

***Aberdeenshire Licensing Boards***  
***Central Aberdeenshire Divisional Licensing Board***  
***Supplementary Statement of Licensing Policy***  
***Duty to Assess Overprovision***  
***30<sup>th</sup> November 2013 – 29<sup>th</sup> November 2016***

**Overprovision**

- 3.1. Section 7 of the Licensing (Scotland) Act 2005 requires the Board to have a policy stating the extent to which the Board considers there to be an overprovision of licensed premises or licensed premises of a particular description, in any locality within the Board's area. In determining whether or not there is overprovision the Board must have regard to the number and capacity of licensed premises within the locality, although Members Clubs are discounted. As with the remainder the Board's Policy Statement the Overprovision Assessment must also seek to promote the Licensing Objectives.
- 3.2. The presumption under the Licensing (Scotland) Act 2005 is that an application for a premises licence should be granted unless any of the grounds for refusal apply such as being inconsistent with any of the Licensing Objectives or the Board considers the locality over provided.
- 3.3. Scottish Government Guidance to Licensing Authorities in relation to overprovision makes it clear that there must be robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached and a causal link must be identified between that evidence and the operation of licensed premises in that locality.

**Duty to Consult**

- 3.4. Section 7 of the Act places a duty on the Board to consult with the Police, Health Board, Premises Licence Holders, persons resident within the Board's area and such other persons as the Board thinks fit. More detailed information on who the Board has consulted in relation to preparation of this Policy can be found in Supplementary Policy 2.
- 3.5. In addition the Board has considered the following documents when preparing this statement:-
  - The Board's table of Licensed Premises.
  - Capacity figures for On and Off Sale Premises.
  - Citizens Panel Survey Responses
  - NHS Grampian Public Health Directorate Survey Response and Separate Consultation Response
  - Police Scotland Survey Response and separate Consultation Response
  - Scottish Index of Multiple Deprivation figures
  - Board's Record of Variations
  - Alcohol Focus Scotland's Consultation Response

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- 3.6. The Board requires to define the localities within the Board's area and has decided that the localities should remain the Council Wards as follows:-

### National Average - 39 (41)

#### Central Board Area

	<u>No of Premises (ex clubs)</u>	<u>Premises per 10,000 Population</u>
<b><u>Mid Formartine</u></b>		
15,957 (8,500 )	30 (29)	19(34)
<b><u>Ellon &amp; District</u></b>		
12,985 (10,000 )	23 (20)	18 (20)
<b><u>West Garioch</u></b>		
10, 178 (6,500)	13 (13)	13 (20)
<b><u>Inverurie &amp; District</u></b>		
13,221 (12,500)	41 (33)	31 (26)
<b><u>East Garioch</u></b>		
11,336 (9,000)	11 (11 )	10 (12)
<b><u>Westhill &amp; District</u></b>		
15,788 14, 000	23 (22)	14 (16)
<b><u>Huntly, Strathbogie &amp; Howe Of Alford</u></b>		
15,688 (13,000 )	37 (38 )	23 (29)
<b><u>Aboyne, Upper Deeside &amp; Donside</u></b>		
11,311 (500)	3 (3)	<1 (<1)

- 3.6.1. NB - the small part of Aboyne, Upper Deeside & Donside which falls within the Board's jurisdiction is a sparsely populated rural area in which tourism plays an important role in the local economy, and 3 licensed premises in said area is not seen as cause for concern in terms of overprovision.

*\* The figures shown above in brackets are the figures from the Board's previous policy statement.*

Aberdeenshire Central Divisional Board Premises

Year	On	Off	Both	Provisional	Total	Total including clubs
2011	31	65	73	0	169	198
2012	33	68	72	1	174	204
2013	37	69	73	2	181	207

**3.7 Assessment of Evidence**

The board considers all evidence before it in formulating this Policy. As the Board is under a duty to promote the Licensing Objectives the Board considered the evidence in relation to those objectives.

3.8 The Board has summarised some of the important parts of the evidence submitted below in relation to the Licensing Objectives. The Board would stress that this is a summary only and that all of the evidence published on the website was taken into consideration.

**3.9 General Assessment**

The general evidence presented a mixed response to the Board with opinions ranging from a perception that the current provision was adequate, to a concern over the number of premises closing down, to concerns over the operation of Off sale premises. The Board had requested evidence to support any such perceptions but did not receive any and so the weight which would be given to these responses was fairly limited.

3.10 The tables depicted earlier indicate a slight increase in the number of licensed premises but with one exception, a reduction in the number of licensed premises per head of population. Statistics indicate the national average has also decreased and each of the localities in the Board's area registers considerably below the national average.

3.11 The Board considers comparison with other areas of Scotland which share the same legislative and cultural background to be more relevant than comparison with other countries in which different factors and cultures may prevail. Current evidence indicates that Central Aberdeenshire fares well in such comparison and there is nothing before the Board to suggest any imminent change to this position.

3.12 Off sale capacity figures have proved difficult to evaluate as a result of differing approaches to measuring capacity contained in applications. To ensure this issue is resolved for future exercises the Board will only accept capacity figures calculated in square metres in all future applications.

