

THE MORAY LICENSING BOARD

THURSDAY 3 OCTOBER 2013

NOTICE IS HEREBY GIVEN that the Meeting of **THE MORAY LICENSING BOARD** is to be held within the The Moray Council, Council Chambers, High Street, Elgin on Thursday 3 October 2013 at 10.00am


Rhona Gunn
CLERK

25 September 2013

BUSINESS

1. Prior Minutes
 - (i) Minutes of the Meeting held on 15 August 2013 (copy attached)
 - (ii) Minutes of the Special Meeting held on 24 September 2013 (copy attached)

The Licencing (Scotland) Act 2005

2. Applications Section– Appendix 1
3. Premises Licence Review Hearing – Case Number 1 of 2013 Continuing Review Following Application for Review by Chief Constable – Report by the Clerk (verbal update)
4. Personal Licence Review Hearing Following Application For Review by the Chief Constable (Case Number 2 of 2013) – Report by the Clerk (copy attached)
5. Statement of Policy – Report by the Clerk (copy attached)
6. Licensing Bill – Further Options for Alcohol Licensing – Report by the Clerk (copy attached)
7. Christmas/New Year Arrangements 2013/2014 – Report by the Clerk (copy attached)

Public Records (Scotland) Act 2011

8. The Moray Council and Moray Licensing Board Records Management Plan 2013 – Report by the Clerk (copy attached)

The Regulatory Reform (Scotland) Bill

9. Primary Authority Arrangements for Devolved Matters in Scotland – Report by the Clerk (copy attached)

CONTACT PERSON:	Rhona Gunn
Telephone No:	01343 543451 Ext 3152- Direct Line: 563152
Room No:	102

THE MORAY LICENSING BOARD

SEDERUNT

COUNCILLOR J ALLAN

COUNCILLOR G ALEXANDER

COUNCILLOR S CREE

COUNCILLOR M HOWE

COUNCILLOR B JARVIS

COUNCILLOR A MCLEAN

COUNCILLOR M McCONACHIE

COUNCILLOR R H SHEPHERD

COUNCILLOR C TUKE

CLERK TO THE BOARD: Mrs R Gunn

Telephone No: 01343 543451 Ext 3152 - Direct Line: 563152

Room No: 102

APPENDIX 1

Key to Colour Coding of Applications within Appendices to the Agenda of Business for the Moray Licensing Board

All matters are to be heard by the Moray Licensing Board and the Moray Licensing Board has the final decision. However, in accordance with Government Guidance and locally agreed procedure, applications may be submitted to the Board with a general recommendation.

Please note that colour coding may be subject to change given the nature of the licensing procedure. Documents may be received and/or negotiations resolved following publication of the agenda.

RED

Indicates that the application will normally require to be heard, whether by virtue of general procedural rules or as a result of problems arising. There may be ongoing negotiations to resolve problems.

YELLOW

Indicates changing circumstances with the application. It is not ready to be granted at the time of publication but there are not normally major problems e.g. procedural issues or ongoing negotiations. Applications will normally be submitted with recommendation for grant or deferral.

GREEN

Indicates that all is in order with the application. All documents have been received and checked. All procedures have been followed. There are unlikely to be any representations, objections or problems or the same have been resolved. It is being submitted with a recommendation for grant but members are free to make enquiries as they see fit.

MORAY LICENSING BOARD LICENSING BOARD

MEETING, at in

Licensing (Scotland) Act 2005

New Grant(s)	Premises	Applicant	Date Received	Comments
1	BIJOU 8-10 BATCHEN STREET ELGIN IV30 1BH	POZZI LTD	23 August 2013	New licence application Site visit completed. S50 certs received.
2	SPAR 183 MID STREET KEITH AB55 5BL	PAUL MCBAIN (PARTNERSHIP)	30 August 2013	New licence application. Site visit completed. Applicant aware of requirement for S50 certs.

MORAY LICENSING BOARD LICENSING BOARD

MEETING, at in

Licensing (Scotland) Act 2005

Variation (Major)(s)

Premises Applicant Date Received Comments

3 HARBOUR LIGHTS
5 PITGAVENY QUAY
LOSSIEMOUTH
IV31 6TW

MARIXIN INVERNESS LIMITED

29 August 2013

Variation to extend premises
therefore increasing capacity.
Site visit completed.
No obs/reps

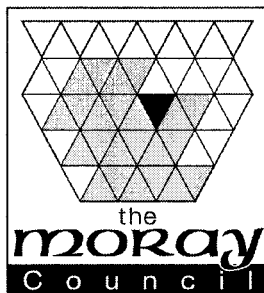
MORAY LICENSING BOARD LICENSING BOARD

MEETING, at in

Licensing (Scotland) Act 2005

Variation (Major) on Transfer(s)

Premises	Applicant	Date Received	Comments
4 CRAIGELLACHIE HOTEL VICTORIA STREET CRAIGELLACHIE ABERLOUR AB38 9SR	OXFORD HOTELS & INNS MANAGEMENT LIMITED C/O MACGREGOR THOMSON LIMITED FORSYTH HOUSE LOMOND COURT CASTLE BUSINESS PARK	4 September 2013	Variation to change layout and child provisions and to vary hours on Sunday from 12noon to 11am. Site visit completed. No obj/rep



ITEM: 4

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REPORT TO: THE MORAY LICENSING BOARD 3 OCTOBER 2013

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – PERSONAL LICENCE REVIEW HEARING FOLLOWING APPLICATION FOR REVIEW BY THE CHIEF CONSTABLE (CASE NUMBER 2 OF 2013)

BY: CLERK TO THE BOARD

1. Reason for Report

1.1 The Licensing (Scotland) Act 2005 section 84A provides that the Chief Constable has the power to report conduct inconsistent with the licensing objectives.

1.2 This report is to notify the Board:

1.2.1 That the Chief Constable has provided a report under section 84A as he considers that the personal licence holder (case number 2 of 2013) has acted in a manner which is inconsistent with the licensing objectives of preventing crime and disorder, securing public safety and preventing public nuisance;

1.2.2 That, as a result, s. 84A(2) of the Licensing (Scotland) Act 2005 requires the Board to hold a hearing to consider and determine whether any further order should be made in respect of the personal licence for the purposes of any of the licensing objectives.

2. Recommendations

It is recommended that the Board:-

2.1 Note the requirement to hold a review hearing following the report by the Chief Constable;

2.2 Note any recommendations from the Chief Constable, hear from appropriate person(s), consider the matter and determine whether one of the possible orders set out in paragraph 3.4 is necessary for the purposes of any of the licensing objectives;

3. Background

- 3.1 On the 19th December 2013 the Clerk received a report under s 84A from the Chief Constable. On the 17th January 2013 the Board agreed to defer the hearing until 20 June 2013. At their meeting of 20 June 2013 the Board agreed to further defer the hearing until 3 October 2013.
- 3.2 A copy of the report referred to in paragraph 3.1 above has been separately circulated to members. It should be noted that in this case the Chief Constable has included a recommendation for revocation.
- 3.3 This report is to notify the Board of the requirement under s. 84A(2) of the Licensing (Scotland) Act 2005 to hold a hearing as a result of receipt of the Chief Constable's report.
- 3.4 At the hearing the Licensing Board may, after giving the licence holder concerned, the Chief Constable and any other person(s) the Board consider appropriate an opportunity to be heard and if satisfied that it is necessary to do so for the purposes of any of the licensing objectives make one of the following orders:
- 3.4.1. revoking;
- 3.4.2. suspending for such period, not exceeding 6 months, as the Board considers appropriate; or
- 3.4.3. endorsing;

the personal licence held by the licence holder concerned.

- 3.5 The Licensing (Scotland) Act 2005 provides for a system akin to driving licence endorsements whereby an endorsement will remain on the licence for 5 years from the date of endorsement. If at any time a licence holder amasses 3 endorsements then the Board must hold a further hearing to determine whether to suspend or revoke the licence.

4. Implications

(a) **Single Outcome Agreement / Service Improvement Plan**

In the exercise of functions under the Licensing (Scotland) Act 2005 the Licensing Board is to have regard to and promote the licensing objectives which are:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The licensing objectives closely reflect some of the objectives of the Community Plan and are intended to promote community involvement and

prevent the consumption of alcohol from being the source of nuisance, anti-social behaviour and harm. This is also true of the social inclusion and environmental aspects of the Corporate Plan.

With particular regard to relevant convictions the Board is to have regard to the crime prevention objective.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

None

(d) Risk Implications

With particular regard to relevant convictions the Board is to have regard to the crime prevention objective and whether the risk justifies further intervention on this ground.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities

There are no issues in this case.

(h) Consultations

Consultation is not required.

5. Conclusion

5.1 It is proposed that the Board note the Chief Constable's report and the requirement to hold a review hearing;

5.2 It is proposed that the Board note any recommendations from the Chief Constable, hear from appropriate person(s), consider the matter and determine whether one of the possible orders set out in paragraph 3.4 is necessary for the purposes of any of the licensing objectives.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers: There are no background papers

Ref: SAH/TT

Signature

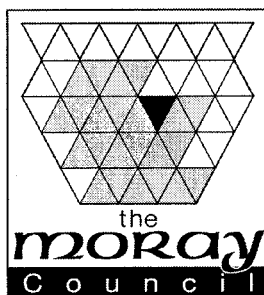
Date

24/9/13

Designation Head of Legal and Democratic Services, Clerk to the Board

Name

Rhona Gunn



REPORT TO: THE MORAY LICENSING BOARD 3 OCTOBER 2013

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – STATEMENT OF POLICY

BY: CLERK TO THE BOARD

1. Reason for Report

- 1.1 The Board is required to develop, consult and publish a revised policy statement three years after publication of the original statement, setting out the principles they propose to apply to the exercise of their functions under the Licensing (Scotland) Act 2005. This report updates the Board on the consultation that has been carried out in relation to the revised policy statement and invites the Board to adopt and publish the policy.

2. Recommendations

It is recommended that the Board:-

- 2.1 Note the statutory obligation to develop, consult upon and publish a revised statement of licensing policy every three years under the Licensing (Scotland) Act 2005;**
- 2.2 Note the responses received from relevant stakeholders following consultation on the revised Policy which are at Appendix I;**
- 2.3 Note the Summary of Consultation Responses and Policy Sub-Group Recommendations which are at Appendix II ;**
- 2.4 Adopt the Policy which is at Appendix III; and**
- 2.5 Instruct the Clerk to publish the Policy prior to 29 November 2013.**

3. Background

- 3.1 The current statement of licensing policy is due to expire on 29 November 2013. As such, the statement of policy must be published before that date in order that the policy may commence on that date.
- 3.2 Section 6 of the Act requires local authorities to publish a Policy Statement which lasts for a period of three years. Although the Policy Statement will be

in effect for a period of three years, the licensing board may review it within that period.

- 3.3 The Policy Statement should be published on both the Council's website and at certain premises where the document may be inspected. The publication must also be advertised in accordance with section 6(6) of the Act and copies must be available for inspection by the public free of charge.
- 3.4 Section 6(3)(b) sets out the persons/bodies that the Board is required to consult with in the preparation of the policy. They are:
- the Local Licensing Forum for the Board's area;
 - such persons as appear to the Board to be representative of those interests of which the Forum membership is not representative; and
 - such other persons as the Board thinks appropriate.

4. Progress

- 4.1 The first draft of the revised policy was originally produced for the Board at the meeting on 15 August 2013.
- 4.2 Following the meeting above, the revised policy was approved by members and issued for formal consultation. That consultation period ran to six weeks. The consultation document was issued to consultees as listed in the draft policy as well as the public in general through the Council's website. Comments were invited from any interested party.
- 4.3 Copies of the responses to the Consultation are reproduced and placed on the Member's Portal for the Board's information.
- 4.4 At a meeting of the Policy Sub-Group on 17 September 2013, the Policy Sub-Group considered responses to the consultation and recommended that the Licensing Board does not adopt certain of the amendments suggested in the consultation responses. The Sub-Group Committee's reasoning for this has been placed on the Member's Portal for the Board's information.
- 4.5 After final revisions, the revised policy statement is now produced for the Board's approval and has which has been placed on the Member's Portal for the Board's information.

5. Implications

(a) Single Outcome Agreement / Service Improvement Plan

The proposals have important implications in these areas.

The licensing policy statement sets out how the Moray Licensing Board will exercise its functions under the Licensing (Scotland) Act 2005 and promote the licensing objectives, which are:

- Preventing crime and disorder;
- Securing public safety;
- Preventing public nuisance;
- Protecting and improving public health; and
- Protecting children from harm.

The licensing objectives closely reflect some of the objectives of the Community Plan and, therefore, consultation with the Local Licensing Forum and judicious employment of the policy statement will promote community involvement and prevent the consumption of alcohol from being the source of nuisance, anti-social behaviour and harm. This is also true of the social inclusion and environmental aspects of the Corporate Plan.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

Preparation of the policy has involved considerable staff time. Other costs are minimal as communication and advertisement are generally electronic.

(d) Risk Implications

The Board's proper exercise of functions should minimise any potential adverse impact on the licensing objectives in general.

(e) Staffing Implications

The ongoing and future revisions of the policy statement will have similar staffing requirements.

(f) Property

None.

(g) Equalities

The policy makes it clear that each case is judged purely on the merits of the case. Further the policy states that in all things it does, including formulating policies, the Board must have regard to the need to eliminate discrimination and promote equalities.

(h) Consultations

Consultation is required in accordance with the Act and the general law. Consultation has been carried out as far as the timetable set by the Act and Regulations has allowed.

6. Conclusion

The Board is asked to:

- 6.1 Note the statutory obligation to develop, consult upon and publish a revised statement of licensing policy under the Licensing (Scotland) Act 2005;**
- 6.2 Note the responses received from relevant stakeholders following consultation on the revised Policy;**
- 6.3 Note the Summary of Consultation Responses and Policy Sub-Group Recommendations;**

6.4 Adopt the Policy; and

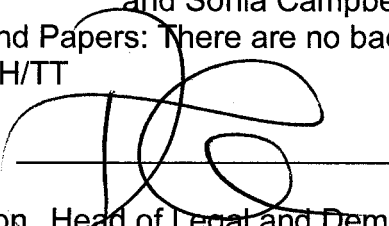
6.5 Instruct the Clerk to publish the Policy prior to 29 November 2013.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board
and Sonia Campbell, Trainee Solicitor

Background Papers: There are no background papers

Ref: SAH/TT

Signature



Date

26/9/13

Designation Head of Legal and Democratic Services, Clerk to the Board

Name Rhona Gunn



FROM THE OFFICE OF THE CHIEF EXECUTIVE

The Clerk to the Board
Moray Licensing Board
Council Offices
High Street
Elgin IV30 1BX

13th September 2013

Dear Madam

**LICENSING (SCOTLAND) ACT 2005 – REVIEW OF STATEMENT OF LICENSING POLICY
- MORAY LICENSING BOARD**

I am responding on behalf of my Association to the consultation exercise relating to the Board's review of its Statement of Licensing Policy. I am grateful for the opportunity to comment.

You will be aware that the SBPA's members account for 1,000 of the 5,000 licensed public houses in Scotland, including a number within the area of your Licensing Board, "the Board." Our members promote the responsible sale of alcohol and management in all of its licensed premises, helping to make Moray a safe and enjoyable place to visit and socialise in. The trade is also an important local employer and helps contribute to the economy of the area.

Generally, SBPA welcomes the indication in the draft policy statement of the Board's positive approach to the licensing of the sale of alcohol and in particular its recognition of the cultural and social contribution that the trade has to make, and also its importance as a local employer (in Sections 3.7 and 6.5.1).

The current policy has also reaffirmed one of the key principles of the Licensing (Scotland) Act 2005, "the 2005 Act," namely that each application must be considered "on its own merits" and that the Board should only impose conditions which are "appropriate" to the individual premises (Section 10.3.5). However, we would make the following specific comments and suggestions for issues the Board may wish to consider in reviewing its statement:

Overprovision

I note the Board's comments in relation to the issue of overprovision (Section 6.9): "For reasons given within the assessment it has not been possible to identify any locality within Moray where data supports a robust and compelling argument that the prevalence of licensed premises has reached, or is close to reaching, saturation point. Therefore there is no presumption against the granting of new licences within any locality within Moray ..."

Feedback from our members to the Association indicates that they do not believe there is an overprovision of on-sales licensed premises in any locality within the Board's area, or indeed that any area was "provided for" in terms of licensed premises.

According to figures from the Board and the Scottish Government, there were 424 licences (including for registered members clubs) to sell alcohol in force in the area of the Board at the end of 2007. The latest figures from the Scottish Government, published in April 2013, (Figures) suggest that there were only 314 licences to sell alcohol in force at the end of March 2012. The same figures suggest there were only two new applications for on-sales licences in the Board's area in 2011-12.

It is therefore evident that there has been a very significant fall, of nearly 26%, in the numbers of alcohol licences within the Board's area. We therefore do not believe there is currently an overprovision of on-sales licensed premises in any locality within the Board's area, or indeed that any area is "provided for" in terms of licensed premises.

Licensing Fees

The Board will be aware that it is under a statutory obligation imposed by the 2005 Act to levy licensing fees on applicants and operators which are "broadly equivalent" to the Board's costs in delivering the liquor licensing function. The Board should only be meeting its costs and not generating a profit from licensing fees.

We believe there is a need for greater transparency in the Board's operations and budgetary processes in meeting its statutory obligations and as such we would urge the Board to give a commitment in its statement to publishing on an annual basis within the first three months of every new financial year, a statement detailing its previous income and expenditure and providing detailed evidence to demonstrate compliance with the statutory measure of "equivalence."

Curfews

We note the Board's intention (in Section 6.5.5) of attaching a local condition to premises opening after 12.30 a.m., namely that: "The Board fully supports the idea of a curfew and has decided that a curfew should be in place for 12:30 a.m. on premises with opening hours of later than 1.30 a.m. at any time. This includes seasonal opening hours and extended opening hours as well as core opening hours. The Board considers that it will be promoting the licensing objectives by supporting a curfew and such a condition will be attached to premises licence or extension of hours or occasional licence as appropriate whenever opening hours pass 1:30 a.m."

As an Association we do not believe that the case for "curfews" has been proven, and would highlight that in a number of areas in Scotland, specifically in Aberdeen, and most recently in Inverness, Aviemore and Thurso, that these have been removed following the introduction of the 2005 Act. In these areas we are not aware of there having been any adverse impact on public order or safety as a result of the curfews having been abolished, as such we believe there is no justification for the continuance of the measure which we believe restricts customer choice in seeking to address issues which are more appropriately dealt with by better management of the night-time economy.

Duty to Trade

We note the reference to the above (in Section 6.5.9). We are clear that there is no "duty to trade" specified within the terms of the 2005 Act, as such we believe there can be no specific legal requirement in this regard. We would suggest that for clarity the Board should consider retitling this Section.

Enforcement

We welcome the Board's commitment (in Section 7) that it: "... will work with the Police, LSO, Fire Authority, and other Council departments for the targeting of agreed problem and high-risk premises. Lower risk premises which are well managed and well maintained will be subject to less regular inspections." This will be welcomed by all responsible retailers involved in the sale of alcohol.

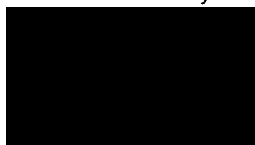
Risk Assessment

We note the comment (in Section 10.1.1.1) that the Board "strongly recommends" that applicants complete a risk assessment in respect of the premises and to provide a copy of this to the Board with the application and operating plan.

We note that completion of a risk assessment is not a requirement of the application process for a Premises Licence as defined by the 2005 Act and associated Regulations. We would suggest that if the Scottish Government and Scottish Parliament viewed this as being necessary it would have stipulated this as part of the formal and extensive application process. On that basis, we would question the Board's recommendation of a risk assessment as part of the application process, especially when it has produced and commended its own "risk assessment proforma."

I trust that our comments are of use and we look forward to the eventual outcome of the Board's deliberations on these issues.

Yours sincerely



Patrick Browne
Chief Executive

LOCAL LICENSING FORUM

Sean Hoath,
Solicitor,
Licensing Dept.,
The Moray Council

12/09/13

STATEMENT OF LICENSING POLICY 2013-2016 **Consultation with Local Licensing Forum.**

On behalf of the LLF I would like to express thanks to Sean Hoath and the Licensing Unit for the compilation of the draft of the new policy document.

This is a major piece of work which will see the formation of the new Statement of Licensing Policy for the next 3 years and all decisions and functions of the Board will be made with reference to that policy.

We were very pleased to have contributed by undertaking to collect and analyse statistical data which could be used as evidence to make informed decisions in the preparation of this policy. Our thanks for this is extended to Amanda Ware, Research Officer with MADP and her colleagues for data collection from all stakeholders in the licensing system. The local data and information was then analysed to help the board prepare an evidence based policy.

Individual members of the forum have sent responses but this is the agreed response from the LLF.

Statement of Licensing Policy 2013-2016

The LLF are satisfied that the statement of policy remains relatively unchanged and agree with the contents.

However, we would like to draw your attention to the following and make 1 recommendation.

Section 10: Application Process.

10.5 General post application procedures.

Licences will be issued within a target date of 7 days from the date of grant at the board and under section 52 of the act the premises licence holder must ensure that the premises licence is kept on the premises and that a summary licence is displayed.

Failure to comply with the above is an offence.

Recommendation:

In reality the licence holder can commence sales of alcohol immediately on the licence being granted irrespective of the fact the paper copy will not be received for approx 7 days. The licence when returned will include the operating plan, layout, and explain core hours etc.

It is a mandatory condition that there is a sign for access to under 18's on display at the entrance to the premises, in order to allow access to under 18's or to notify them they cannot gain access. The relevant Schedule 3 notice for that particular premises also gives important information on the area/ times and terms for under 18's and other signage such as notice S100 will be required at the point of sale. It is also recommended to have a written policy for age verification on display. It is therefore important that the premises is fully compliant on the commencement of sales from when the licence was granted.

Due to compliance visits by LSO programmed periodically, it could in reality be some time before a compliance visit is carried out and therefore there is no assurance that the premises is fully compliant once the licence is granted and the licence holder (if new to the trade) may be unsure of the positioning etc of these important documents.

As the paper copies of the licence may take 7 days to be sent it is also important to ensure there is clear understanding as far as the operating plan is concerned. Guidance at this early stage would be beneficial to all concerned and would help to clarify that signage and positioning is correct from Day 1.

It is proposed that once a new licence is granted an initial visit from the LSO is carried out, to give further and helpful guidance, information on the licence and signage and ensure compliance as soon as possible after commencing trading.

It would also ensure all staff employed are trained and authorised from day one and would provide a welcome start up service to all new licence holders who may also welcome the opportunity to meet the LSO and recognise the role.

This would also eliminate possible problems at a later date as clear guidance given early.

The relevant signage required and an authorisation of sales could be incorporated into a 'starter pack' with Moray Council headings to ensure uniformity between premises in Moray. Further copies would still be available from the council website .

On discussion at the LLF the police welcomed the idea as a positive step in aiding smooth running of premises and agreed this initial link would be very beneficial.

Overprovision statement

After studying the information and the relevant evidence included, the LLF are satisfied with the findings that at present there is no identifiable evidence of overprovision in Moray and therefore no presumption against the granting of a new licence in any area of Moray.

We recognise that the Board have obtained a wide range of evidence to come to this decision from statistical analysis, stakeholders, public consultation and expert knowledge.

It is clear that individual licence can still be judged on their own merits and it is noted an objection can still be made in respect of overprovision and any case brought to the Board will be given consideration.

We are aware that NHS will forward further new info from a mapping exercise for inclusion.

