



Paper Apart.

1. Thank you for inviting responses to your overprovision consultation. We have responded online but there was not enough space provided to enable a full response to be given with a character limit of 1500. The consultation seems to be limited to a generic question on “overprovision” as a general concept rather than splitting this into premises of a same or similar type and we wonder whether the Licensing Board will no engage in a further deeper dive into this concept. It would be helpful for the evidential data that has been shared with the Licensing Board to be made available for review by third parties so that decision making on this very important point is evidence based, clear and transparent.
2. The Licensing Objectives are stand-alone legal grounds for refusal of an application for provisional or full premises licence (section 23) or indeed major variation application (section 30). While *Brightcrew Ltd v City of Glasgow* (12 May 2010) assisted with interpretation of the licensing objectives and the legal remit of same, the objectives themselves, even when limited to being linked to the sale and consumption of alcohol only, provide the Licensing Boards with a wide margin for interpretation as to what they would wish to see from Licence Holders in order for the objectives to be upheld. This, in our legal view is a much more pointed and powerful tool for the Board to use, rather than a blanket policy on overprovision.
3. When considering overprovision as a concept and keeping an eye on the Board's statutory duties enshrined within the Licensing (Scotland) Act 2005, the Board must be careful to consider whether they are being presented with true data evidence, or simply modelling beliefs. The two are very different. The sharing of data/evidence so that all parties can review and understand outcomes, would be helpful. 2
4. In considering their overprovision policy, has the Board been provided with true evidence that the current areas of overprovision have lead to a positive impact on any of the five licensing objectives? The Board must be sure that a causal link between the premises operating within the localities as defined as being "overprovided" for,; Deans Village, Old Town, Princes Street and Leith Street, Southside, Canongate and Dumbiedykes, Tollcross and the IDZ evidence provided by consultees exists. It may be very difficult to extrapolate data provided to the Board to fit to localities if this is provided for IDZ areas. It would be helpful to have updated, summarised evidence showing that the current areas of overprovision have indeed achieved their objective.
5. Any evidential data provided must also be considered in relation to the characteristics of the areas in question- including socio-economic factors. Looking at Old Town, Princess Street, Leith Street form part of the City Centre (Ward 11), it stands to reason that this part of Edinburgh will have higher than "average" positive and negative statistics and “higher than average” number of licences within its boundary. This is the commercial heart of the city in many ways. In which case, a blanket "rebuttable presumption" against the grant of a licence causes more harm than good to the city. The huge tourist element and transient nature of the population coming into and out of the city centre is incredibly important to the overall positive character of

Scotland's capital city. Those huge fluxes in visitor numbers need to be supported by an excellent offering from hospitality and tourism. People come into Edinburgh to spend money



and enjoy our hospitality. Without that, the city cannot thrive. To be able to provide for people to eat and drink, those premises require alcohol licences.

6. The Board has been hamstrung over the years by a policy perhaps not fit for purpose and essentially a blunt tool. The concern surrounding whether a licence will indeed be granted has put off inward investment into Edinburgh by the sheer inability to confirm to clients that there is a definite positive outcome where the application site is in an area of overprovision. In cases where thousands, if not millions are being spent, that is too much of a risk. Being able to provide the Board with the required "branch" on which to hang a grant is incredibly hard, ever more so when the evidential analysis sitting behind the current statement of policy is out of date.
7. Amount of Investment, type of provision, design of premises and operation are all commercial decisions for operators. However, the market that they operate within defines their success or failure. Those visiting premises in Edinburgh have a finite purse. They embark on their patronage knowing how much they can reasonably spend. Additional premises within an area give choice, they do not increase consumption per se. The consumer cannot go above the finite purse, but they do choose where they do spend carefully. In this regard, we do not agree with the statement that increasing availability of alcohol leads to increased consumption, there are many things that impact consumption levels and these need to be looked at individually. Consumer choice is key and market forces are strong, ever more so.
8. Limiting investment and investors bringing new ideas into Edinburgh stifles progress and without money being put into existing premises, the city will simply lose vibrancy. Lothian Road is an example of a street where changes in investment and attracting differing offerings has really paid off. Curtailing hospitality, limiting licences, capacity or hours has a huge impact on the economic progression of Edinburgh and in our submission does not have the positive outcomes, linked to the five licensing objectives that the Board desires.

End.