

Dear Convener

I refer to your letter of 10 April 2019 and would respond to the questions as follows:

- 1. What Boards see as the main challenges and opportunities to delivering public health objectives via the licensing system**
 - a. Does the Board feel confident to pursue public health objectives and to mitigate public health risks, via the licensing system**
 - b. Do current laws and policies empower Boards, in appropriate cases, to refuse applications on grounds of overprovision (and the negative public health consequences associated with that or whether they constrained in doing so because the law is insufficiently robust and clear on this point**

The Board first considered the question of whether there was overprovision of licensed premises in its area in 2013. At that time, the Board considered evidence submitted by NHS Highland and Police Scotland relating to various aspects of alcohol related harm. It demonstrated widespread alcohol related health harm in Highland and indicated that off sales accounted for over 2/3 of the volume of alcohol purchased and the majority of this was from larger capacity off sales premises. The Board considered in the interest of protecting and improving public health that there was a need to restrict the grant of further large capacity off sales premises (premises with alcohol display areas exceeding 40 square metres). This was considered necessary and proportionate to mitigate the adverse health effects of increased alcohol consumption resulting from further growth in numbers of larger capacity off sales premises albeit it could not apply this decision retrospectively. On reassessment of numbers and capacities of licensed premises in 2018, the Board agreed to retain their existing policy.

In addition, the Board encourages licence holders to have in place other control measures which it may not be possible to impose as licence conditions but are likely to assist in improving public health. The Board set out in their recent policy statement examples of these control measures which includes making available information promoting moderate drinking, recommended guidelines and awareness of units of alcohol and designated driver schemes. It also encourages licence holders to have a policy to deal with patrons who have consumed excessive alcohol (where not already required by the local condition of staff duty of care) and maintaining toilet facilities to a high standard of cleanliness.

The Board has had to determine a number of major variation applications from supermarkets who have sought to overcome the rebuttable presumption against the grant of an application when applying for an excess of 40 square metres off sales display capacity. Since 2013, the Board has not granted any application applying for

an off sales display capacity in excess of 40 square metres based on the terms and reasoning of their policy.

Consequently, I would agree that the Board feels confident to pursue the public health objective and to mitigate public health risks via the licensing system when faced with an application that involves overprovision based on the terms of their policy.

However, the Board faces more difficulty when considering refusing applications on the basis of the public health objective for other situations for example an application seeking to increase licensed hours outwith the terms of the Board's policy. It is much easier for the Board to link a refusal to other licensing objectives i.e. preventing crime and disorder or securing public safety. This is largely due to the fact that Police can speak to specific incidents that have occurred rather than linking the evidence to the wider public health objective which is harder to define. It is also very difficult to link the risk to public health specifically to one premises.

In addition, when considering how to promote the public health licensing objective, one issue that has been raised within our Board is the standard for first aid cover which refers to the requirement for a current qualification. When people are being dealt with in an alcohol fuelled environment, it is questioned whether the standard should be more prescriptive in specifying a qualification, for example a module in respect of first response to persons affected by alcohol.

2. What role, if any, Boards could have in working with Community Planning Partnerships (CPP's) to advance public health objectives

I agree that more public engagement is beneficial to help local communities fully understand the liquor licensing regime and could help these communities consider the impacts of alcohol and advancing the public health objectives. However, I believe that the first issue that needs to be tackled is more guidance from the Scottish Government as to what evidence can be specifically attributed to the public health objective that would be considered a robust reason for refusal.

Given the organisations involved in a CPP, it is a very similar setup to the local licensing forum and could result in an unnecessary duplication of roles. In addition, given the geographical area of the Highlands I would question the practicalities and logistics of the Highland Licensing Board's involvement in a Community Planning Partnership and the resources available to implement this across all local communities within the Highlands.

3. Licensing Standards Officers

- a. How many are in post**
- b. Has there been an upward or downward trend in numbers since the post was created under the 2005 Act**
- c. Is the post adequately resourced in our area to enable officers to exercise their duties effectively**

We currently have two Licensing Standards Officers (LSO's) in post for the whole of the Highland Council area.

There has been a downward trend in numbers since the post was created. Four LSO's were originally appointed throughout the Highlands in 2008 and were based in Inverness, Dingwall, Fort William and Wick. However, one LSO retired in 2012 and the position was not replaced. A second LSO took voluntary redundancy in 2016. As a result, this reduced the Highland Council to two LSO's with work being split into two areas for cover as follows:

North - Caithness, Sutherland, Ross, Skye and Lochalsh South - Inverness, Nairn, Badenoch and Strathspey and Lochaber

Given that the Highland Council area extends to 26,484 square kilometres – one third of the land area of Scotland with an estimated population of 233,100, it is a vast area for two LSO's to cover. There are approximately 371 premises licenced to sell alcohol for consumption on the premises, 323 premises licensed to sell alcohol off the premises only and 550 premises to sell alcohol for consumption both on and off the premises. This provides a huge volume of work and travel for the two LSO's in post. However, they carry this out very effectively given the demands and lack of resources they are faced with.

Yours sincerely

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Clerk to the Highland Licensing Board