After discussion, members of the LLF support the reponse from the LLF.

Linda Davidson
Convener LLF



WSTA response to Moray Council Licensing Policy Consultation

For further information please contact:

William Boyack
Media & Public Affairs Manager
Wine and Spirit Trade Association



The Wine and Spirit Trade Association (WSTA) welcomes the opportunity to respond to the Moray Council licensing policy consultation.

The WSTA is the UK organisation for the wine and spirit industry representing over 340 companies producing, importing, exporting, transporting and selling wines and spirits. Our members include retailers who between them are responsible for thousands of licences. We work with our members to promote the responsible production, marketing and sale of alcohol.

When it comes to alcohol licensing it is important to note that businesses with alcohol licenses make an important economic contribution to the Moray region through jobs, economic growth and attracting visitors to the region. As noted by the Moray Licensing Board in its Licensing Policy Statement “the Moray area is well known for its whisky trails and coastal scenery and as such is a popular tourist destination. Tourism contributes greatly to the local economy and is welcomed.”

While the WSTA acknowledges that Scotland has its own unique problems with alcohol-related harm, there is no evidence to suggest that this is a result of an overprovision of licenses. It should also be noted that the Government’s own figures show per adult sales decreased by 5 per cent between 2009 and 2011 in Scotland.¹ The WSTA believes that the most effective way of addressing problem drinking is to focus attention and resources on those who misuse alcohol rather than penalising the majority of responsible drinkers.

We have only sought to respond to the sections where we have meaningful contributions to make.

Please identify your area of resident:

The WSTA represents retailers and producers across the Moray region.

Section 1 Overprovision

1 - Looking at licensed premises as a whole in your catchment area - do you feel that there are:

The WSTA is not aware of any evidence which would suggest that there is an overprovision of licensed premises in the Moray region. Indeed, the Moray Licensing Board Assessment of Overprovision notes that “overprovision has traditionally not been an issue in Moray and that this position has been reinforced by the fact that as a result of transition to the Licensing (Scotland) Act 2005 the overall number of licensed premises has reduced from 420 to 311.” In addition we do not accept the argument that availability of alcohol is necessarily linked to consumption and harm. While the Moray Licensing Board noted areas of ‘hotspots’ in its Assessment of Overprovision it correctly noted that “the problem with this plotting remains that there is no causal link demonstrated between the existence of licensed premises within an area and the prevalence of crime in that same area. Without a detailed examination of each crime, which is not feasible for the purpose of this assessment, it is not possible to say that the presence of licensed premises is creating a problem.”

¹ <http://www.healthscotland.com/uploads/documents/20107-MESASCombinedReportNov2012.pdf>

There are far more effective policies to deal with alcohol related harm than limiting alcohol licenses, such as more and better education and greater enforcement of existing powers. Any policy seeking to restrict alcohol licenses should be based on robust evidence given the negative impact of restricting licenses on local businesses. The Scottish Government's guidance on overprovision states that there is a duty to identify robust and reliable evidence and that a causal link must be identified between that evidence and the operation of licensed premises. The guidance also states that the evidence must suggest that saturation point has been reached or is about to be reached. The consultation document provides no evidence to suggest this is the case in Moray.

2 – Looking at on sale licensed premises e.g. pubs, nightclubs, restaurants in your catchment area – do you feel that there are:

Please see above response to question 1.

3 - Looking at off sale licensed premises e.g. supermarkets, convenience stores, wine / beer / spirit shops or merchants in your catchment area – do you feel that there are:

Please see response to question 1. It is also worth noting that supermarkets are an important economic contributor to local communities as they provide jobs, particularly for young people, attract growth and investment, and provide a wider choice for local residents. On the flipside, a lack of certainty around alcohol licensing can create uncertainty for businesses, which can be a major barrier to further investment.

The Moray Assessment of Overprovision found that "There is evidence to suggest that many of the problems associated with the abuse of alcohol arise from persons consuming excessive amounts of alcohol at home. It would be wrong to attribute such behaviour to particular premises or even areas of premises." Yet no evidence was put forward in the consultation to support this view. **Carlo's stat about crime statistics and drinking here.** We would urge caution in assuming that off-licensed premises are the cause of anti-social behaviour. There are a variety of reasons why people may choose to drink at home rather than drink at licenced premises, including changes in lifestyle factors, and greater choice for the people of Moray should be welcomed.

4 – Can you identify any catchment area(s) where you believe there are too many licensed premises or a dangerously high number of licensed premises?

No. It should be pointed out that the locality of disorder does not necessarily link to the source of where that alcohol may have been purchased. For example, it may be the case that in an area where alcohol-related disorder has occurred the perpetrators of that disorder have purchased and/or consumed their alcohol from outside that area. It would therefore seem excessive to seek to restrict the business of retailers in those areas when there is very little evidence that those businesses have contributed to disorder. Policies that seek to target the behaviour of those that cause anti-social behaviour are far more effective in reducing anti-social behaviour.

5 – If you are of the view that such catchment area(s) exist do you think that it is having a negative impact on the community and, if so, how? Please give reasons for your view including any examples.

As noted above the WSTA is not aware of any catchment areas where there are too many licensed premises.

6 – Do you think there should be more control over the number of licensed premises?

No. As previously mentioned the WSTA is unaware of any evidence which would suggest that there is a problem with overprovision of licensed premises in the Moray region. The Moray Licensing Board already has the powers under the 2005 Licensing Act to ensure that license holders sell alcohol responsibly, while police already have the appropriate powers to take action against irresponsible license holders. We support these powers being used effectively to tackle problem premises and licence holders who fail to comply with the law.

Section 2 Licensed Hours

7 - Licensing hours, do you think that they are:

The Moray Council's Licensing Policy Statement notes that "the overriding principle is that each application will be considered on its individual merits." The WSTA supports Moray Licensing Board having the appropriate powers to set appropriate licensing hours based on the needs of the Moray region. Individual license applications should therefore be judged on the individual merits of that particular application. If there is clear and substantiated evidence to demonstrate that an increase to capacity or an application for a new licence is inconsistent with any of the Licensing Objectives the Licensing Board already has powers to refuse an application. We would therefore not support a blanket presumption against any future increases to capacity.

8 – If you would like to see the current policy change what would you suggest? (Please Comment)

9 – Do you agree there should be a curfew and, if so, at what time?

This should be a matter for the Licensing Board based on the merits of individual applications.

10 – Should people leaving the premises to smoke be allowed to re-enter despite the curfew?

Section 3 Children / Young Persons in licensed premises

11 – Do you think that there are times or situations when licensed premises should encourage children and young people?

The protection of children from harm is already a consideration of the Moray Licensing Board and the WSTA agrees that this should be a high priority for the Board. Our members agree that there needs to be robust laws around the sale of alcohol to persons under the age of 18. Providing that certain conditions are met (many of which are already listed in the Moray Licensing Policy Statement) and children are able to attend a licensed premises in a family friendly setting with family members or caregivers then the WSTA cannot see this being a problem.

12 - Do you think that there are times or situations where children and / or young people should not be allowed into premises? For example not in a public bar or not past 11:00pm

13 – What are the positive and negative points of children and young people in licensed premises? (Please comment)

The law currently allows for a parent or caregiver to buy a 16 or 17 year old a glass of wine or beer to accompany a meal. This allows caregivers the opportunity to set a responsible drinking example by sharing a glass of wine with their 16 or 17 year old at a family meal or special occasion.

Section 4 The Five Licensing Objectives

LO1 Preventing crime and disorder

14 – Do you think that licensed premises / patrons cause crime or disorder?

15 – How would you deal with any issues raised? (Please Comment)

16 – Is there anything more licensed premises or the Moray Licensing Board can do to prevent crime and disorder?

LO2 Securing public safety

17 – Do you think public safety is an issue in licensed premises?

LO3 Preventing public nuisance

19 – Do you think that licensed premises / patrons cause public nuisance?

20 – How would you deal with any issues raised? (Please comment)

21 – Is there anything more licensed premises or the Moray Licensing Board can do to prevent public nuisance? (Please comment)

LO4 Protecting and improving public health

22 – Do you agree that licensing decisions should try to protect and improve public health?

23 – Do you think that alcohol is the cause of some health problems?

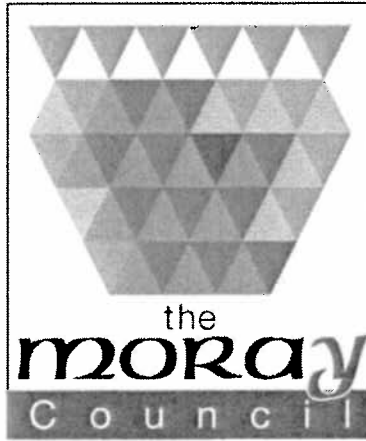
24 – Can you identify any health problems you think are associated with alcohol? (Please list)

25 – Do you think licensing can help to deal with them?

LO5 Protecting children from harm

26 - Do you wish to say anything more about protecting children and young people from harm in relation to licensing? (Please comment)

27 - Do you have anything else to say about the licensing policy? (Please comment)



The Moray Licensing Board Licensing Policy Consultation Questionnaire

This consultation is aimed at gathering your views on two areas in particular, these being Overprovision and Licensing Hours.

We realise that this is a comprehensive document and that it will take approximately 15-20 minutes to complete.

Moray Licensing Board would like to thank you for taking the time to share your views in order to shape the future of Licensing Provision in Moray.

Closing Date for returns is Monday 27th May 2013.

Please return all completed forms via csu@moray.gov.uk



The Moray Licensing Board Licensing Policy Consultation Questions

AREA	PLEASE TICK YOUR AREA
LAICH	
FORRES	
ELGIN	
KEITH	
BUCKIE	
SPEYSIDE	
MILNE'S	
OTHER / ORGANISATION	Public Health Directorate (ref Dr MK Rossi, G Ball), NHS Grampian

Section 1 Overprovision

Overprovision is a concept that tries to determine whether there are too many licensed premises in Moray which could potentially be connected to alcohol related issues like antisocial behaviour, more serious crime and also adverse health effects. The Moray Licensing Board need to decide whether any areas within Moray are over provided for in terms of licensed premises in general or licensed premises of a particular type e.g. on sales / off sales / pubs / supermarkets.

If a finding of overprovision is made then the Moray Licensing Board can raise a presumption against new licences (either in general or of a particular type) being granted in any specific area. In order for the Moray Licensing Board to make these decisions they would like to consult with the residents of Moray to gather their views prior to making any adjustments.

Q1 - Looking at licensed premises as a whole in **your catchment area** - do you feel that there are: (Please tick)

NOT ENOUGH	ENOUGH	TOO MANY	TOO FEW	DANGEROUSLY HIGH NUMBER
		x		

Q2 - Looking at on sale licensed premises e.g. pubs, nightclubs, restaurants **in your catchment area**— do you feel that there are: (Please tick)

NOT ENOUGH	ENOUGH	TOO MANY	TOO FEW	DANGEROUSLY HIGH NUMBER
		x		

Q3 - Looking at off sale licensed premises e.g. supermarkets, convenience stores, wine / beer / spirit shops or merchants **in your catchment area** – do you feel that that there are: (Please tick)

NOT ENOUGH	ENOUGH	TOO MANY	TOO FEW	DANGEROUSLY HIGH NUMBER



		X		
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Q4 - Can you identify any catchment area(s) where you believe there are too many licensed premises or a dangerously high number of licensed premises? (Please tick)

AREA	TOO MANY	DANGEROUSLY HIGH	DON'T KNOW
LAICH	X		
FORRES	X		
ELGIN	X		
KEITH	X		
BUCKIE	X		
SPEYSIDE	X		
MILNE'S	X		

Q5 - If you are of the view that such catchment area(s) exist do you think it is having a negative impact on the community and, if so, how? Please give reasons for your view including any examples. (Please comment)

AREA	NEGATIVE IMPACT / EXAMPLES
LAICH	<ul style="list-style-type: none"> • Scotland ranks in the top twenty of nearly 200 countries in the world for per capita consumption of pure alcohol, at more than 11 litres per adult per year. In comparative terms we drink too much. This amount of alcohol translates into every Scottish adult drinking above sensible limits on average every week of the year (at 2-3 units/day for women and 3-4 units/day for men with 2 alcohol-free days a week). • The trend for many countries in both Eastern and Western-Europe is a decreasing one since 1990 for selected alcohol-related death rates. Scotland's rates remains stable and not shifting downwards as elsewhere. • Consumption of alcohol and deriving levels of harm associated with this as experienced in Moray are unlikely to differ significantly from the rest of Scotland and are unacceptable. • Studies have shown there is a correlation between the number of alcohol outlets, increased alcohol consumption and a wide range of alcohol problems, especially assaults and violent crimes. • Generally, as access and availability of alcohol increases, consumption increases and whether in the short or longer term, health and social harms derive. • At least two thirds of alcohol is bought from off-sales and the population as a whole, apart from young adults, drink most commonly at home with supplies bought from supermarkets. Home is a less controlled atmosphere than licensed premises with fewer restrictions on drink sizes, drinking times and disorderly conduct deriving from alcohol consumption. It is therefore logical to note that the tendency to drink more regularly at home than in a licensed premises can potentially have a more negative effect in the immediacy of the drinking episode (e.g. domestic violence, absenteeism the next day, marital disharmony, repeat A&E attendance) but also in the
FORRES	
ELGIN	
KEITH	
BUCKIE	
SPEYSIDE	
MILNE'S	

longer term (job loss, chronic liver cirrhosis, marriage breakdown, family life).

- The designation of geographical areas and how they relate to where alcohol is consumed is increasingly blurred with the shift to home drinking. People are willing to travel for their supply of alcohol often bought in supermarkets where pricing is very competitive, as a normal item of weekly shopping; this will most frequently be for domestic consumption.
- The number of alcohol outlets has an effect on price in terms of competitive market forces and when the price of alcohol decreases, in response to such competitive forces, consumption increases, potentially leading to health harm in the short and longer term.
- The first priority outcome of the Moray Community Planning Partnership's Single Outcome Agreement regards "Healthy Citizens" where "Hazardous/harmful drinking including alcohol dependency" is to be addressed as a priority issue. The Licensing Board's policy should be consistent with this.

Moray CPP Single Outcome Agreement:

The proportion of 15 year olds who have reported ever having had an alcoholic drink in Moray is 10 percentage points higher (87%) than the Scottish national average (77%). The number of 15 year olds in Moray who reported having drunk alcohol in the past week (38%) is also higher than the Scottish average (34%).

20.9% of all general acute inpatients and day case discharges with an alcohol diagnosis also had alcoholic liver disease, ranking Moray as the 4th highest of all local authorities in Scotland.

20.3% of all discharges from hospital in Moray where an alcohol diagnosis was found were classed as being alcohol dependant; this is nearly twice the Scottish average of 11.4%. Nearly three quarters of discharges with an alcohol diagnosis were also diagnosed with a mental and behavioural disorder due to the use of alcohol. This ranks Moray as 17th highest of all the local authorities in Scotland.

During the past three years over a quarter of all serious and violent crimes in Moray were committed whilst the accused was under the influence of alcohol. Serious assault was the highest crime category with well over a third of all serious assaults being committed whilst the person was under the influence of alcohol.

(ACHIEVING MORE TOGETHER IN MORAY "A HEALTHIER, MORE PROSPEROUS AND FAIRER MORAY" MORAY COMMUNITY PARTNERSHIP SINGLE OUTCOME AGREEMENT 2012-2013)

In addition, 87% of alcohol-related hospital admissions in Moray were emergency admissions involving nearly 350 patients in almost 500 admission episodes.

Whilst much alcohol-related harm derives in the short-term, much of the health harm of alcohol is not immediately apparent, but

consistent drinking over sensible limits can lead to such harm over the life-span. Studies have found that the burden of harm from alcohol-related disease is greater in socio-economically deprived populations, though not limited to these groups. Interestingly, the adult population's current consumption of alcohol does not follow a similar socio-economic gradient, as evidenced by Scottish Health Survey data (2011) where 41% of the adult population drink above sensible limits and where increasingly the less deprived are in fact consuming alcohol above sensible limits to a greater extent than those who are less well-off.

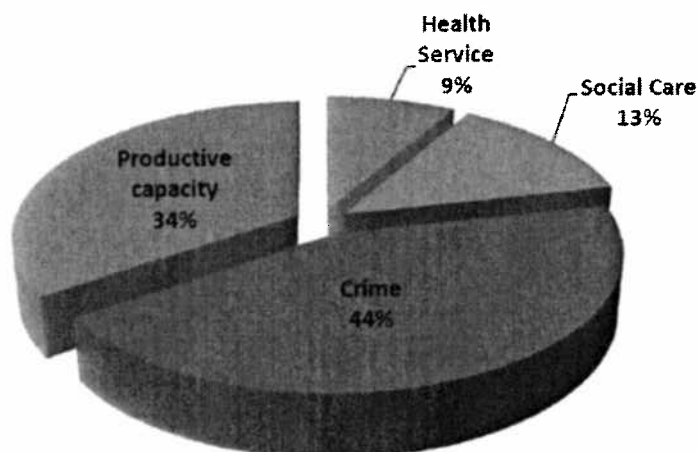
From the financial perspective, the cost of alcohol harm for Moray as evaluated by the University of York for the Scottish Government is demonstrated below with costs applied pro-rata to the Moray area.

Other analysis by Johnston et al 2012 estimates the costs of harm from alcohol are nearly double these levels when including intangible costs such as pain and suffering.¹

Harm from over consumption of alcohol can be prevented by controlling the overall availability of this special commodity.

MORAY - COST OF ALCOHOL HARM BREAKDOWN

HEALTH SERVICE:	£2.83m
SOCIAL CARE:	£4.42m
CRIME:	£14.60m
PRODUCTIVE CAPACITY:	£11.46m
TOTAL COST:	£33.31m



The above total cost does not include wider social costs that estimate the value of non-paid work and intangible social costs associated with people who experience premature mortality from alcohol-related diseases. As these costs are hard to estimate accurately they have been excluded from the overall total, but are believed to be somewhere in the range of £15.77m-£28.84m for Moray.

SOURCE: York Health Economics Consortium for the Scottish Government: The Societal Cost of Alcohol Misuse in Scotland.

Q6 - Do you think there should be more control over the number of licensed premises and, if so, how? (Please tick and comment how)

YES	NO	HOW
x		Enough harm is derived by society, well above other comparable countries in Western Europe to enable licensing boards to agree and implement a policy aimed at curtailing such damage. An effective Over Provision

¹ (Johnston, et al., 2012) (MacAskill, et al., 2008)

		<p>policy covering the Moray area would aim at limiting approval of licenses for new premises, unless exceptionality could be demonstrated by the applicant. Grounds for such exceptionality might include replacement of relinquished licenses in an area, particularly if these were for on-sales premises, where food is consumed.</p> <p>A mapping exercise is being undertaken by NHS Grampian Public Health and Health Intelligence Departments of NHS Grampian’s Public Health Directorate. Preliminary results show that the majority (provisional data 61%) of the resident adult population (age 18 years of more) in Moray live within 500 meters (one third of a mile) of an off-sales premises; even more (provisionally 79%) within 1 kilometre (two thirds of a mile). For Elgin, the proportions appear even higher (82% and 99.9% respectively). The finalised proportions in relation to this will be available by mid-August.</p> <p>This suggests there is strong evidence for over-provision across both the urban area of Elgin and the semi-rural area of Moray as a whole. If this level of access to alcohol through 83 off-sales premises (at December 2012) is not considered sufficient by the Licensing Board, it would be important to state what level is being aimed for? Analysis of others town areas has not been done due to their small sizes.</p>
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Section 2 Licensed Hours

Licensing hours in Moray are generally based around hours that have grown to be fairly standard over a number of years. Licensed premises now apply for the hours they want subject to agreement by the Moray Licensing Board. Off sales are restricted by national legislation to between the hours of 10am and 10pm.

The current policy on hours says:

“The Moray Licensing Board will generally consider applications for up to 15 hours in any 24 hour period as being reasonable. Any application for licensed hours for more than 15 hours will be the subject of additional scrutiny and applicants may be expected to justify their requests.”

“Early opening will be considered as any premises that wish to open before 11:00 a.m. Where such an application is made the Moray Licensing Board is of the opinion that it would be more consistent with the licensing objectives for the operational emphasis to be on food or tourism as opposed to vertical drinking establishments. The Moray Licensing Board will expect applicants to demonstrate measures that promote the licensing objectives. The Moray Licensing Board further considers that it would be difficult for any application to justify the sale of alcohol prior to 9:00 a.m. unless there are exceptional circumstances.”



“Late Opening - The national position is that late opening will be considered as any premises that wish to remain open after 1:00 a.m. Such premises will be subject to mandatory late opening conditions and the Moray Licensing Board may attach further conditions. The later a premises wishes to open, the more the Moray Licensing Board will expect applicants to demonstrate measures that promote the Licensing Objectives and justify the request for late hours. The Moray Licensing Board further considers that it would be difficult for any application to justify the sale of alcohol after 3:00 a.m. unless there are exceptional circumstances.”

Q7 – Licensing hours, do you think that they are: (Please tick and comment)

NOT LONG ENOUGH	OK	TOO LONG	REASONS / COMMENTS
		x	<p>Increased availability of alcohol through sales over longer hours leads to increased consumption and hence harm to health and other areas of life. Exceptional circumstances to opening hours should apply to any opening before the earliest hour of standard opening (currently at 11am).</p> <p>It is not clear why the 5 licensing objectives should apply more stringently to premises staying open late. Harm deriving from alcohol occurs at anytime it is consumed to excess.</p>

Q8 – If you would like to see the current policy change what would you suggest? (Please comment)

Reducing the opening hours of all alcohol outlets would assist in reducing access and availability of alcohol and therefore impact on its harmful effects. This could be linked to licensing alcohol sales from noon, only when food is also consumed.

Late night hours should be curtailed to 1 am in agreement with all traders. This may entail some work to ensure application of a level playing field for those premises that already have licenses in place, as it appears that such limitation could not be retroactive automatically.

This limitation would also apply to the off-sales trade, thus morning trade hours for alcohol would be curtailed to start from noon too.

The current licensing policy has a curfew. That means when any premises opens after 1:30am anyone intending to be in the premises after that time must be in the premises before 12:30am. After 12:30am anyone leaving the premises for any reason will not be allowed to re-enter.

The curfew is designed to prevent customers, intending to drink past 1:30 a.m., from drifting between premises and / or remaining on the streets to possibly be the source of antisocial behaviour, public nuisance or public disturbance. It also staggers leaving times for certain premises thus reducing the overall numbers of people on the streets at any one time.



Q9 – Do you agree there should be a curfew and, if so, at what time? (Please tick and comment)

YES	NO	DON'T KNOW	SUGGESTED TIME
x			The curfew should reduce to midnight. This will reduce overall drinking time, thus reducing alcohol consumption and hence reduce risky behaviours and the potential of health harm.

Q10 – Should people leaving the premises to smoke be allowed to re-enter despite the curfew? (Please tick)

YES	NO
	x

If so, what measures would you suggest to ensure that this does not jeopardise the intention of the curfew? (Please explain)

SUGGESTED MEASURES
<p>Allowing people back into a premises after smoking is difficult to enforce and potentially could lead to hostile behaviours from other patrons who cannot enter the premises.</p> <p>The behaviours of alcohol drinking and smoking are often linked and therefore denying people back into the premises will leave some people disinclined to go out to smoke. This then has the further potential to reduce the public's health harm from both alcohol and smoking.</p>

Section 3 Children / Young Persons in licensed premises

Children = aged 15 and under
 Young people = aged 16 and 17

At the moment licensed premises choose whether to allow children and young persons onto the premises. If they do allow access for children and young people they then also choose the times, the parts and any conditions of access e.g. being accompanied by an adult.