**Licensing Objective - Preventing Crime & Disorder**

3.13 The response from Police Scotland raised a number of matters:-

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- The percentage of crimes and offences linked directly in the Crown file system to licensed premises was very low, although this is likely to be under recorded.
- In areas which have a high density of licensed premises the ability to attribute crimes and offences which have occurred on the street or open space nearby is very difficult.
- A high percentage of accused persons were either drunk or under the influence of alcohol when committing the identified crimes and offences which indicates that alcohol is still a major factor in the commission of crime as is the case in the rest of Scotland. Attributing the supply of alcohol to specific premises is however complex.
- There is no indication from the data and crime statistics that there is overprovision of licensed premises in the Central Board area.

3.14 Incidences of crime and anti social behaviour recorded by Police Scotland in relation to the Board's area are very low and although it is difficult to attribute instances directly to licensed premises there is no indication from the statistics that there is overprovision within Central Aberdeenshire.

3.15 There have been three reviews sought by Police Scotland in relation to the Prevention of Crime & Disorder Licensing Objectives which led to two premises having their licences varied temporarily and a third premises suspended for a period of time.

3.16 No evidence was submitted to the Board to indicate that there were major problems within antisocial behaviour in any of the Board's localities.

**Conclusion** - There is little evidence of harm in relation to the Prevention of Crime and Disorder Licensing Objectives within the Board's localities.

### **Licensing Objective - Securing Public Safety**

3.17 As previously stated the number of licensed premises per head of population has decreased in all but one of the Board's areas. No evidence has been received that there are any issues relating to public safety in any of the Board's areas.

3.18 There have been no Premises Licence reviews sought on the grounds of this Licensing Objective.

**Conclusion** - There is little evidence of harm relating to the Securing of Public Safety Licensing Objective within the Board's localities.

### **Licensing Objective - Preventing Public Nuisance**

3.19 There have been very few complaints relating to public nuisance in any of the Board's areas. Where complaints have been received these have been satisfactorily resolved through mediation for the most part.

3.20 There have been no crime statistics relating to public nuisance submitted by Police Scotland.

- 3.21 There have been three Premises Licence Reviews which included the Licensing Objective of Preventing Public Nuisance as a grounds for review. Two of the applications resulted in a temporary variation of the Premises Licence and a third led to a period of suspension.

**Conclusion** - There is little evidence of harm arising from Prevention of Public Nuisance Licensing Objective within the Board's localities.

### **Licensing Objective - Protecting and Improving Public Health**

- 3.22 The Board acknowledges that national statistics evidence a general concern between the availability of alcohol and alcohol related harm, particularly in relation to Off sale premises.
- 3.23 The Board notes the figures provided for hospitalisation rates for Aberdeenshire as a whole which equate to approximately 0.37% of the population. The figure has not been broken down for Central Aberdeenshire but as the Aberdeenshire figure is at a low level there is no evidence to suggest that levels of harm within Central Aberdeenshire or any of the Board's localities are sufficient to warrant a finding of overprovision.
- 3.24 The Board considers that the statistics provided raised general concerns but there is no clear evidence to suggest a casual link to alcohol related harm within any of the Board's localities. The Board does retain the power to review Premises Licences where evidence emerges that such premises are adding to alcohol related harm.
- 3.25 There have been no reviews citing this Licensing Objective as a ground for review.
- 3.26 The Board has received one representation from NHS Public Health Directorate to an application for a Major Variation. This was resolved to the satisfaction of the Directorate without requiring a hearing.
- 3.27 The Board did not believe that the evidence submitted warranted a cap on floor space given over to alcohol display. There was no evidence to suggest a premises with a larger floor area for alcohol display sold a greater volume of alcohol. Currently there is no legal requirement for premises to disclose volume of alcohol sold.
- 3.28 In order to facilitate a more accurate comparison of the information that does require to be provided, the Board will only accept capacity figures in square metres for Off sale premises in all future applications.
- 3.29 The Board also notes the statistics regarding the percentage of the population residing within a certain distance of licensed premises but is unaware of any evidence to suggest those people necessarily obtain alcohol from such premises.

**Conclusion** - Whilst the Board accepts that there is evidence linking the availability of alcohol to alcohol related harm in general there is insufficient direct evidence that suggests that the levels of harm within the Board's localities are of such a level that saturation point has been reached or is imminent.

**Licensing Objective - Protecting Children from Harm**

- 3.30 Evidence from Police Scotland and Licensing Standards Officers supports the position that Challenge 25 under Mandatory Conditions relating thereto are being implemented within all licensed premises in Central Aberdeenshire.
- 3.31 There have been no Premises Licence reviews citing this Licensing Objective as a grounds for review.

**Conclusion** - There is no evidence of harm relating to the Protecting Children from Harm Licensing Objective within the Board's localities.

**Final Conclusions**

- 3.32 Taking into account the number and capacity of licensed premises within the Board's localities and having considered the evidence submitted in relation to the promotion of the Licensing Objectives, the Board finds that no evidence providing a dependable casual link with the operation of licensed premises to suggest a saturation point has been reached or is close to being reached within any of the localities. Similarly there is no evidence that the operation of licensed premises is causing excessive harm within those localities.
- 3.33 Whilst determining that there are currently no localities which are overprovided, the Board considers in general terms that there is a link between the numbers of off sale premises in particular and concern for one or more of the five licensing objectives.
- 3.34 The Board will continue to consider each application on its own merits to ensure that any increase in the number of premises or capacity, whether on sale or off sale, will not be inconsistent with any of the Licensing Objectives.
- 3.35 The Board will continue to work with partner agencies to monitor the effectiveness of this policy and revisit it should it become necessary.