

**Shetland Islands Area Licensing Board
Joint meeting with the Local Licensing Forum
Council Chamber, Town Hall, Lerwick
Tuesday 14 August 2018 at 10 a.m.**

Present (Board):

A Cooper S Leask
I Scott B Wishart

Present (Forum):

V Adamson, Families Affected by Alcohol and Drugs
E Burgess, Personal Licence Holder
D Clubb, Person Resident in Forum's Area
D Leask, Chair of the Local Licensing Forum
D Manson, Licensing Standards Officer
W McConnachie, Health
L Moar, Licensing Standards Officer
B Peterson, Person Resident in Forum's Area
E Robinson, Representative of the Health Board
M Summers, Team Leader – Youth Services
S Thomason, Member of Scottish Youth Parliament
Chief Inspector Tulloch, Police Scotland

Apologies (Board):

M Bell C Hughson
G Smith C Smith

Apologies (Forum):

Insp Brill, Police Scotland
J Edwards, Education
R Hunter, Person Resident in Forum's Area
L Odie, Person Resident in Forum's Area
M Barrie, Personal Licence Holder
G Hepburn, Personal Licence Holder
M Nicolson, Chief Social Work Officer

In Attendance (Officers):

P Wishart, Solicitor
L Malcolmson, Committee Officer

Also:

C Campbell, NHS Communications Officer

Chairperson

Mr I Scott, Convener to the Board, presided.

Circular

The circular calling the meeting was held as read.

Declarations of Interest

None

Minutes

The Committee approved the minutes of the meeting held on 31 October 2017 on the motion of Ms Manson, seconded by Mrs Leask.

Licensing (Scotland) Act 2005, New Three Year Policy Statement - 2018/2021, Overprovision Assessment

The Board considered a paper by the Depute Clerk to the Board, which presented the New Three Year Policy Statement – 2018/2021 and Overprovision Assessment.

The Solicitor introduced the paper and opened the matter up for discussion.

During full and lengthy discussion around the effects of alcohol consumption the Health Board sought from the Shetland Islands Area Licensing Board that it declare within its new Three Year Policy Statement that there is overprovision of off sales in Lerwick. In support of this, comment was made on the success of legislation implemented to address other health concerns such as seatbelt legislation and the reductions in deaths seen from road traffic accidents as well as the no smoking in public places ban that has seen a reduction in the number of smokers in Shetland. Police Scotland supported the comments made in this regard and further informed that evidence and statistics clearly show that alcohol is damaging to communities in Shetland and that issue had to be addressed. It was noted that from a Community Safety perspective there had been a reduction in crime and disorder in the last 5 years but police resources were being used to police licensed premises, through doubling of shifts to visit licensed premises. It was acknowledged that this had a knock on effect to other police priorities such as road safety, vulnerable people and stopping drugs coming into Shetland. Comment was made that more needs to be done around how alcohol is sold, with more family friendly places and more robust thought given to the 5 public health priorities. The prevention of crime and disorder was also seen as an issue that required consideration around robust conditions in place such as CCTV, door stewards, keeping people safe, and putting more responsibility on licensees.

In support of comments on the overprovision of off sales, Member of the Forum gave a very personal, first hand, account of the impacts on families where a parent is an alcoholic. But in addition to the impact on those closest to the individual the significant cost to the NHS was highlighted in terms of providing support on an ongoing basis as well as the cost of providing detox services. During this account comment was made that staff in pub settings do refuse to serve customers but an experience was relayed where an off sales establishment had physically assisted the parent, was severely under the influence of alcohol, to purchase alcohol and who was then physically assisted back to a waiting taxi. It was asserted that off sales providers should be required to take a more responsible approach.

Another account was given by the Chair of the Local Licensing Forum where she had been approached by individuals who have a problem with alcohol who had indicated that there are only a small number of shops that they can buy groceries that do not sell alcohol. The Licensing Standards Officer advised that the only shop in Lerwick that does not sell alcohol, where it is possible to buy a weekly shop is Bolts Mini Market. It was also stated that some individuals are changing their walking routes to avoid alcohol outlets so that they are not tempted when passing such premises.

Comment from the Chair acknowledged the variety of measures undertaken in other areas in regard to overprovision and in one area no more licences are to be granted. He said however that he had yet to be convinced that such a constraint in Lerwick would be beneficial to people in other areas in Shetland, and that you can expect a higher figure of outlets due to the density of the population.

Further discussion took place around the need for a change in attitudes towards alcohol, the continued approach to education and consideration was given to how the British culture of drinking to get drunk differs from Scandinavia where alcohol sales is highly regulated, and to France, where alcohol is part of their lifestyle.

Advice was sought on what would be achieved by the Licensing Board making such an overprovision statement within its Licensing Policy. The Solicitor advised that it would create a rebuttable presumption that no licence would be granted. The Board would however have to consider every application on its merits but the onus would be on the applicant to bring forward evidence to overcome that presumption. He said that it would bring more detail to the meeting on how the licensee would meet the licensing objectives.

It was noted at a recent meeting of the Forum that more guidance is required on the definition of “overprovision” but the Solicitor advised that the Scottish Government had not wanted to be too prescriptive in its legislation and did not want to take away, from Licensing Boards, the ability to make policies within their own localities. The Solicitor further advised on recent cases and suggested that to have a policy in place that is overturned in light of earlier judgements would not be an advisable position. He said that, in his experience, the Shetland Islands Area Licensing Board takes overprovision seriously, and gives the matter due consideration with each application.