Q11 – Do you think that there are times or situations when licensed premises should encourage children and young people? (Please tick and comment)

YES	NO	DON'T KNOW	COMMENTS
	x		Licensed premises should never encourage

			<p>children and young people into licensed premises. These are adult spaces whether or not “adult” activities as defined in Law are present.</p> <p>Where, however, the main activity of the licensed premise is the sale of meals at tables or celebratory functions, this should be done frameworked by polices which safeguard children. If children are to be allowed into a bar then owners/licence holders and their staff should have reasonabel awareness of safeguarding children, through training and monitoring staff’s competency in this.</p>
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Q12 – Do you think that there are times or situations where children and / or young people should not be allowed into premises? For example not in a public bar or not past 11:00pm
(Please tick and comment)

YES	NO	DON'T KNOW	COMMENTS
X			<p>The hours for attendance of children and young people into licensed premises should be in relation to the provision of food in the premises. Overall, children should be limited from attendance in premises where the main commerce concerns the sale and/or consumption of alcohol.</p>

Q13 – What are the positive and negative points of children and young people in licensed premises? (Please comment)

POSITIVE POINTS	NEGATIVE POINTS
<p>Where a licensed premise has adhered to law and local licensing policy, children can observe and encounter a positive experience, especially as regards parental behaviour and responsible enjoyment of alcohol. Adherence to the law would include not serving someone alcohol who was already under the influence, thus limiting exposure of children to drunken behaviour as ‘acceptable’ behaviour.</p> <p>This could assist in shifting the pattern of adults drinking at home to drinking in a licensed premises. Children would then see that drinking at home is less of the norm, but sensible drinking in a licensed</p>	<ul style="list-style-type: none"> • Observation of drunk and disorderly behaviour • Observation of negative experiences due to violence, bad language. • Observation of the illegal and surreptitious sale of alcohol to underage individuals. • Potential observance of sexual exploitation • Potential observance of substance misuse • Witnessing or being victims of alcohol-related violence • Witnessing or being victims of anti-social behaviour • Social neglect, where the child is no longer the main point of attention of the adult

premise is a more positive experience. This shift could be a positive point since people drink more when they are drinking at home in an 'uncontrolled' environment and this can directly (potentially) impact on the safe guarding of children.

- Neglect, where children are present with or without their parents at venues unsuitable for their age
- acting as witnesses to crimes such as serving alcohol to minors, serving individuals already inebriated
- present where drinking is the main activity and there are no activities geared towards children or families.
- Physical harm, for example overcrowding, noise,
- Accessing a cigarette machine or gambling machines
- Present when they would normally be expected to be in full-time education.
- Children can observe law-breaking behaviours.
- Recent research ² point to the significance of drinking during puberty and the correlation to unhealthy drinking habits in adulthood.

ANY SOLUTIONS TO NEGATIVE POINTS IDENTIFIED

The Licensing Board's Policy Statement should include a requirement for each Licences' premises to have a written protocol / guidance in place for staff detailing how to address the safeguarding of children and young people on Licensed premises.

Owners / licence holders and their staff should have basic awareness of safeguarding children through training and competency prior to staff working in any licensed premise.

Any license holder could have appropriate Criminal Records Bureau checks, to then be reviewed by the Licensing Board before an application is approved.

For premises that have known associations with activities that could be harmful to children, there will be a strong presumption against allowing children to have access at any time, for example gambling, hooliganism, sexual activities e.g. pole dancing.

It would be preferable for the term "child safe" to be used rather than 'child friendly'. This places the emphasis on the potential harm deriving, if an area is not child safe.

A choice of low- alcohol and no alcohol beverages should be available on sale, as well as a fair selection of glass sizes, including 125 ml wine glasses as a small glass size.

Section 4 The Five Licensing Objectives

² Blomeyer, D., Friemel, C M., Buchmann, A F., Babaschewski, T., Laucht, M., Schneider, M. (2013) Impact of Pubertal stage at First drink on adult drinking behaviour. *Alcoholism: Clinical and Experimental Research*. Pp 1-8



The Licensing Objectives are set out in the Licensing (Scotland) Act 2005. The Moray Licensing Board has a duty to take the Licensing Objectives into account when making a decision on a licensing application.

LO1 Preventing crime and disorder

Q14 – Do you think that licensed premises / patrons cause crime or disorder and, if so, how?
(Please tick and comment how)

YES	NO	HOW
x		<p>The correlation between alcohol consumption and crime, disorder and violence has been widely and internationally evidenced. Reduction of number of licensed premises has been shown to be related to decreased incidences of crime, disorder and violence.³</p> <p>In addition, studies have shown that violent behaviour is more likely to occur in a licensed premise which is unkempt and dirty.⁴</p>

Q15 – How would you deal with any issues raised? (Please comment)

<p>Reduce the number of licensed premises, through implementation of licensing decisions consistent with a strong over-provision statement.</p> <p>Improve management, staff training, safety and security outside and late night transport which has security at transport points.</p> <p>Enforcing breaches of law, e.g. serving alcohol to drunk people.</p> <p>Consideration of reduction of a premises' licensing hours, even temporarily, for licensing breaches.</p>

Q16 – Is there anything more licensed premises or the Moray Licensing Board can do to prevent crime and disorder? (Please tick and comment)

YES	NO	DON'T KNOW	COMMENTS
x			<p>A strong overprovision policy which states that Moray LLB will not issue new licenses unless the applicant can demonstrate an exceptional circumstance. See data in answer to Q6.</p>

³ (Chikritzhs & Stockwell, 2002) (Kypri, et al., 2011)

⁴ (Morgan & McAtamney, 2009)



			<p>Training for staff – in particular support to apply the law pertaining to not serving someone who is already under the influence.</p> <p>Improving management in terms of inspections, award schemes and encouragement of active participation in schemes such as PubWatch.</p> <p>Involve stakeholders to apply mandatory sobriety for alcohol violent offenders.</p> <p>Reduction in late night trading hours can decrease rates of alcohol-related violence. See citation under Q14.</p>
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LO2 Securing public safety

Q17 – Do you think public safety is an issue on licensed premises? (Please tick)

YES	NO	DON'T KNOW
x		

Q18 – Is there anything more that licensed premises or the Moray Licensing Board can do to promote public safety? (Please comment)

Anything that aims to reduce availability of alcohol will reduce its consumption. Reduced consumption aims to lead to reduced harm from alcohol. Policies can be adopted to restrict the number, type, capacity or trading hours of licensed premises for the purpose of reducing or preventing alcohol harm. As the policy statement informs individual decisions, it ensures that the licensing system can address the full spectrum of problems related to alcohol availability.

Encourage reduced consumption in general in order to reduce the risk of violence and health harm by having and promoting a choice of low alcohol beverages, 125ml wine glasses, reduction in hours.

See Q16.

LO3 Preventing public nuisance

Q19 – Do you think that licensed premises / patrons cause public nuisance and, if so, how? (Please tick and comment)

YES	NO	DON'T KNOW	HOW
x			Risky operating conditions in bars include crowding, high percentage of customers standing, untidiness, dull lighting, dirty drinking glasses, high noise levels, type and speed of



			music, underage customers, hostile, unfriendly staff and bouncers. All these factors can be more risky when alcohol is being consumed in excess.
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Q20 – How would you deal with any issues raised? (Please comment)

Preventing the clustering of outlets into high-density entertainment districts can reduce alcohol-related public disorder and violence which creates nuisance for the immediate community. As Elgin and Moray appear to be over-provided for, limiting approval of further licenses unless through exception should be considered.

Q21 – Is there anything more licensed premises or the Moray Licensing Board can do to prevent public nuisance? (Please comment)

Limit the number of new licenses approved unless by exception.

Safety and security outside via lighting, CCTV and targeted policy.

Training for staff to deal effectively with confrontational behaviour, education on noise levels – whether alcohol related or not.

LO4 Protecting and improving public health

Q22 – Do you agree that licensing decisions should try to protect and improve public health? (Please tick)

YES	NO	DON'T KNOW
X		

Q23 – Do you think that alcohol is the cause of some health problems? (Please tick)

YES	NO	DON'T KNOW
X		

Q24 – Can you identify any health problems you think are associated with alcohol? (Please list)

The correlation between alcohol consumption and health harm is well documented, researched and scientifically evidenced. Alcohol can contribute to the cause of over 60 types of diseases and injuries and results in approximately 2.5 million deaths globally a year. Some of these harms are directly attributable (e.g. alcoholic liver disease, cirrhosis, foetal alcohol spectrum disorder, injury caused by driving under the influence of alcohol; others are partially attributable to alcohol, e.g. breast, gullet and other cancer. (World

Health Organisation, Global status report on alcohol and health, 2011), summary below:

Box 9. Major disease and injury categories causally linked to alcohol

Neuropsychiatric disorders: AUDs are the most important disorders caused by alcohol consumption in this category. Epilepsy is another disease causally impacted by alcohol, over and above withdrawal-induced seizures (Samokhvalov et al., 2010). Many other neuropsychiatric disorders are associated with alcohol, but whether they are caused or the extent to which they are caused by alcohol consumption is not clear.

Gastrointestinal diseases: liver cirrhosis and pancreatitis (both acute and chronic) can be caused by alcohol consumption. Higher levels of alcohol consumption create an exponential risk increase. The impact of alcohol is so large for both disease categories that there are sub-categories that are labelled as "alcoholic" or "alcohol-induced".

Cancer: alcohol consumption has been identified as carcinogenic for the following cancer categories (Baan et al., 2007): cancers of the colorectum, female breast, larynx, liver, oesophagus, oral cavity and pharynx. The higher the consumption of alcohol, the greater the risk for these cancers: even the consumption of two drinks per day causes an increased risk for some cancers, such as breast cancer (Hamajima et al., 2002).

Intentional injuries: alcohol consumption, especially heavy drinking, has been linked to suicide and violence. In this report, intentional injuries include violence and self-inflicted injuries.

Unintentional injuries: almost all categories of unintentional injury are impacted by alcohol consumption. The effect is strongly linked to the level of alcohol concentration in the blood and the resulting effects on psychomotor abilities. Higher levels of alcohol consumption create an exponential risk increase. In this report unintentional injuries include road traffic accidents, falls, drowning, poisoning and other unintentional injuries.

Cardiovascular diseases: the relationship between alcohol consumption and cardiovascular diseases is complex. Light to moderate drinking can have a beneficial impact on morbidity and mortality for ischaemic heart disease and ischaemic stroke. However, the beneficial cardio-protective effect of drinking disappears with heavy drinking occasions. Roerecke and Rehm (2010) have shown, based on meta-analyses, that, on average, light to moderate drinkers experienced no protective effect if they reported at least one heavy drinking occasion per month. Moreover, alcohol consumption has detrimental effects on hypertension, cardiac dysrhythmias and haemorrhagic stroke, regardless of the drinking pattern (Rehm et al., 2010).

Fetal alcohol syndrome and pre-term birth complications: alcohol consumption by an expectant mother may cause these conditions, which are detrimental to the health and development of neonates.

Diabetes mellitus: a dual relationship exists between alcohol consumption and diabetes mellitus. Light to moderate drinking may be beneficial while heavy drinking is detrimental (Baliunas et al., 2009a).

In addition to these, alcohol consumption can lower the immune system, thus facilitating infections which cause pneumonia, legionellosis and tuberculosis. There is also an association between alcohol consumption and HIV and sexually transmitted diseases.

11% of A&E attendances across Scotland are related to alcohol consumption.

Scotland, including Moray, fairs poorly against countries of both Eastern and Western Europe in alcohol-related health problems, be they directly or indirectly so.

Q25 - Do you think licensing can help to deal with them and, if so, how? (Please tick and comment)

YES	NO	DON'T KNOW	COMMENT
X			



			<p>Over provision and increased availability of alcohol = over consumption = health harm. Therefore reducing the number of alcohol outlets would lead to a reduction in health harm.</p> <p>Work in closer collaboration with health and social care colleagues through discussion of action to inform the Policy revision.</p>
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LO5 Protecting children from harm

Children and young people have been referred to previously.

Q26 – Do you wish to say anything more about protecting children and young people from harm in relation to licensing? (Please comment)

High alcohol consumption and Scottish culture are entwined and the desire from a whole population approach is to see Scotland drinking less. One approach to this can be influencing the way parents drink and their attitude towards drinking as an example to their children. The Licensing Board, through its Policy work, can determine licensing conditions which will enable a positive example of alcohol and drinking from adults to children.

Finally...

Q27 – Do you have anything else to say about licensing policy? (Please comment)

Stakeholder groups have undertaken work on “Get Drunk Safely” measures. However, we now need to apply more preventive measures to make it harder for people to get drunk in the first place.

We would like to see more robust reporting to Licensing Forums and other stakeholder groups on the decisions and work of the Board.

We acknowledge that the alcohol industry is a big part of the Moray economy and the message that alcohol consumption in moderation and within advised sensible limits should be consistently adhered to by all. The Scotch Whisky Association’s failed opposition to the Scottish Government policy of minimum pricing suggests that the SWA may not be entirely concerned with the public’s health, which is a politically isolating position.

For Equal opportunity purposes please indicate: (Please tick) Statutory organisation.

Age Range	Under 15	16-24	25-44	45-64	65+
------------------	-----------------	--------------	--------------	--------------	------------

Gender	Male	Female x
---------------	-------------	-----------------



Postcode

AB15 6RE

Moray Licensing Board will feedback the results of this consultation and how it will shape future Licensing Policy during November 2013. The Moray Licensing Board would like to thank you for giving up your time in helping to shape the future of licensing in Moray.

Please return the completed document to one of the locations listed at the front of this document.

Yet, NHS Grampian has advised the MLLB (via the Moray Licensing Policy Consultation), that a mapping exercise is currently being undertaken, preliminary results show that the majority (provisional data 61%) of the resident adult population (age 18 years or over) in Moray live within 500 metres (one third of a mile) of an off sales premise; even more (provisionally 79%) within 1 kilometre (two thirds of a mile). For Elgin, the proportions appear even higher (82% and 99.9% respectively). The finalised proportions in relation to this will be made available by mid August 2013.

The above suggests there is strong evidence of overprovision across both the urban area of Elgin and the semi-rural area of Moray as a whole. If this level of access to alcohol through 83 off sales premises (at December 2012) is not considered sufficient by the MLLB, it is important that the MLLB assessment and policy then state what level of licensing provision is being aimed for in Moray.

Analysis of other town areas in Moray has unfortunately not been completed due to their small sizes.

Taking the above into careful account, can you advise why such evidence has been overlooked and not included in the MLLB Assessment of Overprovision. A response prior to tomorrow's LLF meeting would be very much appreciated,

Regards

Tracey.

Tracey Gervaise.

Public Health Lead and Programme Manager - Early Years Collaborative.
Moray Community Health and Social Care Partnership.

Spynie Hospital.

Duffus Road,

Elgin.

IV30 5PW.

[REDACTED]

[REDACTED]

From: Gervaise Tracey (NHS GRAMPIAN)

Sent: 09 August 2013 11:58

To: [REDACTED]

Subject: FW: Draft Policy

Dear Both

FYI.

Please note that the attached assessment states, no identifiable issues of overprovision of licensing in any area in Moray. The next LLF is on the 15th August,

Kind regards

Tracey.

Tracey Gervaise.

Public Health Lead and Programme Manager - Early Years Collaborative.

Moray Community Health and Social Care Partnership.
Spynie Hospital.
Duffus Road,
Elgin.
IV30 5PW.

[Redacted]

[Redacted]

From: [Redacted]
Sent: 09 August 2013 10:01
To: [Redacted]

[Redacted]

Subject: Draft Policy
Hi all

Good morning. Sean Hoath has asked me to circulate to all LLF members. He advises that it is subject to approval by the Board in the prior meeting but to give Forum members a chance to review and meaningfully discuss we are sending it in advance.

Mrs Julie McNamee
Clerical Assistant
The Moray Council

[Redacted]

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From: Milne, Gillian [REDACTED]
Sent: 17 September 2013 13:12
To: [REDACTED]
Cc: [REDACTED]
Subject: Draft Policy - Response
Importance: High

NOT PROTECTIVELY MARKED

Sean, as per my earlier message, apologies for the delay of submission of this response. Everything is up and running as normal today and I have attached my response below. Should you wish to clarify any of my points or discuss them further, then I am happy to chat through the points either in person or on the phone.

Regards,

Gillian

Gillian Milne, Inspector, Divisional Coordination Unit, Licensing and Events Planning, Aberdeenshire and Moray Division, Police Scotland

[REDACTED]

3.6 - Health Board should now be included

4.2 - Second Paragraph - It should be noted that Licensing law is not the primary mechanism for the control of nuisance and antisocial behaviour by individuals once they are no longer on the licensed premises and beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.

Whilst I acknowledge this statement, I would still maintain that where through police enquiry a causal or direct link to the behaviour described can be apportioned to the premises, they would be considered responsible. For example if a person consumes alcohol to excess within a premises (and there is some evidence of this) and goes on to commit a crime a short distance away, Police Scotland would look to confirm whether such a link could be established.

5.5 - In relation to this paragraph and elsewhere in the Policy, I would ask for clarity around the definition of "**The Board**".....is that the board as a collective, a quorum, consultation with the chair or delegated powers? Such clarification around this definition would make the decision making process more transparent and understandable..

6.1 - Page 9 "The Board has decided that it will not automatically add conditions to a premises or occasional licence.....". It may be helpful here to say that statutory consultees can however make representations in this regard and seek the attachment of conditions where appropriate if considered necessary for the purposes of the Licensing Objectives.

6.3 - Para 2 - I am not clear on the interpretation of this paragraph. Does this mean that alcohol must be sold in a closed container? Additionally, what impact does this have if offences are committed in this area which does not form part of the layout plan and therefore is not part of licensed premises. i.e. Section 1 offence/would this area be defined as relevant premises and therefore be covered by the offences relating to children and young persons /drunkenness and disorderly conduct etc.

In the sixth bullet point in the third paragraph - " The terminal hour for the consumption of food and alcohol within the outside area, shall generally be 2200. Other than the bullet point directly below that, when would the Board consider that to be too late?

Guidance note: Not sure if this is still applicable...is there a smoking officer for Moray Council?

6.4 - Clubs - It would be most helpful if the Board could consider inserting into their policy a request that a copy of the club constitution be included together with the application/operating plan? This would give a greater understanding of how the premises intends to operate and would afford

LSO/Police better options for dealing with premises who are suspected of operating commercially etc.

Guidance note: The number of people which can reasonably accompany a member should be further defined. Given the limited LSO capability within Moray Council Area how is this being checked for compliance? If it is merely a matter listed in the constitution but not attached as a condition, it is not enforceable.

6.5.4.1 - Early opening - Would the Board consider agreeing to such early hours only on the **attachment of a condition** relating to the provision of a table meal or on the evidence that such early hours are linked to tourism?

6.5.5 - Curfew - para 6 - If the applicant voluntarily accepts it, I assume it is still attached as a condition to the licence?

6.5.6 - Seasonal Hours - What is the Boards position if they are not so incorporated. Does the Board reject such applications?

6.7 Underage drinking - Para 2 bullet point 1 - this is now a mandatory requirement under Sect 9A of Schedule 3 of the Act.

6.10 - Sample Condition needs reworded to remove reference to Grampian Police

8.1 - Health Board should now be included.

8.1.3 - Police - Paragraph 3 - there is a new CCTV specification for Police Scotland which I will source and forward to you

9.1.1.2 - Last paragraph before 9.1.2 States - "Note that where a premises manager leaves a premises etc.....then the **licence holder** must give notice to the Board within 7 days of that event. Whilst the legislation is quite explicit in this regard, our experience has been that Moray Board accept the intimation of such an event from the DPM him/herself when they move to a different premises, apparently relieving the premises where they have moved from to notify of such a change.

9.5 - Occasional

Page 25 Para 5 - "These minimum time periods mean that late applications cannot be accepted." What action therefore will the Board take? Do you reject them and if so, what is the cut off time and this should be made clear to the applicant in the policy.

Bottom of Page 25 - It would be helpful if reference could be made here to the pool of local conditions that we are working on and that these intend to be used as a pick list of conditions depending on the type/scale etc. of Event. I appreciate you have still not completely agreed on these but this would be a perfect time to get them embodied in the policy and perhaps attached as conditions.

10.1.1.1 - Risk Assessment - The Risk Assessment is not mandatory. If an applicant addresses an issue in the risk assess and no conditions are attached to the licence in respect of elements of the risk assessment, then if a premises licence holder fails to adhere to the risk assessment, what sanctions does the Board have? It is not enforceable. Anything that the Board deems to be of significance to the promotion of the Licensing objectives should surely be attached as a condition to the licence? Is the risk assessment made available to the police?

10.5.1 - 2nd bullet point - LSDO - typo?

14.1 Test Purchasing - references to Grampian Police should be removed.

14.2-Licence Reviews - first para on the top of page 33 the word at should be remove?

14.3 - Sanctions - first line - should read "taken"

14.3.2 - personal Licence - no mention in here of Section 84A reviews? Also final line of paragraph - should be amended to read to "any of the licensing objectives"

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LICENSING (SCOTLAND) ACT 2005 – STATEMENT OF POLICY

Appendix II: Summary of Consultation Responses and Policy Sub-Group Recommendations

The Policy Sub-Group met on 17th September 2013 to review consultation responses in relation to the Draft Licensing Policy.

The Sub-Group recommend that the Licensing Board does not adopt any of the amendments suggested in the consultation responses.

An outline of the responses and Sub-Group recommendations follows.

Scottish Beer and Pub Association

The Scottish Beer and Pub Association welcomed the indication of the Board's positive approach to the licensing of the sale of alcohol and, in particular, its recognition of the cultural and social contribution that the trade has to make, as well as its importance as a local employer. The Association also agreed with the draft policy statement that there should be no presumption against the granting of new licences and that there is no issue in terms of overprovision.

The Association called for greater transparency in relation to licensing fees. However, considering the Board's regular fee reviews, the Sub-Group regard this as unnecessary.

In terms of curfews, the Association did not find it persuasive that there was a case for the imposition of curfews. However, the Sub-Group feel that curfews provide an effective measure to curb public disorder, and, as such, recommend that the policy remains.

The Association welcomed the Board's commitment in terms of targeting agreed problems and high-risk premises in concert with the Police, LSO, Fire Authority and other Council departments.

The Association noted that as the completion of a risk assessment is not a requirement of the application process under the Act, it is not necessary. The current policy only recommends completion of a risk assessment in any event. Therefore no change is recommended.

Local Licensing Forum

The Local Licensing Forum stated that they are satisfied that the statement of policy remains relatively unchanged and agree with the contents.

Specifically, the Forum agrees that there is no identifiable evidence of overprovision in Moray and therefore no presumption against the granting of a new licence in any area of Moray.

The Wine and Spirit Trade Association (WSTA)

The WSTA had no substantives amendments to propose in relation to the policy.

NHS Grampian

NHS Grampian submitted evidence to the consultation indicating that preliminary results of a mapping consultation they have undertaken show that the majority (provisional data 61%) of the resident adult population (age 18 years or over) in Moray live within 500 metres (one third of a mile) of an off sales premises; and even more (provisionally 79%) within one kilometre (two thirds of a mile). For Elgin, the proportions appear even higher (82% and 99.9% respectively). NHS Grampian feel that this suggests there is strong evidence of overprovision across both the urban area of Elgin and the semi-rural area of Moray as a whole.

