise. Our members are responsible retailers and they put considerable effort into ensuring that alcohol is sold in a responsible way.

SGF recognise the associated benefits that come from a convenience store opening in a local area. A store opening will create jobs and offer access to fruit and vegetables to the local community. The SGF Healthy Living Programme (HLP) has been successful in enabling customers to make healthy eating purchases in-store. This programme supports Scottish independent retailers in offering healthy choices to the consumer, increase sales and assist in the goal of achieving a healthy nation. HLP now has over 2,300 stores participating. This programme continues to make a positive and impactful contribution to local communities.

With 5,171 convenience stores in Scotland and with 81% of independent retailers engaged in some form of community activity in the last year convenience stores have an increasingly important role in their local communities ([Scottish Local Shop Report 2023](#)).

In addition, the SGF Go Local Programme, backed by the Scottish Government, supports convenience stores provide dedicated, long-term display space for locally sourced Scottish products. On average, participating stores generated an annual local multiplier figure of £741k, based on retail scanning data provided for all Scottish products. These initiatives may be relevant to the licensing objective of Improving and Protecting Public Health and supporting local businesses, and therefore, may be taken into account when the Board is determining whether to introduce an overprovision policy.

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Convenience stores provide a range of key services for their customers, and this includes the ability to be able to offer their customers a full range of products, i.e. giving the customer the chance to purchase an alcoholic beverage as an accompaniment with home dining. Therefore, a consequence of overprovision is that new entrants to the market are unable to obtain premises licences to authorise the sale of alcohol and are therefore, disadvantaged. The availability of alcohol in a pre-existing competitor store gives the prospective customer a reason to choose to shop there. The convenience element of being able to get their "full basket" from the competitor provides an unfair commercial advantage.

Capacity is an important issue in determining overprovision. If the entire Board area was regarded as being overprovided for, it would prevent retailers from ever increasing the capacity of their alcohol sales area. However, in practice such increases would not dramatically increase the amount of alcohol being sold. It would be a paradox if a 20m² increase in the selling area of a convenience store was counted as just as big a threat to an overprovision assessment as a new out-of-town hypermarket. Retailers frequently remerchandise and refit stores to best meet consumer needs. Most of the time these will just involve 'micro-space': keeping the existing shelving and general space splits but moving products around on the shelves. Sometimes, however, to meet consumer demand, to fit in with new brand ideas or to roll out improved formats 'macro-space' revisions are necessary. These may involve changing old shelves for new, increasing or decreasing the splits in store space between different categories, or gutting and refitting the store entirely. Extensions to the selling area might be necessary under macro-space refits. It should be noted that, of course, retailers are charged a fee for any major or minor variation to their licences.

6. Thinking about the licensing objectives above, please explain your answer to Q5.

SGF agrees with the licencing objectives set out under section 6 of the Licensing (Scotland) Act 2005 and in section 2 of the statement of licencing policy. However, we have also expressed our belief to Scottish Licensing officials that the economic benefits, employment and adjoining community services provided by a thriving local business sector should also be formally recognised as a licensing objective.

SGF promotes responsible community retailing and recognises the importance of tackling alcohol related harm, however, we believe that overprovision does not help to achieve the licencing objectives.

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Our members are responsible retailers and they put considerable effort into ensuring that alcohol is sold in a responsible way. They do this in the following ways:

- Full compliance with the Challenge 25 regulations (an initiative developed in partnership with SGF)
- Staff training
- Appropriate signage
- In-house test purchasing
- Refusal books
- Use of CCTV
- Full compliance with the store's operating plan
- Age restricted till prompts, upon customer checkout.

SGF also sits as the chair of the 'It'll Cost You' Scottish Alcohol Industry Partnership campaign. Raising awareness of issues relating to proxy purchasing and the consequences of underage selling of alcohol.

We believe that the actions taken above are necessary for achieving the licencing objectives. We suggest, however, that overprovision is a blunt instrument and does little to achieve these objectives and reduce alcohol related harm.

SGF believe that the entire concept of overprovision should be reviewed by the Licencing Authority to consider whether it remains fit for purpose. We live in an age where customers can order alcohol online as part of their shop from a supermarket and have it delivered to their home. This order can be made from anywhere given the prevalence of smartphones. Given this, what does declaring a geographical area as being overprovided for achieve? It would seem, arguable, that overprovision has not kept up with the development of modern technology and consumer shopping habits. For example, a resident may order an online grocery shop, and this could quite legitimately be dispatched from many miles away.

Being able to offer a diverse range is of paramount importance. Modern convenience stores now offer a wide range of products and services, from deli counters and coffee to collection lockers. A more restrictive range simply provides the potential customer with a reason to shop at a competitor. Whilst it is ancillary to wider ranges of grocery and retail, alcohol is an important sales category for our member's stores. A typical convenience store offers a range of at least 17 kinds of different product categories. Alcohol accounts for 15.9% of total sales turnover. 76% of convenience stores have an alcohol licence.

Creating a general presumption that no increase in alcohol capacity would be approved in the entire Board area would almost certainly mean that existing retailers would not invest in modernising and refitting stores.

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**7. Are there areas/localities that you would like to see added to our areas of overprovision?
If yes, please either describe the area or provide a postcode.**

No

8. What is your ethnic group?

Scottish

9. What religion, religious denomination or body do you belong to?

Prefer not to say.

10. What is your age?

25-34

11. Do you have any physical or mental health conditions or illnesses lasting or expected to last 12 months or more?

No

Yours sincerely,

Aidan Smith

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- SGF gives permission to the Edinburgh City Council to publish its consultation response and to share this response internally.
- SGF is also content to be contacted again in the future, in relation to this consultation exercise.