Further comment was made on the direct causal links of over consumption of alcohol and the direct links to harm. It was acknowledged that there were many stories to support behavioural science and arguments and that as a result the NHS continue to argue for better controls. Marketing of alcohol was noted as also having an impact on behaviours but the shift in consumption to pre-loading before going out to pubs was seen as a concern. It was noted that middle aged consumers were now looking for a better experience where good food is available and drinking is more about enjoying the taste. It was noted that most of the pubs in Orkney sell food providing a more social experience. Discussion also considered that even if a restriction was to be put in place consumers would seek out alcohol but this was countered with an argument that alcohol is being normalised and that this is being witnessed by the youngest generation but through policy, attempts should be made to readdress that balance.

In concluding the discussion education was again discussed with particular interest in off sales licence holders taking more responsibility in the sale of alcohol. It was noted that there is support through the Licensing Standards Officers in terms of visiting premises, and the suggestion was made that changes to the application process could be effective if more information is sought on how the licensing objectives will be met, at that stage.

The Chair advised that the Board would consider the matter of overprovision and the comments made, when the Statement of Licensing Policy is considered for approval at a future meeting.

Personal Licence Holder - 10 year Renewal

The Board considered a paper by the Depute Clerk to the Board, which provided information concerning the renewal of Personal Licences.

The Licensing Standards Officer introduced the item and advised that there will be a lot of Personal Licences up for renewal shortly, and that the document provided important dates to be adhered to. The Licensing Standards Officer advised that all Personal Licence Holder would receive a letter and training would have to be undertaken. She noted however that there is only one training provider and contact should be made to ensure training is undertaken in time.

There being no questions the Chair thanked the Licensing Standards Officer for bringing this matter to the attention of the Board and Forum.

NHS Health Promotions within Licensed Premises

The Board considered a paper by the Depute Clerk to the Board, seeking a discussion on how licenced premises may be able to support NHS Health Promotions.

The Solicitor introduced the paper and advised that following a suggestion by the NHS that a condition be applied to applications “that staff clearly understand how to recognise problem drinking and know where to direct customers for help and support if required. NHS Shetland can provide small cards and information which we suggest should be clearly displayed in any premises that sell alcohol”. The Solicitor advised that the Board held the view that it was not appropriate to apply such a condition to new applications in isolation where it should also apply to all existing premises licensees. The view of the Board was that this request from the NHS was worthy of wider discussion with the Forum to see if a voluntary agreement may be possible. He advised therefore that the opportunity had been taken to bring this matter before the annual joint meeting for early consideration.

Concern was expressed by the Health Board representative that this item had been presented with no prior consultation with the Health Board. However during discussion she indicated that the Health Board would prefer that the condition be imposed rather than a voluntary arrangement made. After describing the current yearly cost of patients attending hospital due to alcohol related illness, not including the costs associated with A&E attendance and community health input, the Health Board representative advised that the Health Board does not have the money to spend in this area and that licensed premises should be compelled to adhere to a condition and contribute financially towards it.

In response to a question the Solicitor advised that it is not possible to impose a condition on existing licences as the opportunity to include conditions is when the application is in front of the Board for consideration. He said that the Board had not considered it reasonable to impose such a condition on new applicants where it could not be imposed across all licence holders.

During discussion around whether it was possible to have the condition applied to future applications but a voluntary agreement with existing licence holders, the question was asked of the Health Board representative if there had been an attempt by the NHS to seek such a voluntary arrangement directly with license holders. The Health Board representative advised that this had been done in other areas of Scotland on both a voluntary and compulsory basis, which had been helpful to raise awareness and self-referrals.

Licence holders were asked for their views on such a scheme, and in response the Board heard how, from an on-sales perspective many staff do a lot of work in this area already by refusing service. For regular customers staff do unofficially have discussion with customers where a rapport has built up. It was suggested however that if certain customers were to be handed a leaflet or information card it was likely to be put in the bin. There was general agreement however that the display of posters would be no problem but a Personal Licence Holder said that he would not feel it appropriate, as a non-professional, to approach an individual and comment on their level of drinking. It was also acknowledged that staff at the Dowry give advice to customers on the alcohol content of the craft beers and spirits on sale and that half pints of beer are offered to allow customers to enjoy the experience without consuming too much. Building relationships with customers was seen as important from the protection of vulnerable adults point of view rather than providing individuals with written information which is easily discarded.

The Health Board representative advised that she would take the issue back to the Alcohol and Drugs Forum to discuss this in more detail and to look at possible sources of funding.

A suggestion was made that training around this subject should also be provided as part of the Personal Licence holder training to empower them and to make raising issues easier if trained and supported. It was also suggested that for off sales more was needed in terms of training in that area.

AOCB

E-cigarettes in Public Places

At the request of the Chair the Solicitor provided advice on whether there could be a ban on the use of e-cigarettes in public places. The Solicitor advised that it would not be possible to impose such a condition where the matter is regulated under another enactment in legislation. It was acknowledged that locally licensees view the use of e-cigarettes in the same way as they do with cigarettes and that there is an expectation that they are for use outwith premises. The Board was advised that the Scottish Government are working on a ban of e-cigarettes in public places.

The Chair thanked everyone for attending the meeting.

The meeting concluded at 11.20 am.

Convener