The Sub-Group note, however, that overprovision is a question of when there is considered to be a saturation of premises such that it is having adverse affects on the licensing objectives (including public health). In their submission, NHS Grampian did not disclose why they deemed the current provision to be unreasonable. In addition, the Sub-Group did not see there to be an evidential link between the majority of people living close to a licensed premises and to there being overprovision as a result. The Sub-Group feel that NHS Grampian would need to go further and provide statistics, presumably on usage, to say that having premises nearby means people drink more and more harm is caused. In addition, NHS Grampian have only referred to off sale premises. The Scottish Government built in a limit on licensing hours for off sales, in that they must take place between 10am to 10pm. Over the course of a week, that reduced off sale hours. Weekdays and Saturdays lost two hours per day (8am to 10am), with Sundays gaining two hours (10am instead of noon). This equals a net loss of 10 hours per week.

The Sub-Group also have difficulty with their use of the 'semi-rural area of Moray' as a whole. 'Overprovision' is supposed to look for defined areas which are overprovided for. However, instead of referring to particular areas, NHS Grampian refer just to Elgin and to the rest of Moray, as a whole. This point is therefore rather vague in explanation.

Since the production of this summary further evidence has been received from the NHS and will be the subject of discussion at the Board meeting.

Police Scotland

In terms of late occasional licence applications the police favour a more robust policy of rejecting an application if there is less than 28 days remaining before the event.

The Sub-Group does not envisage a change in policy in relation to occasional licence applications. Up to now, the Board have always accepted applications subject to the minimum seven days advertising period whilst informing applicants that the Board will endeavour to get the licence processed, although it is not guaranteed. The Sub-Group regard this practice as satisfactory.

The police have also recommended placing more emphasis on adding conditions to licences. It is not recommended that emphasis is change in favour of adding conditions as the default position.

The amended policy makes reference to the possibility of conditions being added to both premises and occasional licences and attempts will be made to try and agree some wording with the police. It is recommended that applications should still be decided on an individual basis, rather than being directed by policy.

Some other minor amendments have been made pursuant to police comments. Those are highlighted by track changes on the draft in Appendix III.

Appendix III

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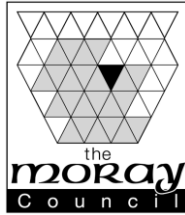
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**The Moray Licensing Board
Statement of Licensing Policy
for the Licensing (Scotland) Act 2005
Effective Period 30/11/2010 to 29/11/2013**

~~Statement about translation services etc (instead of the translate logo)~~

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This is the Statement of Licensing Policy of the Moray Licensing Board ("the Board") issued under the Licensing (Scotland) Act 2005 ("the Act").

The Board recognises that licensing is about regulating the sale of alcohol, the premises on which alcohol is sold, and for connected purposes within the terms of the Act.

1. Mission Statement

The Moray Licensing Board's aim is to serve the licensing needs of Moray as quickly and efficiently as possible, striking a balance between the business needs of its customers and the interests of the community as a whole in order to protect the public and further the licensing objectives.

To achieve this aim the Board will:

When deciding on policies, reach out to all parts of society and genuinely reflect their interests through the medium of the Forum;

Encourage an open and honest exchange of information in a customer - friendly setting and make decisions in a fair and reasoned manner based around agreed and published policies; and

Be fair in all matters and in this context fairness includes having regard to and an interest in equality and diversity in all forms.

2. Overriding Principle

The overriding principle will be that each matter will be judged on its own merits and each person will have the right to make representations on an application or to seek a review of a licence where such provision has been made in the Act. Applicants wishing to persuade the Board to depart from this statement of policy will need to demonstrate, by means of evidence, good reasons for so doing.

3. Introduction

3.1 The Moray Area

Moray has a population of 87,000 with three quarters of those living in or around the five main centres of Elgin, Forres, Keith, Buckie and Lossiemouth.

Traditionally there has been a reliance on fishing, farming, food, forestry, textiles and whisky. Service industries, including information services, continue to grow. The two RAF bases at Kinloss and Lossiemouth contribute greatly to local earnings and bring skilled and qualified staff in the area. Main transport links are via Inverness to the west and Aberdeen to the east, both of which have their own air connections.

3.2 The Duty to Consult On & Publish a Statement of Policy

Section 6 of the Licensing (Scotland) Act 2005 requires every Licensing Board to prepare and publish a statement of its licensing policy every three years. The policy must also be kept under review during the three year period and revised as necessary.

Before determining this policy, the Board consulted the persons listed in Appendix I. The Board has had regard to the views of all those listed and the views were given appropriate weight when the policy was determined.

3.3 The Board

The Board is made up of 9 members of the Moray Council with a quorum of 5. The Board is supported by a Clerk, Depute Clerks and administrative support staff. From time to time, the Board may also form sub-committee(s) to perform certain functions.

For details of the Board's scheme of delegation see paragraph 11 below.

3.4 Contacts

~~The Clerk to the Board is Rhona Gunn however for daily enquiries the Depute Clerk is Sean Hoath:~~

~~Moray Licensing Board
Council Offices
High Street
Elgin
IV30 1BX
01343 563077
sean.hoath@moray.gov.uk~~

~~The Clerk to the Board is Roderick D Burns however for daily enquiries the Depute Clerk is Sean Hoath:~~

~~Moray Licensing Board
Council Offices
High Street
Elgin
IV30 1BX
01343 563077
sean.hoath@moray.gov.uk~~

In his absence you can contact Tracey Thorrowgood on 01343 563030 or tracey.thorrowgood@moray.gov.uk

3.5 The Forum

The Moray Council has established a Local Licensing Forum ("the Forum") for the area of Moray. The Forum is representative of the community and will advise the Board on general matters of policy only. The Forum will not advise on or discuss individual cases.

Members of the Forum include (where relevant*) persons resident within the Moray area, holders of premises and personal licenses and persons having functions relating to health, education and social work. After the period of transition, 2009, the Forum will meet at least four (4) times per year and once a year with the Board.

The Board will have regard to the views of the Forum and will give reasons should it decide to depart from those views.

*The business of the Forum is not invalidated by the absence of one or more such persons.

3.6 Other Responsible Authorities

In formulating this statement of policy the Board has had regard to the views, if any, expressed by the following bodies:

- ~~• The Children and Young Peoples Partnership~~
 - Planning and Building Standards Departments
 - Environmental Services Department
 - The Police
- The Fire Authority
- [The NHS](#)

- The Moray Local Licensing Forum
- The Scottish Tourist Board

3.7 Tourism

The Moray area is well known for its whisky trails and coastal scenery and as such is a popular tourist destination. Tourism contributes greatly to the local economy and is welcomed.

Accordingly, the Board will welcome measures in operating plans that actively seek to promote tourism and stimulate the local economy.

3.8 Transport

Main transport links are via Inverness to the west and Aberdeen to the east, both of which have their own air connections.

Guidance requires this policy statement to identify any arrangement between the LSO and the Police for reporting views/concerns to the local Transport Committee. There are currently no such arrangements.

4. Objectives

4.1 Licensing Objectives

The Board will seek to promote the following 5 licensing objectives set out in the Act within this statement of policy and its decision making processes:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

4.2 Measures to Promote the Objectives

Set out below are general measures that the Board has decided will help to promote the five licensing objectives. The Board has found it helpful to ask other public bodies for sector specific guidance to include with this statement. Where such additional guidance has been made available, it can be found in the Appendices.

It should be noted that Licensing law is not the primary mechanism for the control of nuisance and antisocial behaviour by individuals once they are no longer on the licensed premises and beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.

5. General Communication

5.1 Communication

In general communication will be accepted by letter sent by post or document exchange (to the addresses above), by facsimile (to the number above) or by electronic mail addressed to licensing@moray.gov.uk

All communication should be addressed to the Clerk to the Moray Licensing Board.

If a party has made representations and wishes to withdraw the same then that party should indicate this to the Clerk of the Board in writing no later than 7 days before the hearing. If all representations are withdrawn then, in some cases, the hearing may be cancelled and the application may be considered under delegated powers. Otherwise the application may be considered as unopposed.

If an objection / representation is not withdrawn and so must be heard then if the Board decides to reject the notice of objection / representation as frivolous or vexatious, the Board may recover from the person who gave the notice any expenses incurred by the Board in considering the notice.

Except where otherwise provided, a requirement to give a notice (or to notify) is a requirement to give notice in writing; and for that purpose, a message sent by facsimile transmission or electronic mail must be treated as a notice given in writing.

5.2 Information Sharing

As part of application processing and/or pursuant to promoting the licensing objectives information may be exchanged with and/or sought from partner organisations such as those detailed in paragraph 8.1 below.

5.3 FOI publication scheme

See section 12.2 below

5.4 Data Protection

Licensing applications contain a lot of data, some of which may be personal data or event sensitive personal data as defined within the Data Protection Act 1998.

Personal data is anything relating to an individual who can be identified from the data or a combination of the data and other information held.

Sensitive personal data is defined by reference to a list of particular information including, amongst other things, details of past convictions for offences.

The data controllers are the Moray Licensing Board and the Moray Council.

The data controllers exercise functions under the Licensing (Scotland) Act 2005, the Gambling Act 2005 and associated legislation for the purposes of regulation, the administration of justice and other functions of a public nature in the interest of the public.

5.5 Irregularities / Mistakes

The Board may disregard any irregularity resulting from a failure to comply with a procedural provision where that irregularity comes to its attention prior to it making a determination of the matter in hand.

If the Board considers that any person may have been prejudiced by any such irregularity, it must take such steps that it considers necessary to remedy the consequences of the irregularity, before reaching its determination.

The Board may correct clerical mistakes in any document recording a determination of the Board, or errors arising in such a document from an accidental slip or omission.

5.6 Translation

Please see the start of this policy for statements regarding translation services. Translations are available upon request.

6. General Considerations

6.1 Children in Licensed Premises

It is a licensing objective that children should be protected from harm.

The protection of children from harm is an important consideration for the Board and the Board will welcome measures from applicants to increase accessibility for

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Statement of Licensing Policy

Moray Licensing Board Feb-08-Feb-2014 2013 to 2016

Last updated: 12/05/08 to take a/c of changes by Board made in meeting on 1st May 2008 18/07/13 By:SAH

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families, where appropriate, including provision of facilities suitable for children and young persons.

In general applicants are free to choose whether to allow access for children and young persons including the terms of such access, the ages to be allowed, the times for access and the places to which access will be granted. Detailed arrangements should be made very clear in the operating plan.

The Board will generally make a site visit to inspect the premises both in respect of new premises licence applications as well as applications to vary the provisions for access for children/young persons.

The Board has decided that it will not automatically add conditions to a premises or occasional licence where children and young persons are to be allowed access.

Instead, once particular area(s) have been identified the onus will be on applicants to demonstrate to the Board that those areas are suitable for children and/or young persons. Applicants should consider doing this through the medium of the risk assessment. This again emphasises the importance of applicants completing the risk assessment document. If the pro-forma document itself is felt to be inadequate then applicants are free to supplement the same with as much information as possible.

The Board will take into account the local knowledge of members about particular premises and may call applicants to a hearing to be questioned on the suitability of access for children and young persons.

The Board will naturally be more concerned about children and young persons potentially entering a vertical drinking establishment. In traditional "bar" type premises or areas the general atmosphere is less likely to be suitable for under 18's as adults tend not to moderate their behaviour. Problem indicators would include:

- General culture of drinking and/or vertical drinking
- Absence of substantial food
- General absence of tables/chairs
- TV screens e.g. televised sport
- Pub games like pool and darts that are not separated (e.g. in another room) from the main bar area
- General adult atmosphere or areas e.g. unsuitable language and/or behaviour

In addition the Board is concerned with ensuring that wherever possible children and young persons are not required to pass through unsuitable areas in order to reach the toilets.

Of less concern will be those premises that establish a family friendly atmosphere with facilities designed to cater for families, including children and young persons. This may include areas such as:

- Areas set aside specifically for use by families or children or young persons (note such areas should be identified on the layout plan in accordance with Regulations)
- Dining areas
- Designated function halls
- Bars with more of a traditional lounge bar atmosphere e.g. tables, chairs, carpets

Whether or not designated play areas exist, where applicants detail areas to which they intend to allow access for children and young persons it would be helpful for applicants to detail the sorts of facilities that will be available in those areas.

Applicants should pay particular attention to matters set out below when addressing the suitability of areas for children/young persons:

- Times for access. Suitability will be derived from a combination of information detailed in the operating plan. An essential element of this is the times as to when children/young people will be allowed access. Times will be examined in detail by the Board and times will need to be justifiable in terms of suitability. Traditionally 8:00pm (20:00) has been considered as a suitable terminal hour for younger children. Nevertheless the Board recognises that certain activities like functions may justify later access. Particular attention will be paid to applications that appear to request persistent late night access for under 18's.
- Applicants should consider the suitability of children having access to gaming machines. Gambling is regulated by the Gambling Act 2005 and for gaming purposes children are considered to be all under 18's. Under that Act applicants have a duty under the Gambling Act 2005 to ensure that children do not access gaming machines above category D (as specified in the Gambling Act 2005). Licensed premises may have both Category C and Category D gaming machines and applicants should consider siting Category C machines (or possibly all machines) away from family-friendly areas, especially where no, or no satisfactory, measures in place to deny children access.
- The Board recognises that it is becoming more common for families to want to play games such as pool together. The Board is of the opinion that pool (or similar) tables may be suitable for children or young persons to access under the right circumstances/conditions. Again applicants should consider the proximity of any bar area and the potential for vertical drinking creating an unsuitable atmosphere. Applicants should also address in the risk assessment the desirability of moving tables away from such areas or at least decommissioning them at certain times.
- Dart boards or any such similar game(s) equipment are generally not suitable to be deployed and used in areas of licensed premises at times when children may have access. Where applicants wish to do so then they should address the issues in the risk assessment. The Board considers that access for young people to these facilities should be explained in the risk assessment. This will be particularly true where young people may be taking part in darts leagues where the presence of adults in a vertical drinking atmosphere may render access unsuitable.
- Families are often welcomed into licensed premises for the purpose of dining and a dining room will generally be one of the more suitable areas for access for children and young persons. Where catering facilities are offered applicants should consider the desirability of making children's portions and/or specific food suitable for children available.

To address the above, where the Board considers that inclusion of a particular item within child-friendly areas is not consistent with the licensing objectives and where it appears necessary to the Board to promote the licensing objective of protecting children from harm, in areas and at times to which children have access to licensed premises the Board may consider adding conditions as follows:-

- Category C machines (or possible all gaming machines) should be cited away from child-friendly areas and measures should be put in place to the satisfaction of the Moray Licensing Board to ensure that children and young persons are denied access.
- Pool tables / dart boards / similar game(s) or equipment should be moved away from areas where children and/or young persons have access and/or measures should be put in place to the satisfaction of the Moray Licensing Board to ensure that children and/or young persons are denied access.
- Children's portions and/or specific food suitable for children should be made available at times when children and/or young persons are present and catering facilities are on offer.

Each case must be judged on its own merits. Therefore this list is not, and cannot, be an exhaustive one. The Board reserves the right to add further conditions in specific cases.

6.2 Baby changing

It is a mandatory condition attached to all premises licences where alcohol is sold for consumption on the premises and to which children under the age of 5 are to be admitted that there must be facilities for baby changing which are to be accessible to either gender.

There is no definition of what constitutes baby changing facilities. Usually customers would expect to have somewhere to go as a safe environment to change a baby. Many premises have facilities incorporated into a disabled toilet. Alternatively there are specially designed, portable baby changing tables / trolleys.

Members' Clubs are exempt from this premises licence condition.

6.3 Outdoor Areas

Outdoor areas will normally form part of the licensed area of the premises and should be clearly defined on the layout plan. This is essential in places that are the subject of a byelaw against drinking in public places.

Where an outdoor area is not part of the licensed area of the premises then it can only be used for the consumption of alcohol where the premises has the facility to sell alcohol for consumption off the premises and where no byelaw is in place.

[The Moray Council Environmental Health section can provide](#) ~~For~~ advice regarding smoking shelters. ~~the Moray Council has a smoking officer.~~

Use of pavement areas for outdoor drinking facilities is subject to permission from the Council's Roads department, which should be obtained separately. Particularly for pavement areas, applicants should give consideration to the following matters and where appropriate some or all of these matters may be the subject of conditions on the licence:

- the outside area will be delineated for patrons in accordance with the layout plan, this may include the use of barriers
- use of the outside area for consuming food and alcohol will normally be subject to patrons being seated and therefore use will be limited by the number of seats available
- the maximum number of seats available should be stated so as to ensure that no patron strays outside of the licensed area
- patrons should not normally be allowed to take any drinks (including alcohol) or food outside the premises (which expression includes the outside area) other than off sales sold on the premises
- the licence holder will provide adequate signage in appropriate places to advise patrons of the terms of use of the outside area and particularly to warn patrons that consumption of alcohol outside of the premises (inclusive of the outside area) will be an offence if there is a byelaw against drinking in public places
- the terminal hour for the consumption of food and alcohol within the outside area shall generally be 22:00 (10:00pm) after which food and alcohol will not be allowed in the outside area
- consideration should be given as to when children and young persons will be allowed in the outside area – perhaps up to 21:00 (9:00pm)
- the tables, chairs and associated furniture/removeable items will be removed from the outside area immediately following closure of the outside area and the area will be cleared by 22:30 (10:30pm). Tables, chairs and associated furniture/removeable items will not be placed outside before 08:30 (8:30am)

- the outside area will be suitably monitored (along with the remainder of the premises) at all times it is in use whether for eating, drinking or smoking for example by the use of CCTV, and staff (including door staff whether employed or contracted for) for compliance with all conditions
- the outside area should be controlled and reasonable efforts must be made so as to minimise potential noise and/or light nuisance to neighbours and no music amplified or otherwise will be permitted in the outside area
- the premises will provide suitable receptacle(s) for patrons to dispose of rubbish, particularly that related to smoking, and will ensure that the outside area remains clean and tidy at all times

6.4 Members' Clubs

Members' Clubs that are qualifying clubs enjoy certain exemptions/privileges. Those include reduced fees, no requirement to have a premises manager etc.

For a club to qualify, its constitution must contain a whole list of matters as set out in the Clubs Regulations. In turn the club must comply with its constitution. It is also an essential element of any Members' Club/Voluntary Organisation that it is established and run otherwise than for financial gain. A club must not be conducted for the purpose of making a profit.

[Clubs will be asked to provide a copy of their constitution with any application. Clubs should also keep the Board advised of changes to the constitution.](#)

If all the required provisions are not in the constitution, then it does not prevent the club being a club or even holding a licence. It will mean, however, that all the exemptions like reduced fees will be lost. Similarly, if the provisions are in the constitution but are not being complied with then again it will mean the loss of all privileges or even the loss of the licence itself if the Moray Licensing Board decides to hold a review hearing.

Two key requirements for a qualifying club mean that anyone who is to be supplied with alcohol on the premises must be:

- a member or genuine guest of a member or a member of another qualifying club; AND
- [for guests](#) properly signed in.

There is no obligation to sign in persons who are not supplied with alcohol but in practical terms it would seem easier just to sign everyone in. Otherwise clubs will need to be very sure that such persons will not be supplied with alcohol. It is also the case that where a non member is to be supplied with alcohol then:

- he/she must be on the premises at the invitation of a member and must be accompanied by that member; AND
- he/she must be signed in.

There is no definite answer to the question of how many people can be signed in? The answer may be stated in the club's constitution. If not then the natural limit will be the number of people that the member can reasonably accompany. It would not generally be acceptable, for example, for members to sign a blank visitors' book and leave anyone and everyone to simply sign their name underneath. If a member is inviting a guest then the member should really know everyone who is there at his/her invitation.

Another privilege enjoyed by clubs is the ability to apply for an occasional licence, even where a premise licence is currently in force. This is a very important entitlement because the normal members and guests and signing in rules are suspended when an occasional licence is in force. This means that a club can admit

members of the public in general and can supply them with alcohol without having to sign them in, by obtaining an occasional licence for that particular occasion/event.

By virtue of it being a very generous provision, clubs are limited in the number of occasional licences that can be obtained. So the entitlement must be used but must also be used wisely. The limit is:

- not more than 4 occasional licenses each having effect for a period of 4 days or more; and
- not more than 12 occasional licences each having effect for a period of less than 4 days

provided that, in any period of 12 months, the total number of days does not exceed 56.

6.5 Hours

The overriding principle is that each application will be considered on its individual merits.

The Board expects that customers be given adequate notice about opening hours in general and advanced warning of last orders and time. This may be in the form of signage as well as announcements. In terms of the adequacy of an advanced warning, what is adequate will vary with circumstances but applicants may consider 30 minutes as reasonable in this regard.

To assist applicants the Board has given the following general indications with regard to opening hours:

6.5.1 General Operating Hours

Licensed hours must be detailed in the operating plan of every premises.

The Board will generally consider applications for up to 15 hours in any 24 hour period as being reasonable. Any application for licensed hours for more than 15 hours will be the subject of additional scrutiny and applicants may be expected to justify their requests.

The Board does not wish to unnecessarily inhibit the development of a thriving and safe evening and night-time local economy, which is important for investment, employment, and tourism.

6.5.2 Off Sale Hours

The Board must refuse an application for off sales that would result in alcohol being sold before 10.00 a.m., after 10.00 p.m. or both on any day.

However, this does not automatically mean that applicants requesting an off-sales licence for the whole of the time from 10.00 a.m. to 10.00 p.m. will automatically be granted the same. The Board will still have regard to the licensing objectives.

6.5.3 24 Hour Opening

The Board observes the presumption against routine 24 hour opening of licensed premises. The Licensing Board must refuse the application unless they are satisfied that there are exceptional circumstances for justification.

In this context limited exceptional circumstances will only be justified by a specific event of very high local, national or international importance.

6.5.4 Early and Late opening Hours

6.5.4.1 Early Opening

Early opening will be considered as any premises that wish to open before 11:00 a.m. Where such an application is made the Board is of the opinion that it would be

more consistent with the licensing objectives for the operational emphasis to be on food or tourism as opposed to vertical drinking establishments. The Board will expect applicants to demonstrate measures that promote the licensing objectives. The Board further considers that it would be difficult for any application to justify the sale of alcohol prior to 9:00 a.m. unless there are exceptional circumstances.

6.5.4.2 Late Opening

The national position is that late opening will be considered as any premises that wish to remain open after 1:00 a.m. Such premises will be subject to mandatory late opening conditions and the Board may attach further conditions. The later a premises wishes to open, the more the Board will expect applicants to demonstrate measures that promote the licensing objectives and justify the request for late hours. The Board further considers that it would be difficult for any application to justify the sale of alcohol after 3:00 a.m. unless there are exceptional circumstances.

The Board will continue to support local Schemes such as Pub Watch, Safer City Centre Initiatives and Door Safe Schemes. The Board recognises that Voluntary Schemes amongst licensees can reduce public disorder and nuisance offences taking place within local communities. Where appropriate, the Board will encourage membership of such Schemes.

6.5.5 Curfew

Certain late opening premises have traditionally been subject to a curfew in Moray.

The curfew is designed to prevent customers intending to drink past 1:30 a.m. from drifting between premises and/or remaining on the streets to possibly be the source of antisocial behaviour, public nuisance or public disturbance. It also staggers leaving times for certain premises thus reducing the overall numbers of people on the streets at any one time.

The Board fully supports the idea of a curfew and has decided that a curfew should be in place for 12:30 a.m. on premises with opening hours of later than 1.30 a.m. at any time. This includes seasonal opening hours and extended opening hours as well as core opening hours.

The Board considers that it will be promoting the licensing objectives by supporting a curfew and such a condition will be attached to premises licence or extension of hours or occasional licence as appropriate whenever opening hours pass 1:30 a.m..

This is a sample of the curfew condition:

Curfew

The premises will be subject to a curfew at any time when the premises will be open after 01:30 (1.30am), including seasonal variations. A curfew will apply at 00:30 (12.30am) such that the premises must deny entry to patrons (except residents) after 00:30, including re-entry to those patrons (except residents) that leave the licensed area of the premises for any reason after 00:30.

It would be helpful for applicants to indicate a willingness to voluntarily adopt the curfew. This does not mean that the curfew is a voluntary measure. What it does mean is that applicants that do not accept the curfew will be required to put their case to the Board at a hearing.

Customers intending to drink past 1:30 a.m. should be made aware they must be in the late opening premises before the curfew.

6.5.6 Seasonal Hours

[This section should include details of all hours in respect of regular/speial events that can be anticipated.](#)

Christmas and New Year are obviously special occasions but given that they occur every year on the same dates allowance should be made for opening hours within operating plans. Applicants should also refer to the section on the curfew at 4.1.4 above.

[The Board issues Christmas and New Year guideline hours and applicants that include reference to those guideline hours within their operating plan will be allowed to trade to those hours if they wish.](#)

[Licensing hours required outside of those detailed in the operating plan would have to be the subject of an extended hours application.](#)

6.5.7 Drinking Up

Drinking up time is 15 minutes under normal circumstances and 30 minutes where alcohol was sold for consumption with a meal.

Premises should consider a winding down policy and measures within such a policy to promote the licensing objectives through effective dispersal of patrons.

6.5.8 General Extension of Hours

On occasions of national, local or possibly international significance the Board has the authority to apply a general extension of licensing hours.

The Board will notify those affected of the granting of any general extension of hours. Such grants will always be posted on the Licensing Section of the Moray Council's website. In addition, in respect of either sector or local specific grants, the Board will notify premises individually. The Board may also publish details in local newspapers as it sees fit.

6.5.9 Duty to Trade

The information provided in operating plans will enable the Board and the Licensing Standards Officer to determine if a breach of the operating plan and/or the licence conditions has occurred. Where this is the case the Licensing Standards Officer or the Board may initiate a review of the licence.

Applicants should note that the Act allows anyone to apply to the Board for a review of the licence on any of the grounds set out in section 36 of the Act.

Applicants should not, for example, grossly overestimate their trading hours "just in case" they may be required.

The Board recognises that there may be circumstances that would reasonably cause a temporary reduction in the trading hours given in the operating plan. Such circumstance will not ordinarily be considered a breach of the operating plan.

The Board also recognises the need for businesses, especially in a rural environment, to remain economically viable when faced with a lack of demand. Licensed premises may wish to close early owing to a lack of customers and, therefore, not trade for their full complement of licensed trading hours. [In this regard there is not considered to be a duty to trade and](#) ~~Again~~ this will not ordinarily be treated as a breach of the operating plan.

However, in considering such issues, the Board will give particular attention to whether these "un-used" hours are preventing new entrants into the market. If so, it may be appropriate to review and/or amend the operating plan of the premises concerned.

6.5.10 BST

Section 66 of the Licensing (Scotland) Act 2005 states that the beginning or, as the case may be, ending of British Summer Time is to be disregarded for the purpose of determining the time at which that period of licensed hours ends and, accordingly, the period ends at the time it would have ended had British Summer Time not begun or ended.

Traditionally the time for changes to the clock is 1:00 a.m. Greenwich Mean Time.

Start of BST

On such date as is prescribed as the date in the Spring when the clocks go forward to mark the change over to British Summertime at 1:00 a.m. GMT clocks go forward to 2:00 a.m. BST.

Licensees who enjoy licensing hours beyond 1:00 a.m. GMT will be judged by reference to the number of hours after midnight when their operating plan authorises them to be open rather than by the actual time shown on the clock. This will mean that licensees who enjoy hours until 3:00 a.m. will have 3 hours beyond midnight. The clocks will move forward at 1:00 a.m. to 2:00 a.m. At that point the terminal hour will be when the clock shows 4:00 a.m. (assuming immediate alteration of the clock).

End of BST

On such date as prescribed as the date in the Autumn when the clocks go back to mark the changeover from BST back to GMT at 2:00 a.m. BST clocks go back to 1:00 a.m. GMT.

Licensees who enjoy licensing hours beyond 1:00 a.m. will similarly close according to the number of hours after midnight which they are authorised by the Licensing Board to be open rather than the actual time shown on the clock. Therefore premises licensed until 3:00 a.m. will close 3 hours after midnight, when the clock should again show 3:00 a.m. (assuming immediate alteration of the clock).

Any Licensee who enjoys hours up until 1.00 a.m. is unaffected by the change of clocks. The Board does not accept that those licensed until 1.00 a.m. gain an additional hour on the changeover to British Wintertime.

6.6 Byelaws

The Moray Council has introduced bye-laws prohibiting the consumption of alcohol in designated public places. These bye-laws in terms of the Local Government (Scotland) Act 1973 currently apply to Elgin, Forres, Buckie, Keith and Lossiemouth.

The effect of the bye-laws is that any person who consumes alcoholic liquor in a designated public place shall be guilty of an offence. Licensed premises and Registered Clubs are exempt from the bye-laws. The bye-laws also state that they shall not have effect on 31 December from 6:00 p.m. until the end of that day and on 1 January until 6:00 a.m.

As licensed premises are exempt it is in the interests of applicants to take care to clearly mark on layout plans where external areas are to be counted as part of the licensed premises, for the purpose of outdoor drinking. Applicants within areas affected by a bye-law should also take all reasonable steps to notify customers of the existence of the bye-law and the obligation not to consume alcohol in public.

6.7 Underage Drinking

The Board strongly supports the use of the Access Moray Young Persons Card, which bears the Proof of Age Standards Scheme logo (PASS logo) available free to all young people under 26. To protect children and young persons and avoid crime the Board strongly urges licence holders and their staff to require the production of valid identification cards on a "no ID – no sale" basis.

Licencees are therefore strongly urged to practice due diligence to avoid underage sales. Due diligence ~~will~~ include:

- ~~complying with the requirement to have~~ an identification/challenge policy, ~~for example i.e.~~ to require ID if a customer appears under 21/25. This should also include clear signage to leave customers in no doubt as to the policy;
- training staff in the policy;
- ensuring that staff and customers comply with the policy; and
- keeping records regarding compliance including refusals.

This list is only illustrative and is not exhaustive.

6.8 Irresponsible Promotions

Protecting and improving public health is a licensing objective and the Board will view actions that encourage binge drinking as a serious matter.

Measures to tackle irresponsible drinks promotions include the prohibition of price varying within a 72 hour period, targeting irresponsible promotions such as 'happy hours'.

The Scottish Executive is of the opinion that the comprehensive list below makes it clear as to whether any particular activity is considered irresponsible and the Board supports this opinion. An irresponsible promotion is one which:

- relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18;
- involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks)*;
- involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink*;
- involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises)*;
- encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume;
- is based on the strength of any alcohol;
- rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly;
- offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.

*applies to on - sales only.

The Board will require clear evidence linking the sale of alcohol to an inducement to the consumer to immediately drink to excess before a promotion will be considered as possibly irresponsible.

Initially complaints should be dealt with at a local level by the Licensing Standards Officer, who will mediate between the licensee and the Board to agree whether or not any promotion breached the mandatory licence conditions. In most cases it is hoped that these cases can be resolved in discussion between the LSO and the licensee without any sanctions being applied by the Board.

However, where the Board feels that further action is appropriate, it would instigate a review hearing to determine what action, if any, needed to be taken against the licensee concerned.

6.9 Overprovision

Section 7 of the Licensing (Scotland) Act 2005 requires each Licensing Board to include in its policy statement: a statement as to the extent to which the Board considers there to be an overprovision of:-

- (a) licensed premises, or
- (b) licensed premises of a particular description, in any locality within the Board's area.

The Moray Licensing Board has undertaken an assessment of overprovision and a copy of that assessment is included at Appendix II.

For reasons given within the assessment it has not been possible to identify any locality within Moray where data supports a robust and compelling argument that the prevalence of licensed premises has reached, or is close to reaching, saturation point.

Therefore there is no presumption against the granting of new licences within any locality within Moray. Nevertheless, the Moray Licensing Board recognises that each application for a premises licence is still to be judged on its own merits.

7. Licensing Standards Officer (LSO)

The LSO for the Moray area can be contacted via the Moray Council's Trading Standards Department at 232 High Street, Elgin, IV30 1DJ.

The LSO cannot provide legal advice on particular issues and advice should be sought from a solicitor.

The Board will work with the Police, LSO, Fire Authority, and other Council departments for the targeting of agreed problem and high-risk premises. Lower risk premises which are well managed and well maintained will be subject to less regular inspections.

7.1 LSO Roles

The Licensing Standards Officer (LSO) for Moray has three primary roles:

- Advice – The LSO will be the first point of contact for anyone who requires general advice on the provisions of the Licensing (Scotland) Act 2005 and the Gambling Act 2005;
- Mediation – The LSO will also have a role in mediating on disputes involving alcohol licensed premises;
- Compliance – The LSO will undertake a programme of compliance visits. The LSO has certain powers to ensure licence holders comply with the Acts. In the worst case the LSO may recommend that the Board hold a hearing to review a licence. The LSO should be the first point of contact for anyone with a complaint or dispute and the Board envisages that most matters will be resolved at a local level through the mediation process involving the LSO.

7.2 LSO Consultations

The LSO is consulted on all applications where consultation is required.

8. Other Regulation

The Moray Licensing Board will not be used as an enforcement agency for other regulatory regimes.

Accordingly the Board will avoid, so far as possible, duplicating the roles of other regulatory regimes. Licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are no longer on the Licensed Premises and beyond the direct control of the licence holder. The

Board encourages applicants to consult with other relevant bodies when preparing their operating plans and any risk assessment.

Responsibility lies with applicants to comply with other regulatory regimes provided for by other Acts and Regulations. Applicants should make themselves aware of the requirements of other regimes and enforcement bodies and comply with the same. Complainants that come to the Moray Licensing Board regarding matters that could more properly be dealt with by other enforcement bodies will automatically be directed to the appropriate person(s).

Nevertheless the Board has a duty to promote the licensing objectives and, in this regard, will view certain matters as particularly serious and as having an impact on the regulation of the sale of alcohol, the premises on which alcohol is sold and connected purposes within the terms of the Licensing (Scotland) Act 2005. Examples of particularly serious matters are included at Appendix III.

8.1 Partners

8.1.1 Planning & Building Standards

The Board will expect planning permission to be in place before it deals with an application for a premises licence.

The Board will not cut across decisions taken by the Local authority planning committee, nor seek to challenge decisions taken by that committee. Similarly, the granting by the Licensing Board of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building warrant where appropriate.

8.1.2 Fire

Fire safety places a range of duties on the self-employed, employers and operators of venues and responsibility for enforcement of the same lies with the appropriate fire authority.

8.1.3 Police

The Board will co-operate with the Police and will seek to deal with the issues of excessive consumption of alcohol, binge drinking and underage drinking in so far as it is able to do so within the law.

The Board has asked the Police as a responsible authority to prepare a note on possible scenarios relating to licensed premises for door stewards to consider, for example search and seizure procedures.

The Moray Council and the police also operate in partnership in respect of local CCTV. Guidance on the specification and use of CCTV ~~has been prepared separately and appears at Appendix IV~~ [appears on the Licensing Board's website pages and is subject to updating from time to time.](#)

Both of these documents have been produced on the Moray Council website and should be referred to by applicants.

8.1.4 The NHS

[The Board must consult the NHS in respect of certain applications and policy issues and will take relevant comments into account.](#)

8.1.4.1.5 Environmental

The Board will look at the impact of the licensed activity on members of the public living, working or engaged in normal activity in the area in question. This can include matters such as the type of use, numbers and type of customers likely to attend the

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premises, the proposed hours of operation, the level of public transport, the adequacy and impact of car parking and the frequency of the activity.

The Board has also asked The Moray Council Environmental Services Department as a responsible authority to prepare useful information and applicants will find at Appendix V a guide to preventing noise nuisance from licensed premises.

8.2 Relationships

Matters raised in relation to any application must be on relevant grounds and must relate to the sale of alcohol. Inevitably there will be a cross over between the licensing objectives and matters relevant to other regulatory regimes e.g. noise, planning, smoking, unsafe premises, fire prevention etc. Matters under these headings all relate to the licensing objectives. However they are also covered by other legislation and other regulators.

Please note that the Scottish Government and the Moray Licensing Board have made it clear that the licensing system must not duplicate other regulatory regimes. This means that the Moray Licensing Board will not allow licensing to be used simply as a means of putting additional pressure on an applicant where matters complained of should be dealt with by another regulator.

Where it is considered that objectors or representers are merely using the licensing system to their own ends rather than addressing the licensing objectives then matters raised may be rejected as vexatious.

8.3 Consultation

As part of application processing and/or pursuant to promoting the licensing objectives information may be exchanged with and/or sought from partner organisations.

8.4 Extra Information for Partner Organisations

Please refer to section 10.1.1 below.

Guidance issued by the Moray Licensing Board in respect of particular application types will indicate whether additional information is sought, particularly for the benefit of partner organisations. All information received in connection with an application may be shared with relevant consultees/partner organisations.

Where further information is sought then applicants are strongly advised to provide the same with their application. In the absence of information that may be required by consultees/partner organisations to meaningfully comment the application may be delayed by objections/representations that will need to be addressed (by additional information) before the application can proceed.

9. Types of Licence & Applications

For application processes please see section 10 below.

9.1 Premises

The operating plan should set out clearly the applicant's proposals including the activities that would be undertaken on the premises, proposed opening hours and their policy in relation to access for children.

The Moray Licensing Board will welcome accessibility for families including children and facilities suitable to cater for children.

The form of the operating plan and layout plan are set out in regulations made under the Act and applicants should also see relevant sections in this policy.

The Board should be able to determine with certainty the kind of operation which would be permitted in terms of the licence, and be assured that the premises will continue to operate on that basis once a licence is granted.

9.1.1 Variations

When a premises licence is in place, the licence lasts indefinitely and so to allow for changes to circumstances it is possible to apply to vary that licence. There are two types of variation application:

9.1.1.1 Variation

Section 29(5) defines a variation as meaning any variation (which includes addition deletion or other modification) of:

- (a) any of the conditions to which the licence is subject (*other than those to which the licence is subject by virtue of section 27(1) which are Schedule 3 mandatory conditions*);
- (b) any of the information contained in the operating plan contained in the licence;
- (c) the layout plan contained in the licence (subject to s.29(6)(a) below); or
- (d) any other information contained or referred to in the licence.

Many variations will be structural variations like changes of layout, extensions being built etc. Most such variations, irrespective of the scale of work, will constitute a (major) variation to the licence. Structural alterations should be the subject of a variation application before work starts so as to ensure the licence variation will be granted. Once the variation is granted then the Board will retain the varied licence so as to allow the premises to continue to trade under the original licence whilst building works are undertaken. Once building works are complete the applicant can confirm conformity to the varied licence and the varied licence can be issued.

There is no provision to obtain s.50 certificates for structural alterations although in practise if alterations take place without relevant permissions then the relevant council department(s) are likely to make a representation. It would therefore be wise for applicants to produce copy permissions or s.50 certificates with the application in order to confirm compliance with other regulatory regimes.

In respect of very large scale works like reconstruction consideration should be given to instead applying for a new provisional premises licence, which may be more suitable than a variation.

9.1.1.2 Minor Variation

Section 29(6) defines a minor variation as:

- (a) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan,
- (b) where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises,
- (c) any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager), and
- (d) any other variation of such description as may be prescribed for the purposes of this subsection. ~~(note that despite consultation at the time of publication nothing else has been prescribed).~~

The following have been prescribed for this purpose:

- (a) where the name of the premises is disclosed in the premises licence, any change in that name;
- (b) a temporary or permanent reduction in the licensed hours which does not result in the premises opening any earlier or closing any later than stated in the premises licence and operating plan;

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(c)in relation to the access of children or young persons onto the premises any variation to the operating plan so as to—
(i)increase the minimum age at which children or young persons may be allowed onto the premises;
(ii)reduce the times at which children or young persons are allowed onto the premises;
(iii)restrict the access of children or young persons to certain parts of the premises;
(d)any reduction in the capacity of the premises whether resulting from a variation to the layout plan or otherwise;
(e)any variation resulting in the cessation of the provision of live or recorded music at a decibel level exceeding 85 decibels;
(f)any variation to provide that, when the premises are fully occupied, more customers are likely to be seated than standing.

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Despite the lack of further prescription it seems inherently correct that the greater should include the lesser and that minor variations should also include any restriction in trading that has already been allowed. Therefore, in appropriate circumstances, the Board will consider treating the following as minor variations:

- Any change of address of the licence holder, premises manager or connected person.
- ~~Any reduction in trading hours~~
- Taking part of the premises out of use
- Any reduction in activities approved in the operating plan
- ~~Any reduction in capacity~~

Note that where a premises manager leaves a premises or becomes incapable of performing that function has his/her personal licence suspended/revoked then the licence holder must give notice to the Board within 7 days of that event. The licence holder then has 6 weeks in which to apply to substitute the premises manager. Section 31 also applies in relation to a premises licence variation application where the variation sought is the substitution of another individual as the premises manager and the applicant requests in the application that the variation should have immediate effect. Where section 31 applies, the premises licence to which the application relates has effect during the application period (the time from receipt of the application by the Board to its determination or withdrawal) as if it were varied as proposed in the application.

9.1.2 Transfers

There are two types of transfer application, either by the licence holder or the intended transferee.

The Licensing Board must give notice of it to the appropriate chief constable. Within 21 days the chief constable must respond to the notice with details of any convictions by the transferee or any connected person. Where convictions exist the chief constable may include a recommendation for refusal if necessary for the purpose of the crime prevention objective.

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Section 33 Application by Licence Holder to Transfer

By s.33(1) A premises licence holder may apply to the appropriate Licensing Board for the transfer of the licence to such person as is specified in the application and the transferee may not be an individual under the age of 18 (s.33(2)).

By s.33(3) An application must be accompanied by the premises licence (or a lost licence declaration).

9.1.2.1 Section 34 Application by a Person OTHER than the Licence Holder to Transfer

By s.34(1) the applicant must not be an individual under 18, must not be a premises licence holder and must fall within one of these categories (specified within the Licence Transfer (Prescribed Persons) (Scotland) Regulations 2007 SSI 2007 No. 34). Application must be made within 28 days of the specified event. The specified event and the person who can apply in each circumstance are:

- 9.1.2.1.1 Death – on the death of the licence holder the person who may apply is any executor or personal representative of the licence holder.
- 9.1.2.1.2 Incapacity – on the incapacity of the licence holder (within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000) the person who may apply is: (a) any person who has been granted a power of attorney by the licence holder; or (b) any person authorised to act on behalf of the licence holder by virtue of the Adults with Incapacity (Scotland) Act 2000.
- 9.1.2.1.3 Insolvency – when the licence holder (individual/partnership/company) becomes insolvent the person who may apply is any person acting as insolvency practitioner (within the meaning of section 388 of the Insolvency Act 1986) in relation to the licence holder. An individual or partnership becomes insolvent on: (i) the approval of a voluntary arrangement proposed by the individual or partnership; (ii) being adjudged bankrupt; (iii) the individual's or partnership's estate being sequestrated; (iv) entering into a deed of arrangement made for the benefit of creditors; or (v) granting a trust deed for creditors. A company becomes insolvent on: (i) the approval of a voluntary arrangement proposed by its creditors; (ii) the appointment of an administrator or administrative receiver in respect of it; or (iii) going into liquidation.
- 9.1.2.1.4 Dissolution – when the licence holder (OTHER than individual/partnership/company) is dissolved the person who may apply is any person responsible for administering the dissolution of the licence holder.
- 9.1.2.1.5 Transfer of business – where the business carried on in the licensed premises is transferred (whether by sale or otherwise) to another person the person who may apply is any person to whom the business in question is transferred.

The application must be accompanied by the premises licence or a lost licence declaration. The applicant should also provide evidence of their status to bring the application e.g. the executor's confirmation, the attorney's power of attorney, the licensed insolvency practitioner's certificate of appointment. In cases of a transfer of business please provide evidence to confirm the transfer e.g. concluded missives and separate confirmation of settlement.

9.1.3 Extended Hours

An occasional extension allows for ad hoc occasions for specific premises where a licensee wishes to provide for the sale of alcohol for a period beyond the normal hours during which alcohol may be sold under the premises licence.

The Board wishes to make it clear that regular seasonal events like Christmas should be accounted for within operating plans.

Where it is not possible to predict the demand for additional hours because premises are being asked to handle or wish to provide for an event at short notice, the application must relate to a special event or occasion to be catered for on the premises.

The Board will have complete discretion as to whether to grant the application taking into account any Police objections, any comments from the Licensing Standards Officer(s) (LSO – for which see section 7 above) and having regard to the licensing objectives. The Board may hold a hearing for the purposes of determining any application, but this is not mandatory. Where the Board does not hold a Hearing, the Board will ensure that before determining the application, the applicant is given an opportunity to comment on any objections from the Police or adverse comments from the Licensing Standards Officer(s).

No extension can be granted to operate for a period of more than one month and such an extension cannot be further extended.

9.2 Provisional Premises

A provisional premises licence may be granted prior to building / during renovation of a premises.

The provisional premises licence has to be confirmed within 2 years, otherwise it will automatically be revoked. Upon confirmation the Board may make a variation of the conditions to which the licence is subject.

9.3 Personal

Every premises will require one or more personal licence holders.

The personal licence is intended to ensure that anyone managing premises is suitably capable of doing so. Whilst the Act requires every sale to be "authorised" by a personal licence holder, such authorisation can be a general one.

The Board will expect the terms of any general authorisation for the sale of alcohol to be specific, available for inspection by any Licensing Standards Officer, brought to the attention of and signed by all parties involved and enforced by the premises manager.

The Board does not consider that a personal licence holder is required to be on the premises at all times. However where a personal licence holder is not present they are not removed from all responsibility. This should be addressed in the terms of the authorisation.

9.4 Temporary Premises

Where a licence holder wishes to carry out alterations etc to the principal licensed premises then the Board can issue a temporary licence for a secondary premises to enable the licence holder to continue to trade pending completion of the works.

To issue a Temporary Premises Licence the Board must be satisfied that:

- the temporary premises are suitable for use for the sale of alcohol; and
- that it is necessary to grant the application to enable the applicant to carry on business pending reconstruction or conversion of the principal premises.

The Board may vary the conditions to which the licence is subject, if it considers appropriate to do so.

9.5 Occasional

An occasional license may be granted to the holder of a premises licence / the holder of a personal licence / a representative of a voluntary organisation authorising him/her to sell alcohol at an occasion/function for a period of not more than 14 days where the event is taking place outwith their licensed premises.

Voluntary organisations and members' clubs are restricted in the number of occasional licences they can request. Voluntary organisations are also subject to the mandatory condition that Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation's activities.

The Board must give notice of it, together with a copy of the application, to—

- (a) the appropriate chief constable: and
- (b) the Licensing Standards Officer (LSO).

Within 21 days of receiving the notice the chief constable may recommend refusal if it is considered necessary to prevent crime. Also within 21 days the LSO can provide comments on the application.

These minimum time periods mean that late applications ~~cannot~~ may not be accepted.

At the same time as notice is given to those above the application will also be advertised on the Board's website for a continuous period of 7 days and during that 7 day period any person may lodge an objection or representation in respect of the application.

"Any person" will include, for example, the council's Building Standards department and/or Environmental Health department. Those departments are especially interested when an occasional licence is sought for a temporary structure e.g. marquee or previously unused area/building where there may be issues of public safety, public nuisance etc in accordance with the licensing objectives.

If there are no objections/representations at all then the application must be granted. It is likely these will be dealt with under delegated powers (unless they are complex or made at short notice).

If there are objections/representations then the Board must consider whether grounds for refusal exist. If so then the application must be refused. If no grounds for refusal exist then the application must be granted. Where the Board must consider the application, applicants will be dependent upon arrangements for Board meetings.

In terms of refusal, the grounds for possible refusal are:

- That the premises to which the application relates are excluded premises;
- That the application must be refused under section 64(2) (presumption against 24 hour opening) or 65(3) (off sales outside the period 10a.m. to 10p.m.);
- That the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives;
- That, having regard to the nature of the activities proposed to be carried on, the location, character and condition of the premises, and the persons likely to frequent the premises, the Board considers that the premises are unsuitable for use for the sale of alcohol.

An occasional licence will be subject to the mandatory conditions as set out in Schedule 4 of the Licensing (Scotland) Act 2005. An occasional licence may also be subject to the following:

- The Board's condition regarding a curfew for which see section 6.5.5 above
- The mandatory condition regarding first aid as contained in Schedule 3 to the Licensing (Scotland) Act 2005

- Section 60 provides for conditions of occasional licences. Section 60(4) in particular provides that:

"...where a Licensing Board grants an occasional licence, the Board may impose such other conditions (in addition to those to which the licence is subject..." by virtue of mandatory conditions "... as they consider necessary or expedient for the purposes of any of the licensing objectives."

- The Board will take any consultee response into account when granting a licence and before making a final decision may seek agreement from the applicant as to whether the applicant agrees certain conditions. The Board may publish a list of possible conditions to which the licence may be subject from time to time.

- ~~Where the Board considers it appropriate in accordance with a licensing objective, an occasional licence for a voluntary organisation may be subject to additional requirements, for example a requirement to have trained persons present throughout the events above~~
- ~~Where the Board decides that it is appropriate in accordance with a licensing objective, a condition regarding the use of stewards.~~ NB where stewards are required applicants are advised to review the requirements for stewards to have appropriate SIA registration at <http://sia.homeoffice.gov.uk/Pages/home.aspx>

The following matters are also relevant to occasional licences:

- ~~Where a Licensing Board grants an occasional licence, the Board may impose such other conditions (in addition to above) as they consider necessary or expedient for the purposes of any of the licensing objectives.~~
- There are no specific training requirements with regard to staff for occasional licences but note a mandatory condition regarding the sale of alcohol being authorised by a personal licence holder. This condition applies only where the applicant is a premises or personal licence holder and NOT where the applicant is a voluntary organisation.
- Whilst ever an occasional licence is in force there must be displayed on the premises in a position where it is readily visible to any person seeking to buy alcohol, a sign regarding the sale of alcohol to under 18's.
- Whilst ever an occasional licence is in force in respect of premises used wholly or mainly for the purposes of a club the conditions of any premises licence issued in respect of the premises are not to have effect.
- Occasional licences authorise the sale of alcohol only and the issue of a licence is not to be taken as any endorsement of the event or other arrangements e.g. those related to fire safety or food hygiene. It is always up to the organisers to undertake

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their own risk assessments and organisers remain responsible for public safety. Licences may be issued with a disclaimer to that effect.

9.6 EU SD & Electronic Applications

Applications can be accepted in electronic format, paper format or a combination of the two.

10. Applications Processes

10.1 General Pre Application Matters

10.1.1 Info & Docs Required

10.1.1.1 Risk Assessment

The Board strongly recommends that applicants complete a risk assessment in respect of the premises and to provide a copy of this to the Board with the application and operating plan. A risk assessment should be an end-to-end process with thought being given to the potential risks for patrons queuing up to gain access to the premises right through to patrons leaving the immediate vicinity of the licensed premises. Licensees are reminded that all activity directly connected to their premises, both inside and out, should be considered.

Adopting a risk assessment approach will mean that applicants should better understand what steps are required to complete the operating plan in a manner which enables the Board and Responsible Authorities and Interested Parties to assess how they will seek to promote the licensing objectives. A risk assessment is as individual as an operating plan and will vary according to the nature of the business.

The Board recognises that applicants best understand their business and it is for applicants to decide what is appropriate in each case.

Completion of a Risk Assessment enables the Moray Licensing Board to be less prescriptive in terms of conditions. To assist applicants the Moray Licensing Board has devised a risk assessment proforma. It contains many of the key factors which the responsible authorities will be expecting applicants to meet in order to fulfil the licensing objectives. The contents are not exhaustive but the risk assessment approach will reduce the possibilities of adverse representations. An applicant who decides not to complete or provide a risk assessment may face additional representations.

It is recognised that wherever possible the Moray Licensing Board should seek to avoid duplication of other regulatory regimes. Some areas of the risk assessment may duplicate issues which applicants have previously addressed in order to satisfy other legislation. Where this does occur, applicants may cross reference to such alternative documents and copies of the same may accompany the application. An example of this is an existing fire risk assessment.

If a risk assessment is not completed then applicants should be demonstrating how these matters have been addressed through the operating plan provided.

Applicants are particularly directed towards the section regarding children in licensed premises (at 11.2) as the risk assessment will be particularly important in this regard.

The pro-forma risk assessment can be found at Appendix VI.

10.1.1.2 Operating Plan

The operating plan for the premises should comply with regulations. Every operating plan must set out clearly the applicant's proposals including the activities that would

be undertaken on the premises, proposed opening hours and their policy in relation to access for children.

Operating plans will encourage a flexible licensing regime. They must make clear to the Board how the premises are to be run, including full details of all activities to be undertaken on the premises and the times they will be undertaken. This will include seasonal variations. Operating plans must be provided with each application in a prescribed format and should be particular to each premises and not completed in general terms.

The operating plan should include detailed information and, in turn, the information provided will enable the Board to make an informed decision and later determine if a breach of the operating plan and/or the licence conditions has occurred.

The Board recognises that it is not always possible for licence holders to predict customer demand and requirements. However a balance must be struck between vague references to potential activities and definite details of actual activities. Matters that cannot be predicted when formulating an operating plan can be the subject of an occasional license, an occasional extension or, for regular activities, a variation to the operating plan.

Where a material breach of the operating plan has occurred, the Licensing Standards Officer or the Board may initiate a review of the licence. The Act allows anyone to apply to the Board for a review of the licence.

10.1.1.3 Layout Plan

The layout plan of the premises should comply with Regulations.

Where applicants wish to depart from the prescribed scale then plans that are line drawings will be accepted on a scale of 1:50.

Applicants are requested to pay particular attention in plans to area(s) where alcohol will be sold, seating arrangements and area(s) suitable for children, beer gardens, outdoor seating areas and smoking areas.

Where the premises covers more than one floor then there should be a layout plan for each floor.

The Board expects plans as far as possible to be of good quality. Inadequate and/or illegible plans may be rejected. Plans will be accepted in paper or electronic format.

For ease of distribution and security applicants are requested to note that wherever possible electronic format should be .pdf. Other types of specialist application, like .cad, or general applications prone to manual alteration should not be used as they may hinder processing and delay issue of any licence.

In addition electronic format files should be under 4 megabytes in size. This is owing to physical limitations of the current computer systems that support the Board's functions. Applicants are warned that file sizes over this limit may not be delivered at all and may not, therefore, be processed.

10.1.2 Guidance

Guidance is available on the Moray Licensing Board's web pages (at www.moray.gov.uk/licensing) or upon request (see contact section 3.4 above).

10.1.3 Forms and Fees

Forms and details of fees are also available on the Moray Licensing Board's web pages (at www.moray.gov.uk/licensing) or upon request (see contact section 3.4 above).

10.2 Specific Pre Applications Matters

- 10.2.1 New Premises/Occasional Applications – Application in the first instance will be checked by the Clerk of the Licensing Board to ensure that they are competent, complete and correct. It is therefore advisable that applicants complete all questions on the relevant application form and provide as much detail as possible.
- 10.2.2 Application to Vary a Premises Licence – Premises licence holders can apply for variations to the terms and conditions of the premises licence. All such applications must be accompanied by the original premises licence or a written explanation as to its loss. Each variation application will be considered on its own merits. It is in the interests of applicants, and acceptable, for applicants to be able to include as many proposed variations as they wish within a single variation application and again each proposed variation will be judged individually. This could mean that the variation application itself may be granted/refused in part.
- 10.2.3 Application to Transfer a Premises Licence – A premises license holder (s.33) or other prescribed person (s.34) may apply to the Licensing Board to transfer the licence. They must transfer the licence to a legal persona and in accordance with the conditions sets out in ss.33-34 of the Act.
- 10.2.4 Extended hours – An extension of permitted hours can be granted to a licence holder in connection with any occasion/function taking place on his/her licensed premises and lasting not more than one month.
- 10.2.5 Occasional Licence – Please see section 9.5 above.

10.3 General Processing Application

10.3.1 Timescales

Attached at Appendix XI is a list of application types and their respective processing target dates.

The Moray Licensing Board aims to process all applications within the target dates and in many cases processing times will be significantly shorter than those quoted.

Tacit consent will not apply to the types of applications listed as it is a criminal offence to sell alcohol without the correct licence in place.

10.3.2 Notification of Applications

The Board will have to deliver, within 21 days of receipt of the application, notification of each application to every occupier of any property within a 4 metre radius of any part of the boundary of the premises. The Board will also publish notice of each application on the Moray Council's website and/or a designated public access system available on the internet.

10.3.3 Objections / Representations

The new licensing system allows anyone to object to or make representations to a Licensing Board about any application for a premises licence.

An objector is someone who opposes the grant of any licence at all. Objectors should address the statutory grounds for refusal of a licence including the licensing objectives.

A person making a representation is someone who is not concerned with the issue of a licence in principle. A representation is concerned with the conditions or the

suggestion of possible modifications that could be made to the operating plan and layout plan. Representations can also be made in support of an application.

The Board will reject what it considers to be frivolous or vexatious objections or representations and may seek to recover resultant wasted expenses.

The Board will address each case on its own merits, based on its local knowledge of the area and those that will be directly affected by the granting of a licence.

10.3.4 Hearings

The Moray Licensing Board has produced a standard set of hearing procedures that are set out in full in Appendix IX.

The Moray Licensing Board will always endeavour to ensure that the rules of natural justice are observed.

Hearings will generally be conducted in public although The Moray Licensing Board may deliberate in private.

In exceptional circumstances, for example to protect a particular commercial interest, a party may request that a hearing be conducted in private. Consideration will be given to this having regard to the interests of natural justice, fairness and potential prejudice to other parties.

In general a hearing will take the form of a discussion led by The Moray Licensing Board and in particular the Convenor. The Moray Licensing Board wishes to create, as far as possible, a less formal and more relaxed atmosphere so as not to intimidate parties.

Each party will have the opportunity to address the Board and present evidence.

10.3.5 Conditions

Flexibility to deal with local circumstances is a vital component of the new licensing regime. However, local discretion must be balanced with a clear and effective national framework within which Licensing Boards operate.

Applicants should take note of mandatory conditions that apply to all premises opening late i.e. after 1:00 a.m. as well as certain types of premises opening after 1:00 a.m. Applicants should confirm in their operating plans the measures put in place to comply with any such conditions.

The Board when considering any premises licence whose operating plan states that they wish to operate after 1:00 a.m. may find it appropriate to supplement the mandatory late opening conditions with other conditions. Sample additional conditions can be found in Appendix VII.

The addition of such conditions will be appropriate and proportionate and made on a case by case basis after consideration of antisocial behaviour reports submitted by the Police and the effective delivery of the licensing objectives of the 2005 Act.

The Board may attach a condition to a premises licence which is mandatory for certain premises which falls outwith the prescribed definition of conditions if it is thought to be necessary and proportionate. The Board may also decide the time at which individual conditions should come into operation for each licence.

10.4 Specific Processing of Applications

Applications in the first instance will be checked by the Clerk of the Licensing Board to ensure that they are competent, complete and correct. It is therefore advisable that applicants complete all questions on the relevant application form and provide as much detail as possible.

10.5 General Post Application

10.5.1 Form of Licence

Licences will be issued within a target date of 7 days from the date of grant at the Licensing Board.

Licences are issued with guidance relevant to the particular licence. In particular the following will also apply:

- Occasional licences may be issued with a disclaimer (see occasional licences above at section 9.5).
- Personal licences will be issued with a credit card style badge as evidence that the holder has a personal licence. The badge does not take the place of the paper licence. It is merely issued for convenience so that the holder can carry evidence of the licence without having to carry the licence at all times. The police and the LSDO have agreed to accept the badge as evidence that a licence is in place but they may still require production of the paper licence itself.

10.5.2 Duties

Under section 52 of the Act the premises licence holder must secure that the premises licence, or a certified copy of it, is kept at the premises under the control of the licence holder or the premises manager.

The summary licence, or a certified copy of the summary, must be prominently displayed on the premises so as to be capable of being read by anyone frequenting the premises.

The premises licence must be produced on demand by a constable or the Council's Licensing Standards Officer.

Failure to comply with any of the above is an offence.

Section 53 allows the licence holder to apply for a replacement licence or summary licence where the original is lost or stolen as long as the loss or the theft of the licence has been reported to the police to obtain a crime or reference number.

10.5.3 First aid

The mandatory condition attached to every premises licence where opening hours pass 1:00a.m. (01:00) is that a person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until whichever is the earlier of:

- a. the time at which the premises next close; and
- b. 5.00a.m.

The Moray Licensing Board has decided that the training standard set by the Health and Safety Executive for either the Basic First Aid at Work (FAW) or the newer Emergency First Aid at Work (EFAW) certificate will be adopted as suitable for the purpose of the mandatory condition.

The standard adopted is equivalent to emergency first aid being a 6 hour one day course designed to meet the needs of persons appointed to be first aiders in the work place which covers those aspects of first aid required to meet emergency situations such as bleeding, breathing and resuscitation.

The HSE runs an accreditation scheme for first aid training providers and currently publishes a list of training organisations approved by the HSE to deliver First Aid at Work courses.

HSE first aid certificates expire after 3 years and towards the end of that period the certificate holder needs to undergo a refresher first aid course in order to renew the certificate. This will be a requirement of continuing to hold a valid certificate.

10.5.4 Late night conditions

Certain late opening premises (as defined below) are also subject to additional late opening premises licence conditions.

Late opening premises subject to additional conditions are those where the premises has a capacity of at least 250 people and which—

- (a) will regularly provide at any time in the period between 1:00 am and 5:00 am—
 - (i) live or recorded music with a decibel level exceeding 85dB;
 - (ii) facilities for dancing; or
 - (iii) adult entertainment; or
- (b) when fully occupied, are likely to have more customers standing than seated.

Exempt from the above are premises:

- where the primary function is the service of food;
- which include, or are part of larger premises which include, at least 6 letting bedrooms;
- Licensed Cinema or Theatre
- which are, or are part of, an art gallery.

The conditions are:

- A personal licence holder must be present on the premises from 1:00 am until closure or 5:00 a.m. (whichever is the earlier)
- There must be written policies in existence concerning evacuation and misuse of drugs
- A CCTV system must be installed on the premises to the satisfaction of the appropriate Chief Constable and must be kept in good working order.
- There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
- An SIA registered door supervisor must be positioned at every entrance to the premises from 1:00 am until closure or 5:00 a.m. (whichever is the earlier).

11. Scheme of Delegation

Attached at Appendix VIII is a copy of the Board's scheme of delegation.

12. Other Board Policies

12.1 Gambling 5.9

Attention is drawn to the Board's statement of licensing policy under the Gambling Act 2005 which can be accessed by following this link:

www.moray.gov.uk/moray_standard/page_51234.html

12.2 FOI Publication Scheme

12.3 Equalities

The Board has equality schemes in respect of race, disability and gender. The schemes can be found on the Moray Council's website at the following link:

www.moray.gov.uk/licensing

As with the duty to promote the licensing objectives, the Moray Licensing Board is acting under various duties placed on it by legislation connected with equality

strands. In all things it does, including formulating policies, the Board must have regard to the need to eliminate discrimination and promote equalities. The Board would welcome all attempts by licensees to address equality issues in the operating plan, including facilities for disabled persons.

However, ultimately responsibility lies with applicants to comply with other regulatory regimes, including equalities, provided for by other Acts and Regulations. Applicants should make themselves aware of the requirements of other regimes and enforcement bodies and comply with the same. Complainants that come to the Moray Licensing Board regarding matters that could more properly be dealt with by other enforcement bodies will automatically be directed to the appropriate person(s).

13. Complaints Procedure

The LSO will investigate complaints against licensed premises in relation to matters relating to the licensing objectives. In the first instance, complainers are encouraged to raise the complaint directly with the licensee or business concerned to seek a resolution.

If direct communication with the licence holder proves ineffective then the complaint may be raised with the LSO, perhaps for mediation.

Where an interested party has made valid representations about licensed premises, or a valid application for a license to be reviewed, the LSO may initially recommend a conciliation meeting to address and clarify the issue of concern.

The Moray Licensing Board will expect all complaints to go through the mediation process before being referred to the Board.

Where a matter is not resolved by mediation, the Board will give each party the chance to make written submissions and comments on the other party's submissions before making a decision based on the facts. The Board may also choose to hold a hearing and will give the parties reasonable notice if they do so. If a hearing is to take place, procedures regarding the conduct of hearings can be found in Appendix IX.

The Board will consider the activities listed in Appendix III to be particularly serious matters when considering enforcement of the licensing objectives.

A full copy of the Complaints Procedure is also included at Appendix X.

14. Enforcement

14.1 Test Purchasing

Test purchasing may be carried out by [Grampian-the](#) Police. In the event of one or more test purchase failures [GrampianThe](#) Police may make a review application.

14.2 Licence Reviews

The Licensing Board may, for the purposes of the premises review hearing, obtain further information from such persons, and in such manner, as the Board thinks fit, and take the information into account. In particular, the Board may request the attendance ~~at~~ of any person for the purpose of providing information and the production of any documents in any person's possession or control. All such information may be taken into account.

14.3 Sanctions

Each matter will be taken n on its own merits and the Board's will be proportionate when deciding upon a course of action.

14.3.1 Premises Licence

If a ground for review is established then the Board may:

- Take no action
- Issue a written warning to the licence holder,
- Make a variation of the licence,
- Suspend the licence for such period as the Board may determine,
- Revoke the licence.

14.3.2 Personal Licence

Where the Board receives notice of relevant conviction(s) on the part of the licence holder then the Board must hold a hearing and at the hearing. The Board must also hold a hearing upon request from the police if it is alleged that a licence holder has acted in a manner that is inconsistent with any of the licensing objectives.

~~After~~ After hearing the parties and considering the ~~conviction-matter~~ conviction-matter and any recommendation from the police, the Board may take no action or revoke, suspend (for a period not exceeding 6 months) or endorse the licence. The Board must be satisfied that action is necessary for the purposes of ~~the crime prevention~~ any of the licensing objective.

15. Registers

Information supplied by an applicant for a licence to the Board will be held and processed by the Board for its purposes as a licensing authority. That data will be disclosed to the Police and other public bodies involved with licensing, processing and enforcement. The Board will enter data on its register of applications which may be inspected by members of the public on request and certified copies of entries on this register may be issued to members of the public on request and on payment of the appropriate fee. Applicants may check or amend data held or request deletion of data by contacting the Clerk of the Licensing Board, Council Offices, High Street, Elgin, IV30 1BX.

The Moray Licensing Board will keep registers of applications/licences in accordance with statutory requirements.

The Board has adopted a freedom of information scheme under section 23 of the Freedom of Information (Scotland) Act 2002. A copy of this scheme can be accessed on the Moray Council website – www.moray.gov.uk/licensing

**The Licensing (Scotland) Act 2005
The Moray Licensing Board
Assessment of Overprovision**

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The Concept of Overprovision

Overprovision is where a finding is made, by a Licensing Board, that within a locality (or localities) of a local authority area, the concentration of licensed premises, generally or of a specific type or types, has reach saturation point. The significance is establishing whether an overprovision of licensed premises is such that it is leading to an increase in alcohol related harm and so whether a policy on overprovision can help to combat that harm.

Overprovision is one means of regulating the availability of alcohol through local Licensing Board policy. Licensing Boards are being asked to consider overprovision in the context of the availability of alcohol. If a finding of overprovision is made then it creates a presumption against the granting of new alcohol licences (in general or of specific type or types) within the locality(ies) in question. Overprovision is one way to address alcohol availability. By itself it may not be effective in reducing harm but as part of a range of measures, it may make a difference.

To make a finding of overprovision the Licensing Board must establish a clear and cogent link, by evidence, between the number of licensed premises and alcohol related harm.

Statutory Requirement to Assess Overprovision

Section 7 of the Licensing (Scotland) Act 2005 requires each Licensing Board to include in its policy statement: a statement as to the extent to which the Board considers there to be an overprovision of -

- (a) licensed premises, or
 - (b) licensed premises of a particular description,
- in any locality within the Board's area.

The Licensing Board must have regard to:

- (a) the number and capacity of licensed premises in the locality; and
- (b) consult the persons specified in Section 7(4) of the Act:
 - (i) the appropriate chief constable.
 - (ii) such persons as appear to the Board to be representative of the interests of -
 - the holders of premises licences in respect of premises within the locality,
 - persons resident in the locality, and
 - (iii) such other persons as the Board thinks fit.

Section 6(3) of the Act requires the policy statement to seek to promote the licensing objectives:

- preventing crime and disorder;
- securing public safety;
- preventing public nuisance;
- protecting and improving public health; and
- protecting children from harm.

The Board's duty under the Act is further expanded upon within the guidance issued to Boards by the Scottish Government*. That guidance further explained the reasons for assessing overprovision and possible methodology for the same.

*At the time of publication of this assessment the Scottish Government's Guidance to Boards is under revision but is not available.

Existing Guidance clarified that:

- The duty to consult is subject to the over-arching obligation set out in Section 6(3)(b) of the Act. This means that the Licensing Board is also required to consult the Local Licensing Forum established for the whole of the Board's area and, where not represented on the Forum, those who appear to be representative of the interests in that area of:
 - the holders of personal licences;
 - persons having functions relating to health, education, education or social work;
 - young people;
 - persons resident in the Forum's area.
- It is intended that the results of all consultation should be evaluated to identify robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached, *always provided that a dependable causal link can be forged between that evidence and the operation of licensed premises in a locality*. Factors which the Licensing Board may take into account include:
 - the information provided by the chief constable;
 - subject to the constraints of data protection legislation, CCTV footage supplied by the chief constable or another source which illustrates disorder associated with the dispersal of customers in any locations;
 - evidence from the licensed trade that the density of licensed premises in the locality has resulted in levels of competition which have applied downward pressure on the price of alcohol;

- evidence gathered from local residents of anti-social behaviour associated with licensed premises;
- information from the local authority's Environmental Health Department about noise complaints which can be attributed to the operation of licensed premises in a locality;
- data supplied by the NHS Board or other health bodies, for example, local Accident and Emergency Departments or Alcohol Action Teams.

Since the publication of the first licensing policy statements, some Licensing Boards have moved away from development of overprovision in the sense envisaged by the existing guidance. In a revision of the concept of overprovision and taking a more holistic approach certain Boards have used a combination of data, mainly health data, to conclude that overprovision does exist in certain areas of their jurisdiction. This departure has been led to a large extent by health initiatives.

A lot of information has been published in relation to the relationship between health and licensing, too much, in fact, for all to be considered and incorporated into this document. For further details and further research please see the Background and References sections.

Without incorporation of large volumes of data, this assessment is, however, still firmly based on an examination of relevant empirical data and so it is supported by an evidence base.

It remains to be seen whether new guidance from the Scottish Government will follow or address this sea change in policy development.

Background

Traditionally licensing was a justice measure. The Licensing (Scotland) Act 2005 was introduced to replace all previous licensing legislation and provide a modern, fit for purpose licensing system.

However more recently the Scottish Government has focused on licensing as a health issue. The Alcohol etc (Scotland) Act 2010 was brought forward by the Health Secretary and provided for Boards specifically to consult the NHS on licence applications as well as other measures such as minimum pricing. The focus had changed to means by which to control the price and availability of alcohol in order to reduce consumption.

These views originated in research entitled Alcohol: No Ordinary Commodity — Research and public policy (Babor et al. 2003). The first part of the book described why alcohol is no ordinary commodity, and presented epidemiological data on the global burden of alcohol-related problems. The second part of the book reviewed the scientific evidence for strategies and interventions designed to prevent or minimise alcohol-related harm: pricing and taxation, regulating the physical availability of alcohol, modifying the drinking context, drinking-driving counter measures, regulating alcohol promotion, education and persuasion strategies and treatment services. The final section considers the policy making process on the local, national and international levels, and provided a synthesis of evidence-based strategies and interventions from a policy perspective.

In 2010 the Scottish Government's Social Research unit published a report prepared by York Health Economics Consortium, University of York, entitled The Societal Cost of Alcohol Misuse in Scotland for 2007 (2010). It concluded that alcohol misuse imposes a substantial burden on Scottish society, costing between about £2,476.6 million and £4,635.4 million per year, at 2007/08 prices, with a mid-point of £3,555.7 million.

Then in 2012 the School of Health & Related Research at the University of Sheffield published its updated report a Model-Based Appraisal of Alcohol Minimum Pricing and Off-Licensed

Trade Discount Bans in Scotland Using the Sheffield Alcohol Policy Model, again commissioned by the Scottish Government (Dr Y Meng, Mr D Hill-McManus, Professor A Brennan and Professor P Meier). That report was to demonstrate a link between levels of alcohol related harm compared to various minimum prices for alcohol as well as discount bans.

Tackling the problems created by alcohol misuse is both a national and local issue.

In 2012 Alcohol Focus Scotland (<http://www.alcohol-focus-scotland.org.uk/local-cost-profiles> 2012) applied statistical analysis to local data to provide estimates of the cost of alcohol-related harm at a local authority area level. Costs have been calculated for a range of alcohol harm indicators covering health, crime, social care, productive capacity and wider social costs. The cost, ignoring wider social costs, for Moray is estimated at over £33M or approximately £380 for every resident per annum. Within the **References and Information Section** below is a table of the figures for each authority in Scotland for comparison. Moray is twentieth in the table of 32 authorities. Further there are twelve authorities, including Moray, within a relatively narrow banding of £350-400 per head. Against that there are approximately twelve authorities within a lower banding and eight in a higher one. The average is approximately £368. All this indicates that Moray is average or very slightly above average when compared to Scotland as a whole.

In 2012 The Moray Alcohol and Drug Partnership published its updated Needs Assessment Document (A. Ware 01/02/2012) which included data on alcohol and drug prevalence, alcohol harm and licensed premises in Moray.

Also in 2012, informed by the above, The Moray Community Planning Partnership published its revised Single Outcome Agreement. The SOA cites people drinking over the recommended limits and alcohol dependency, with its impacts on health and social problems, as "significant issues" in Moray. Statistics from these documents suggest that the following are problems in Moray with rates being, in some cases significantly, above national averages:

- Sexually transmitted infections and teenage pregnancies, both often associated with alcohol consumption.
- Rates of suicide.
- Hospital related discharges where an alcohol related diagnosis of "dependent" was found.
- Alcohol related mental and behavioural disorders.
- Acute inpatients with alcoholic liver disease.
- Percentage of 15 year olds who reported drinking alcohol at all and recently.
- Serious and violent crimes committed whilst under the influence of alcohol.

Relevant issues are examined more closely below.

The Current Policy Position

The current policy on overprovision (<http://www.moray.gov.uk/downloads/file64075.pdf> Hoath 30/11/2010) states that there is no overprovision of licensed premises in Moray. This reflects the generally held views of Licensing Board (Board) members, largely just a collective, but subjective, impression of the licensing market.

The only relevant statistic to support this view has been that overall numbers of premises have actually been falling, according to statistics published by the Scottish Government based on Licensing Board returns (<http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/PubLiquor>).

There was an attempt to make use of crime statistics from Grampian Police (Grampian Police Mapping of Overprovision of Licensed Premises in Moray – R. MacPherson 06/08/2009 - <http://www.moray.gov.uk/downloads/file64075.pdf>) but this proved fruitless, as can be seen from the critique of the 2010 assessment below.

The traditional approach to policy making makes a potential change in policy harder to manage.

Nevertheless, the previous policy did suffer from some deficiencies and the potential benefits of a clear and cogent policy are clear.

The 2010 assessment of overprovision suffered from several flaws:

- There was little by way of evidence base and it was subjective. These aspects are both addressed in the current review. Previously there was wide consultation but very little by way of response. Consultation needs to be more meaningful and additional evidence needs to be gathered and examined.
- Subjective views were based on overall numbers of licensed premises falling over time. Scottish Government statistics referred to above showed, for example, that the overall number of premises fell from 374 in 2007 to 314 in 2011/2012. The Board also collated its own statistics in this regard (unpublished). However there was no baseline, in the form of a local analysis of whether overprovision had ever been an issue. Therefore any comparison between years was meaningless, as was the assumption overprovision had never been an issue and so was less of an issue with less premises. In addition there were other factors affecting the number of licensed premises e.g. where multiple licensed under the old 1976 Act could be incorporated into a single licence under the 2005 Act.
- It did follow the methodology described in the Scottish Government (SG) guidance (12/04/2007 - <http://www.scotland.gov.uk/Resource/Doc/175487/0049459.pdf>) however the guidance itself appears to have been flawed. The guidance is now out of date and has, since publication, it has been shown to be incorrect in many respects, including on overprovision. The guidance described a process of assessing overprovision by reference to gathering data including police crime statistics, antisocial behaviour, noise reports and NHS data. The data would then be analysed to identify robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached, always provided that a dependable causal link can be forged between that evidence and the operation of licensed premises in a locality. The idea was to determine localities (it not being possible to designate the entire authority area) by reference to what were termed “hot spots” within police crime statistics and to correlate those with the numbers of licensed premises in the same areas. In the event of a clear and cogent link between the two it was open to the Board to find that licensed premises (whether in general or of a specific type) were over provided for in those area(s).
- The 2010 assessment placed all emphasis on police crime statistics and so no conclusions could be drawn. In fairness at the time of the first overprovision assessment the Act was in it’s infancy in terms of practical working and so it was generally felt to be a difficult task.
- No demonstrable causal link could be found between the existence of licensed premises within an area and the prevalence of crime in that same area. The two could have been coincidental. Without a detailed examination of each crime it was not possible to say that the presence of licensed premises was creating a problem. Crime statistics from the police included crimes reported as being within licensed premises or directly associated with licensed premises. However, even then, it was not possible to say that one caused the other. The Board viewed that inability to establish any causal link between licensed premises and antisocial behaviours as a basic and fatal flaw in any assessment of overprovision, making the assessment virtually impossible.
- At the time of development the NHS was not really active in terms of licensing policy. That has since changed but no account was taken of health data. Health data is now arguably

the largest source of information in terms of alcohol related harm. That data has not all been created specifically for licensing purposes, but the NHS is now collating additional data specifically to target licensing as a possible means of promoting public health. At the time of initial assessment the licensing objective of protecting and improving public health was not considered in any detail.

- No data was brought forward to set out the number of licensed premises as compared to the population and as compared to other Licensing Board areas. Although the value of such data is perhaps debatable as it is impossible to tell the desirable or optimum number of premises per 10000 population. It is merely a comparison between areas and a statistic that could be affected by many variables, not least of which is geography e.g. rural areas are likely to have a higher figure per 10000 because people are spread over a larger area and more premises are required.

Policy Development and Matters to be Taken into Account

What may be the only truly valid approach is analysis of a data set that does not demonstrate sufficient alcohol related problems which, in turn, may justify a negative assessment of overprovision. However such a result can only be a matter of good fortune. It would appear that the use of health data may be no more robust per se than crime data. To have any chance of making a robust positive finding in respect of overprovision, what is required is concomitant data sets.

However causation will always be an issue. At micro level it is impossible to substantiate a causal link between licensed premises and alcohol related harm. At a macro level Boards are really reliant on establishing a link between the supply of alcohol and alcohol related harm. In that way any outlet that supplies alcohol is part of the perceived “problem” and some Boards have made that “leap”. The current guidance does not assist in this regard as it does not allow for consideration of the Board’s area as a whole, although that may change. As a result certain Boards have artificially divided their areas, usually by reference to intermediate data zones. By this method West Dumbaron have found overprovision in 15 out of 18 such zones. This creates problems in itself and for a more detailed look at other policies see the **References and Information Section**.

Consideration of these issues gave rise to clear action items in respect of developing the new policy:

- Increase and update the evidence base by research and detailed analysis of data from the Local Licensing Forum (LLF) – completed – see **References and Information Section**.
- Encourage the development of new SG Guidance but in the meantime be less rigid about following the current guidance. Failure to follow the guidance must be reported directly to the SG but ministers have encouraged other approaches that have already diverged – ongoing.
- Consider numbers and types of licensed premises and their respective capacities. Consider the sphere of influence of supermarkets and the efficacy of any overprovision policy. Include members’ clubs as a source of alcohol – completed and incorporated.
- Make use of NHS data. However it will be necessary to be carefully scrutinise NHS data being used. For example, traditional data about alcohol related admissions, deaths etc. have actually been based solely on hypothetical percentages of overall admissions / deaths, rather than any actual collection of alcohol related data. The fixed percentages have been developed over some time but never challenged. Fortunately now the NHS, possibly in recognition of the unreliability of data, is collecting more robust data through initiatives like interviewing patients on admission about alcohol consumption – completed.
- Make better use of police data by linking this to other data – completed – much of this work has been done through the LLF report.

- As well as making use of existing data, gather further data. If opinion is relevant then gather as much opinion as possible through public engagement – completed – see public engagement exercise.

Consideration should then be given as to whether aggregated information and evidence from a number of sources points compellingly towards a particular conclusion.

The Moray Licensing Board also has regard to the special association that Moray has with alcohol and tourism. Moray is the home of distilling, with the highest concentration of distilleries in Scotland including Speyside, which contains more than half of Scotland's distilleries (<http://www.whiskiesofscotland.com/speyside>). The whisky industry is both a huge exporter and a huge draw for tourists from all over the world.

Summary of Assessment

The conclusion for the purpose of the Moray Licensing Board's statement of policy is:

After an examination of all relevant data, there are no identifiable issues of overprovision within any particular area and, therefore, no presumption against the obtaining of a new licence within any area under the jurisdiction of the Moray Licensing Board.

Nevertheless, the Moray Licensing Board recognises that each application for a premises licence is still to be judged on its own merits.

The lack of a finding of overprovision does not mean that it is not possible for any objection or representation to be made on the ground of overprovision. Neither does it mean that the Board cannot find that a ground for refusal of an application based on overprovision exists. Should any party seek to make an objection or representation, in respect of a premises licence application, based around the issue of overprovision then it is for that objector or representer to make their case for consideration by the Board.

This assessment undertaken by the Moray Licensing Board and the conclusion that has been drawn takes account of many matters as set out in the more detailed account of the assessment below.

Detailed Assessment

The assessment is designed to be a process of examining all the available evidence, determining localities, assessing capacities within those areas, consultation on the findings and then drawing a conclusion.

Evidence

As stated not all evidence has been reproduced within this document. All evidence reviewed and / or referred to has been included in the **References and Information Section** at the end. That includes:

1. 2013 crime data mapping by Grampian police
2. 2013 data collation and analysis by Local Licensing Forum (with some cross over with the above) including an evaluation of the implementation of, and compliance with, the objectives of the Licensing (Scotland) Act 2005: Sub-study of Test Purchasing and other measures to enforce underage alcohol sales regulations (July 2012 MacGregor A, Sharp C, Mabelis J and Corbett J ScotCen Social Research).
3. Community engagement exercise. This encompassed an online survey that was distributed

extremely widely throughout the community. Further details are included in the **Initial Consultation Section** below.

4. Scottish Licensing Statistics for the number of licensed premises per population.
5. Other data

Examination of Evidence

Grampian Police Crime Mapping Data

Again the start point was the guidance to Licensing Boards issued by the Scottish Government in April 2008. The guidance suggested that:

The Licensing Board may consider that information which the chief constable is capable of providing is a reasonable starting point. The chief constable could:

- identify "hotspot" areas within the Licensing Board's area where it can demonstrate that crime, disorder and nuisance are caused by customers of a concentrated number of licensed premises;
- suggest other areas in which the number of licensed premises or premises of a particular description is moving closely towards overprovision; and
- provide the Licensing Board with the geographical boundaries of those areas.

Therefore, as part of the first assessment, the Moray Licensing Board followed Scottish Government guidance and consulted with Grampian police on the possible identification of hotspots within the Moray area.

In 2009 Grampian police initially identified the following areas as potential hotspots based on crime data: Elgin town centre; Fife Keith Square; Cluny Square, Buckie; Lossiemouth harbour area; Forres High Street.

Grampian police identified a particular set of crimes to take into account and then plotted those crimes on area maps to identify the hotspots. The map also denoted the location of licensed premises within the same area and identifies where the location of premises coincides with higher levels of crime statistics.

This exercise was repeated in early 2013 by Grampian police, concentrating on the Elgin town centre area only, with a view to possibly extending the exercise to other areas. Full details of the second exercise are included within the **References and Information Section**. No significant changes from the 2009 position were found and the analysis was not extended.

However, the problem with the plotting remains that there is no causal link demonstrated between the existence of licensed premises within an area and the prevalence of crime in that same area. Without that link, it is not possible to say that the presence of licensed premises is creating a problem. That is acknowledged within the police report.

There is anecdotal evidence to suggest that many of the problems associated with the abuse of alcohol arise from persons consuming excessive amounts of alcohol at home. It would be wrong to attribute such behaviour to particular premises or even areas of premises. Therefore even a direct examination of individual crimes may not reveal the true cause of antisocial behaviour.

It was therefore concluded that hotspots in terms of crime statistics could not be reliably used as a basis for a compelling argument either for or against overprovision in any area. The Moray Licensing Board views this inability to establish any causal link between licensed premises and antisocial behaviours as a basic and fatal flaw in any assessment of overprovision, making such an assessment virtually impossible.

Local Licensing Forum Data

The next basis for assessment of the local position was data collected and analysed by the LLF. This incorporated data from various sources including the NHS, the police and SALSUS. The analysis included data benchmarking against the Scottish national position and against two other local authorities, Argyll & Bute (similar in size) and Aberdeenshire (neighbouring).

The LLF analysis incorporated data by reference to intermediate data zones, a method employed by other policies examined and referred to above.

Below is a summary of statistical analysis undertaken by Amanda Ware on behalf of the Local Licensing Forum.

Certain data has been benchmarked as against Angus Council (as a similar sized authority) as well as Aberdeenshire Council (as a neighbouring authority) and Scotland as a whole. General benchmarking data is not available in respect of crime data.

- ❖ This bullet point marks the most significant factors

General Crime including Violence

- The numbers of Drunk and Incapable crimes have dropped significantly over the 3 year period.
- Breach of the Peace has reduced significantly. A new crime of Threatening or Abusive Behaviour was introduced, which took many crimes out of the Breach of the Peace category, however, adding up the Breach of the Peace and Threatening or Abusive Behaviour at the end of the 3 years does not sum up to the figure at the start of the period. Therefore this type of crime has still reduced overall.
- Common Assaults have also dropped to the lowest point in the past three years.
- Vandalism has also dropped to one of the lowest points it has been in the past three years.
- There has been a drop in all of the Antisocial Behaviour crime categories committed under the influence.
- Common Assault has also dropped significantly.
- The latest serious assaults figure is the second highest recorded in 3 years, however it has a lower percentage of offences committed under the influence.
- In the past year half of all Assault and Robbery Crimes were committed whilst the accused was under the influence of alcohol.
- The number of reported Domestic Abuse Incidents has risen over the past three years; this may be due to increased awareness of this crime, with Campaigns leading to more people reporting crimes of this nature. There are more perpetrators that are found under the influence of alcohol in Moray than victims.

Licensing Crime

- ❖ The most prolific crime was the purchase of liquor for consumption by persons under 18 years old. This crime links to the highlighted statistic below.
- Drunk and Attempting to enter a Licensed premises was high but there have been no crimes of this type recorded in Moray in the last three quarters.

SALSUS (Scottish Adolescent Lifestyle and Substance Use Survey) Data

- The percentage of young people in Moray who have ever had an alcoholic drink is higher than the national average.

- Compared to Angus and Aberdeenshire, the percentage of 15 year olds who have ever had an alcoholic drink is slightly higher in Moray. The percentage of 13 year olds who have ever had an alcoholic drink is similar between authorities.
- ❖ Most of those who have ever drunk alcohol obtained it from an older friend with the next most common source being a relative. In Moray the number obtaining alcohol from a friend or stranger who is older than them is higher than that for Angus or Aberdeenshire. However, in the other areas the percentage obtaining alcohol from a relative is higher.
- Only 1% of 15 year olds reported buying alcohol in a club, disco, pub or bar in Moray. The percentage in respect of purchases from clubs and discos is higher in Aberdeenshire and Angus but the percentage is the same throughout for those who have bought alcohol in a pub or bar.
- No test purchases have been carried out in Moray since late 2010 so there are no useful statistics (due to clarification being sought from the Office of Surveillance Commissioners). This enforcement tactic is once again available, however it is now more tightly restricted.
- The numbers of children on the child protection register (CPR) due to parental alcohol misuse rose to the highest point over the two years in Q3 of 2012/13.

Health

- The number of alcohol related deaths in Moray has dropped over the last four years, mirroring the national trend. In 2011/12 there was a rate of 21.8 deaths in Moray per 100,000 population compared to the Scottish figure of 24 deaths per 100,000 related to alcohol. Angus and Aberdeenshire both have higher numbers of Alcohol related Deaths than Moray throughout all four years.
- Moray has seen a drop in the number of General Acute Hospital Admissions with an alcohol related diagnosis. Aberdeenshire has almost twice the number although Angus has consistently lower numbers. The rate was 492.8 admissions per 100,000 population in Moray, significantly lower than the national figure of 746.6 per 100,000.
- Moray has the lowest numbers of Psychiatric Inpatient and Day case discharges with an alcohol related diagnosis when compared to Angus and Aberdeenshire. The Moray figure was so low it was not possible to publish it without the risk of identifying individual patients. The Moray rate per 100,000 was 18.3 compared to the national rate of 80.4.
- ❖ The Scottish rate per 100,000 for Alcohol dependence is 82.2, compared to 127.2 for Moray per 100,000.
- ❖ The Scottish rate per 100,000 for alcoholic liver disease is 39, compared to 91.7 in Moray per 100,000.
- ❖ 42% of the intermediate geographies (defined within Census data) show a statistically significantly worse rate of alcohol related hospital admissions than the Scottish average. The worst area wards are Elgin City North & South. 42% are not statistically significantly different and 16% are statistically significantly better than the Scottish average.

To comment further on the above analysis, Moray seems to perform well overall in terms of not experiencing high levels of alcohol related harm.

The most significant matters arising from all the data seem to be:

1. The percentage of under 18s consuming alcohol is higher than the national average. Out of those, they appear to obtain alcohol mainly from an older friend or stranger rather than from licensed premises. This indicates a lot of agency sales, although from the point of view of the premises, it would appear alcohol is being sold legally (to over 18s) with little prospect of the seller discerning the true purpose of the sale; and
2. Alcohol dependence and alcohol liver disease have high rates as compared to national averages.

3. 42% of the intermediate data zones show a statistically significantly worse rate of alcohol related hospital admissions than the Scottish average. The worst is Elgin Cathedral to Ashgrove and Pinefield with a rate of 1782 per 100000 of population compared to the national average of 1088.

In response to the most significant matters:

1. A further study was examined in order to follow up on the strong indicators that under 18s consuming alcohol is an issue, as is where they obtain the alcohol. That was a study undertaken by the NHS at the behest of the Scottish Government as part of a group of studies to evaluate the impact of the Licensing (Scotland) Act 2005. This particular study was linked to the purchase and consumption of alcohol by those underage and entitled: An evaluation of the implementation of, and compliance with, the objectives of the Licensing (Scotland) Act 2005: Sub-study of Test Purchasing and other measures to enforce underage alcohol sales regulations (July 2012 MacGregor A, Sharp C, Mabelis J and Corbett J ScotCen Social Research).

“The main aim of the sub-study was to explore the barriers and facilitators to test purchasing and other approaches aimed at enforcing underage alcohol sales regulations, and to identify lessons for improvement in terms of implementation to support the realisation of the longer term outcome of reducing underage drinking.” The discussion focussed on three main mechanisms of test purchasing, challenge 25 and bottle marking.

That study undertook research by interviewing a number of young people, police officers, procurator fiscals and licensing board representatives about measures to combat underage sales and consumption. It found that:

- Agency sales were becoming an increasing problem, probably as a result of the success of enforcement mechanisms.
- Other methods of underage purchase were emerging, like home deliveries of alcohol ordered on the internet;
- Many respondents were critical of bottle marking schemes as they are voluntary, and so easily circumvented, and young people may have obtained a legally purchased bottle from e.g. parents.
- Consumption was largely unaffected by measures in place. Direct sales to young people were viewed as decreasing whereas evidence, particularly from the police, suggested that consumption amongst young people was on the increase;
- Adults were thought to condone access to alcohol and a general culture of drinking from a fairly early age existed and was unlikely to change. Most alcohol appears to be sold legally from the retailer's perspective but is coming into the hands of under 18s from parents and older friends;
- Most respondents favoured using test purchasing as a means of control but with some changes to make it more effective and in tandem with other mechanisms;
- Other potential methods of control did not appear effective, although what is required is a range of measures;
- Most respondents thought that little else could be done and that measures required to deal with underage drinking should come from the Scottish Government e.g. minimum pricing, measures to address loitering outside premises, agency purchases and online deliveries;

Given the findings of the study, the Moray Licensing Board does not feel that overprovision is an appropriate tool for dealing with potential underage purchase and consumption of alcohol. Overprovision is a blunt tool that would be unlikely to be effective in the circumstances.

The Board is considering other possibilities in this regard, not directly related to overprovision, for example see the Board's equalities outcomes under the Equality Act 2010.

2. Alcohol related deaths, acute admissions and psychiatric patients are all lower than national averages and benchmarked authorities, in some cases significantly;
3. There are other balancing factors such as:
 - Most types of crime recorded have dropped in level, with many quoted as being at their lowest point in three years;
 - Alcohol related hospital admissions, alcohol related deaths and psychiatric inpatient and day case discharges with an alcohol diagnosis are all dropping to very low levels, below those of at national and local authority comparator levels.

Moray has a relatively small population so small variance in actual incidences can have a large effect on overall percentages. That appears to be true in respect of intermediate data zones. Certainly data zones proved too small in terms of population and the data for intermediate data zones could easily get skewed. For example it was psychiatric patients with an alcohol diagnosis the number was so low that it could not be published without revealing the identity of individuals.

Customers are highly mobile in their shopping and going out habits. Within the intermediate data zone quoted as having the worst record for alcohol related hospital admissions, Elgin Cathedral, there are very few licensed premises. The data zone does not accord with the concentrations of licensed premises identified within the police data. Whilst the neighbouring data zone does contain one of the 2 largest supermarkets in Elgin, it is not clear or possible to determine where residents of that areas source their alcohol. That, in turn, makes an overprovision policy at best imprecise and at worst ineffective.

Community Engagement Exercise

The lack of community engagement has been a consistent problem in developing licensing policy in general. It was one of the original reasons for creating Local Licensing Forums, to represent the community by having a cross section of members.

To address this issue the Moray Licensing Board undertook a public engagement exercise through the Councils Community Support Unit. An online survey was developed and distributed to an extremely wide audience across Moray. The idea was to inform the drafting of policy before issuing the draft for formal consultation.

The full results are set out within the **References and Information Section**.

Views on overprovision and policy in general were also invited from:

- Interested groups outwith Moray e.g. Alcohol Focus Scotland, NHS Grampian and the Scottish Licensed Trade Association.
- Interested groups within Moray e.g. the police, Community Councils and the Federation of Village Halls.
- The Moray Local Licensing Forum. No issues of overprovision were raised by the Forum.

The respective views of health representatives and trade representatives were, as expected, quite opposite. Whilst all views are valid and taken into account in the consultation, this fact makes ascertaining the views of the public in general all the more important.

It is also important to note that the views of the police are yet to be received.

Below is an executive summary of the main findings of the consultation. The full report is included in the **References and Information Section**.

Section 1: Overprovision

In terms of overprovision there appears to be a fairly consistent public view that overall across Moray there are enough licensed premises in the area. This was the view of approximately half of respondents. Many respondents made no selection. Only 13% thought there are too many or a dangerously high number and only 6% felt there are too few.

In response to the question about whether people thought there should be more control over the number of licensed premises, overall a little over 40% did not respond but of the remainder nearly 60% said "no".

This is fairly consistent with a public view that overprovision is not an issue in general and that further intervention is not supported by public opinion.

Where issues of too many premises were raised, the issue was more with an overprovision of off sales premises than on sales, again particularly in Forres and Buckie, Laich and Milne's. The biggest percentage of "too many" and "dangerously high" responses arose from consideration of off sale premises in Forres. This was the view of local people about their own area.

The picture painted by people considering the county as a whole was slightly different. More respondents looking at Moray as a whole, rather than just their own area, suggested Elgin may have too many premises.

Only respondents in Forres were more in favour than not of increasing control over the number of licensed premises though some respondents from all areas indicated that there should be more control.

The main suggestion for how to increase control related to the ease with which a licence can be obtained. Reducing / restricting opening hours and limiting the number of premises / amount that can be purchased were other suggestions. In these regards the process is a statutory one and cannot be changed by the Board. As regards hours the Board has a clear policy in terms of opening hours and that is applied when considering applications.

An analysis of off sale premises in Forres revealed 10 off sale premises. Out of those 8 have the maximum core off sales hours of 10am to 10pm and 7 of those are open for those hours at least. The majority are large or medium sized supermarkets.

Below in this document figures for number of premises per population across Moray have been considered. That includes on sale premises, off sale premises and premises as a whole.

It is estimated that the population of Forres is approx 10000 based on 2001 and available 2011 Census data.

There are 43 licensed premises in Forres at the date of writing, including the 10 off sale premises. That includes surrounding areas of Findhorn (5 premises including 2 off sales), Kinloss (3 premises including 1 off sale) and Brodie (2 premises including 1 off sale). Findhorn and Brodie are popular tourist areas and Kinloss benefits from the MOD base. The interaction between the demographics of the population as compared to the number of premises is not clear so conclusions cannot be precise.

Taking Forres and surrounding areas, per 1000 population that is 4.3 premises in total and 1 off sale premises. That appears slightly higher than the average for Moray as a whole, however Forres is a main population centre for Moray.

Ignoring the surrounding areas, Forres has an average of 3.3 premises per 1000, which is below the Moray average. It also equates to 0.7 off sale premises per 1000.

The average number of off sale premises per 1000 for Moray is 0.93. This shows that Forres is below the average for the whole of Moray in terms of off sale premises per 1000 population. This indicates that it may just be a perception that too many such premises exist.

The NHS argue there are too many premises in Moray as a whole although there is little more than a bare statement about there being too many premises.

Responses from outside bodies were as follows:

- NHS: too many licensed premises in Moray.
- Wine & Spirit Trade Association: no overprovision in Moray.
- Alcohol Focus Scotland: not in a position to comment on individual areas. To reduce harm, reduce consumption by controlling price and availability.

Noise Disturbance Statistics

The Moray Council's Environmental Health Service has provided a report on instances of noise disturbance in relation to licensed premises over the three year period prior to this assessment. A copy of that report (with references to individual premises removed) is included within the **References and Information Section** below.

The following points arise from an analysis of the report:

- The overall number of complaints (21 in 3 years) is low. The average is seven per annum.
- The most common complaint, accounting for nearly one third of all complaints, was in relation to early morning deliveries to supermarkets i.e. something not directly related to the sale of alcohol.
- Only one premise attracted more than one (two) complaints.

It would therefore appear that there is no discernable pattern of noise disturbance that can be linked to the sale of alcohol and other statistics within this report.

Scottish Licensing Statistics for the Number of Premises per Population

Full tables are incorporated into the **References and Information Section** for the number of premises overall, the number of on sales premises and the number of off sales premises.

The overall number of premises per 1000 population in Moray for 2011 was 3.67 (that figure has since dropped to 3.6).

In addition it is likely that the figure should be slightly lower than the figure quoted as the figure quoted (approx 87720) is based on 2001 population data from the Census. Early indications from the 2001 Census are that the population has increased to approx 93300.

Across Scotland figures for overall numbers of premises ranged from the lowest (East Renfrewshire) of 1.72 to the highest (Argyll & Bute) of 6.64 for 2011. The average across Scotland was 3.35. It is not known, as yet, if the Scottish average is also dropping.

Of the 32 authorities in 2011, 20 had a lower average number of premises per 1000 population and 11 had a higher average. Moray is therefore just into the top one third.

Angus was next lowest compared to Moray at 3.16. Aberdeenshire was 2.6. Highland was 5.34.

Moray was in a very similar position in terms of both on and off sale premises, just falling into the top one third of all licensing authorities across Scotland for numbers of premises per 1000 population.

Again by itself a statistic such as this does not have a lot of meaning. There is no definition of how many premises per population is required or is too much or indeed is too little.

It is only a comparison that can be drawn as against other areas and in this regard Moray does not fare badly.

It also has to be borne in mind that the nature of the area may also have a significant effect on this figure. The comparison is made but it is not like for like. Rural areas, such as Moray tend to have a higher number of premises when compared to the population as the population is spread. Many small villages with low number of people may have their own pub or hotel. There may also be a higher number of licensed premises supported by the tourism industry.

It is not considered that this is, in itself, an indication of an overabundance of licensed premises.

This figure has been extended within the **References and Information Section** to include the capacity of licensed premises in Moray. This was something missing from the previous assessment but it does not seem to add much to the process. Unfortunately the same considerations apply now as then in that it is not indicative by itself and in the case of capacities there are no comparators available. The NHS attempted to collect such data but have produced the same and using that data would be difficult. There are no indicators as to the national averages and/or acceptable levels of capacity per population, be that for on sales within licensed premises or as an amount of shelving within off sale premises.

This is further complicated by the fact that agreement cannot be reached nationally as to what constitutes off sale capacity. Different Boards use different measurements ranging from linear metres of shelving to cubic metres of space. This is something that needs to be clarified in guidance. Unless and until this is clarified it is not possible or safe to use off sale capacity as a means to justify an overprovision assessment as the wrong measurement will invalidate the assessment and leave any decision based on that assessment open to challenge.

Other Data

Considering, in turn, other possible sources of data within the Scottish Government's guidance to Boards:

1. Evidence from the licensed trade that the density of licensed premises in a locality has resulted in levels of competition which have applied downward pressure on the price of alcohol. No such evidence has been forthcoming in this regard.
2. Evidence gathered from residents of a locality that anti-social behaviour is associated with licensed premises within that area. The community survey asked respondents for incidents of anti-social behaviour (ASB) and the responses did make reference to ASB, although in general as opposed to any evidence of actual incidents. A recurring theme throughout the community survey, including to combat ASB, was to take measure to prevent the service of alcohol to those who had already drunk enough or too much. These aspects will be considered separately as policy issues.

3. Information from the local authority's Environmental Health Department about noise complaints which can be attributed to the operation of licensed premises in a locality. This information was sought and is included within the **References and Information Section** below. The Local Licensing Forum data also included police data about calls to the police in respect of noise, but the number of complaints appears to have steadily reduced over the period measured and 1 premises appears to have been the source of most complaints at the time. This data appears inconclusive.

The Economic Test

The collection and examination of data so far has surrounded issues covered by the licensing objectives.

For the avoidance of doubt, where objectors and/or representers seek to advance overprovision arguments by reference to need/demand in the locality for licensed premises, those arguments will not be entertained by the Moray Licensing Board. This includes instances where the motive for objection or representation appears protectionist.

The guidance is specific in that it states that Boards may NOT take into account: "the need or demand for licensed premises in the locality. Commercial considerations are irrelevant to a policy which is designed to protect the wider public interest".

Saturation point is to be considered in terms of a concentration of premises creating alcohol related problems and objectors/representers will need to establish that causal link. It will not be sufficient to say that there are already "X" number of premises in the area. Outside of public interest issues, market forces should determine the number of premises any particular area can support.

It is not for Licensing Boards to engage in assessments of capacity in terms of capacity per capita. Purely by way of example in this regard, it would **not** be appropriate to say, for example, that in a particular catchment area of, say, 10000 people, it is more than adequate for those people to be serviced by two large supermarkets with a total off-sale capacity of 250m³ or by ten on sale premises with a maximum total on sale capacity of 1300 persons.

Conclusion

There is not a strong statistical base to support a finding of overprovision. For reasons given it has not been possible to identify any locality within Moray where data supports a robust and compelling argument that the prevalence of licensed premises has reached, or is close to reaching, saturation point.

There are, however, some areas of concern. These may be addressed by targeted policies and action items. Some action items may be dealt with through the Licensing Board's initiative to promote equalities as part of the public sector equalities duties.

Overprovision as a policy itself is a blunt tool. Deciding which premises can or cannot open or even change their alcohol capacity is not a proven strategy for reducing consumption and harm. It is not targeted and the lack of evidence may not justify interference with market forces. The less interventionist approach encourages premises to be better or face going out of business. This would not be the case in terms of an overprovision policy which would deny new entrants to the market.

It has not, therefore, been necessary to proceed to examine in more detail the number and types of licensed premises and their relative capacities.

Nevertheless, the Moray Licensing Board recognises that each application for a premises licence is still to be judged on its own merits.

Future Review

The position will also be kept under review and a further exercise will be undertaken should the suggestion arise that overprovision is becoming an issue within a certain area(s). The position will be reviewed at least each three years in any event and it is anticipated that a further revision will be undertaken as and when the updated government guidance is published.

As stated earlier in the report, this is a difference in approach to policy development for Licensing Boards. Data that has been examined for the purpose of this assessment has not previously been sought or examined. Therefore comparisons have been drawn from other Licensing Board areas in Scotland as a whole. It will not be possible to examine local trends unless and until this data has been collated over a number of years. That is likely to be in the next triennial review.

It remains to be seen whether new guidance from the Scottish Government will follow or address this sea change in policy development. It may also be necessary to review this assessment as and when new guidance is published.

Examples of Other Policies

The emphasis appears to be much more on health data now. As such, more modern examples of policies focus on the health objective.

Few Boards have yet to establish areas of overprovision. At the initial assessment stage it was generally felt that even pre-existing overprovision areas had to be removed from Board policies. Even in the big cities of Glasgow and Edinburgh, overprovision was removed. Since that time it has started to come back and is now in place in those cities and a few other places.

One particular area that seems to have led the way in terms of use of health data to inform policy was West Dumbarton. Their policy has also been held out to be an example to others by the Scottish Government.

Example policies were therefore examined from:

Edinburgh Licensing Board Policy on Overprovision
(www.edinburgh.gov.uk/download/downloads/id/3032/licensing_board_policy_statement_2010)

Dated 22/11/2010)

Glasgow Licensing Board policy on Overprovision
(<http://www.glasgow.gov.uk/CHttpHandler.ashx?id=4386&p=0> Dated November 2010)

West Dumbarton Licensing Board policy on Overprovision

(http://www.west-dunbarton.gov.uk/media/2197194/licensing_policy_statement_2010_final_version_-_20_12_11_.pdf Dated 20/12/11)

First reviewed was the methodology employed by West Dumbarton. As stated this is the pioneering policy in the field. They undertook a lengthy process of evidence gathering and consultation before concluding that overprovision existed in the majority of localities that they had artificially created for the purpose. Arguably the conclusions drawn lack the dependable causal link when viewed against the data analysed. The data shows the problems in terms of crime statistics, hospital admissions etc and the policy then states that there is a clear link

between that and the availability of alcohol in 15 out of 18 areas. However in some of those areas the numbers of licensed premises were below average. This was explained by the consumption of cheap alcohol at home but no robust and dependable arguments were offered to support the view.

West Dumbarton now have a presumption against new vertical drinking establishments, night-clubs, supermarkets, off licences and convenience stores in 15 out of 18 areas, leaving only food led operations likely to be accepted.

Despite all their information gathering and consultation it appears that West Dumbarton Board have taken a global view that there appears to be a higher than (Scottish) average number of alcohol related problems and this entitles them to draw the conclusion there must be overprovision as a result. It is also arguable that whilst they have robust and reliable evidence, it may not be strong enough to support a finding that a dependable causal link exists. This could actually be considered to be a more convoluted way of starting from the end point that the number of premises must be reduced.

It is therefore difficult to see whether this is any better as an approach.

West Dumbarton also seem to allow a new application each time a licence is lost on a kind of one out one in policy. That is effectively just a cap on the number of premises and it is set at a level they have already tried to demonstrate as being unacceptable. To interfere with market forces in this way may provide a disincentive for premises to improve themselves.

Edinburgh and Glasgow have followed similar methodology. Their localities are based on data zones and intermediate data zones determined by reference to census data. Edinburgh have used linear metres as an off sale capacity. Glasgow used square metres. These difference in approach to what is a national licensing system can only serve to further confuse potential applicants.

References and Information

	Document / Article / Author	Link	Date / Date Accessed
1	The Scottish Government's Crime & Justice Publications – Liquor Licensing in Scotland Liquor Licensing Statistics	http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/PubLiquor	Published annually
1	The Scottish Government's Social Research Unit report prepared by York Health Economics Consortium, University of York, on The Societal Cost of Alcohol Misuse in Scotland for 2007	www.scotland.gov.uk/Resource/Doc/297819/0092744.pdf	Dated 2010
2	Alcohol: No Ordinary Commodity — Research and Public Policy Babor,T., Caetano,R., Casswell,S., Edwards,G., Giesbrecht, N., Graham,K., Grube,J., Gruenewald,P., Hill,L., Holder,H., Homel,R., Österberg,E., Rehm, J., Room, R. and Rossow,I. (2003): Alcohol: No Ordinary Commodity. Research and Public Policy. Oxford University Press		Dated 2003
3	School of Health & Related Research at the University of Sheffield : Model-Based Appraisal of Alcohol Minimum Pricing and Off-Licensed Trade Discount Bans in Scotland Dr Y Meng, Mr D Hill-McManus, Professor A Brennan and Professor P Meier	http://www.scotland.gov.uk/Publications/2009/09/24131201/0	Published 28/09/2009 Dated
4	2012 Alcohol Focus Scotland	http://www.alcohol-focus-scotland.org.uk/local-cost-profiles	24/01/2013
5	The Moray Alcohol and Drug Partnership (MADP) - Needs Assessment Document A. Ware	Unpublished on internet – provided to partner agencies by MADP	01/02/2012
6	The Moray Community Planning Partnership Single Outcome Agreement	http://www.moray.gov.uk/minutes/data/CPB20120628/Item%20%20Final%20Draft%20Single%20Outcome%20Agreement.pdf	25/06/2012
7	Step by step guide to producing an evidenced based overprovision assessment as developed by the clerk to the West Dumbarton Licensing Board	Unpublished on internet – provided to SOLAR Licensing Forum members by the Clerk to the West Dumbarton Licensing Board	(undated 2013)
8	8 Step change management model (Kotter)	http://www.kotterinternational.com/our-principles/changesteps	11/01/2013
9	Scottish Government Guidance to the Licensing (Scotland) Act 2005	http://www.scotland.gov.uk/Resource/Doc/175487/0049459.pdf	Dated 04/04/2007
10	Moray Licensing Board Policy on Overprovision (Hoath)	http://www.moray.gov.uk/downloads/file64075.pdf	Dated 30/11/2010

11	Grampian Police Mapping of Overprovision of Licensed Premises in Moray – R. MacPherson	http://www.moray.gov.uk/downloads/file64075.pdf	Dated 06/08/2009 Updated 01/02/2013
12	Edinburgh Licensing Board Policy on Overprovision	www.edinburgh.gov.uk/download/downloads/id/3032/licensing_board_policy_statement_2010	Dated 22/11/2010
13	Glasgow Licensing Board policy on Overprovision	http://www.glasgow.gov.uk/CHttpHandler.ashx?id=4386&p=0	Dated November 2010
14	West Dunbarton Licensing Board policy on Overprovision	http://www.west-dunbarton.gov.uk/media/2197194/licensing_policy_statement_2010_final_version_-_20_12_11_.pdf	Dated 20/12/11
15	Scottish Licensed Trade News by Scott Wright	http://sltn.co.uk/2012/06/28/court-action-likely-on-licence-cap-policy/	28/06/2012
16	BBC news Minimum pricing: Challenge to Scottish alcohol legislation fails - James Cook	http://www.bbc.co.uk/news/uk-scotland-scotland-politics-22394438	03/05/2013
17	Scottish Licensed Trade News by Jack Cummins – Overprovision Back in the Spotlight	http://sltn.co.uk/2013/07/11/overprovision-back-in-the-spotlight/	11/07/2013

Grampian Police Crime Data Mapping

The following section sets out the report from Grampian Police in full.

ELGIN TOWN CENTRE LICENSING REPORT

JANUARY TO DECEMBER 2012

Produced by R MacPherson, Intelligence Analyst, Moray Division
Last Printed/Updated: 01 February 2013
Weed Date: 01 February 2018
Owner: Detective Sergeant Armit



1. INTRODUCTION

At the request of PC Ray Walker of the Licensing Unit, Grampian Police Elgin it was requested that analysis be carried out of specific crimes and offences which occurred in the town centre area of Elgin to establish any link between these crimes and their proximity to licensed premises.

A similar report was prepared in 2009 which was used to inform Moray Licensing Board to consider if there was overprovision of licensed premises which would be considered in any future applications for licensed premises.

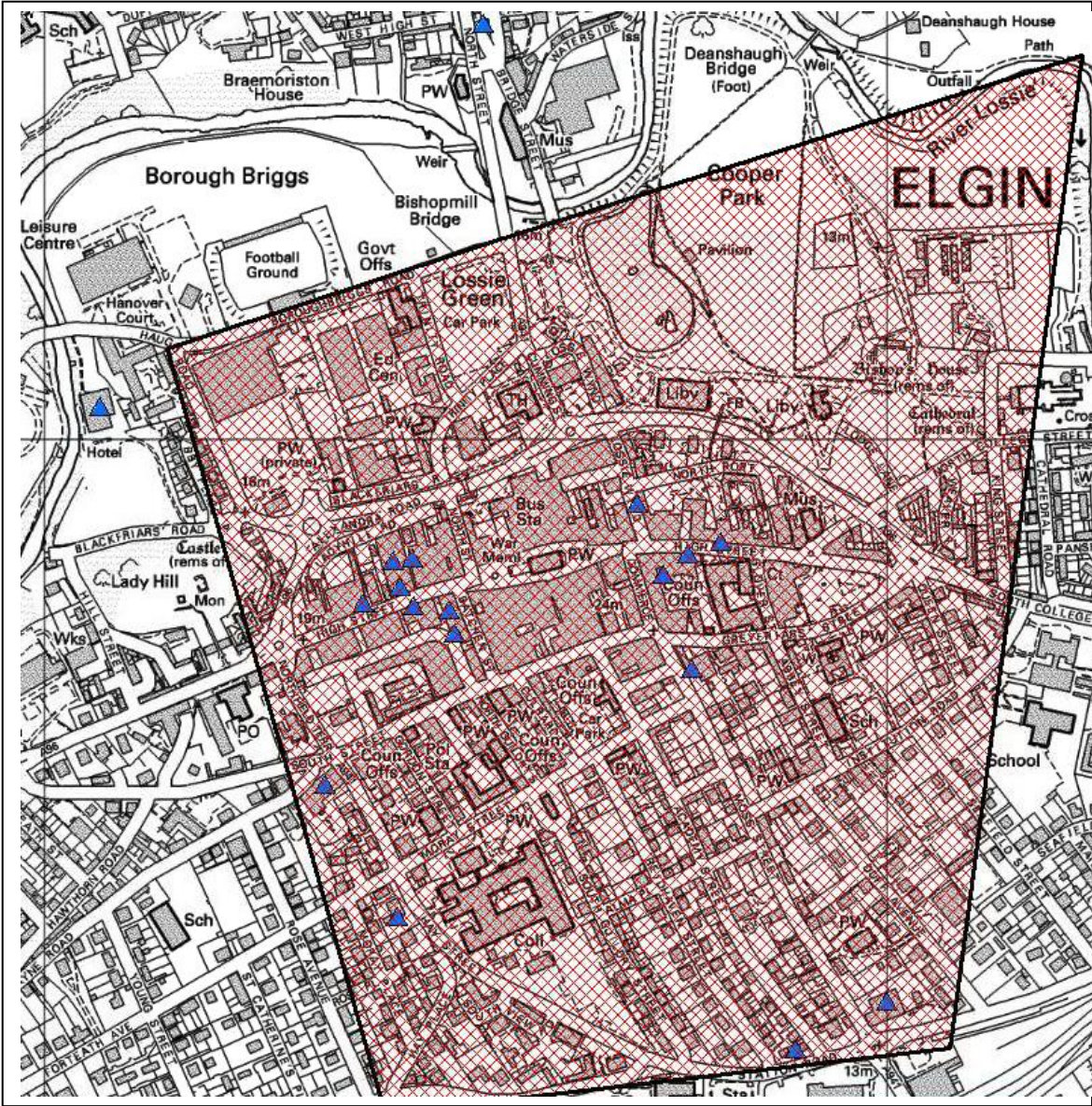
The period being examined was the calendar year 2012 from 01 January 2013 to 31 December 2012 and involved crimes and offences committed in the following categories:-

- Breach of the Peace including racial aggravations
- Culpable and Reckless Conduct
- Drunk and Incapable
- All Drug Related Offences
- Serious Assault
- Common Assault
- Consume Alcohol in a public place
- Urinating
- Vandalism
- Riotous Behaviour whilst drunk on Licensed Premises
- Refuse to Leave Licensed premises

The data regarding the above crimes and offences was extracted from the Grampian Police crimefile system and filtered to identify these crimes and offences which occurred within what was designated as being within the town centre or immediate surrounding area.

The ESRI mapping system was also used to analyse the data.

2. LOCATION OF LICENSED PREMISES



(Only 16 icons are visible as Downtown & Joannas are within the same building)

The above polygon covered by the hatched area is considered to be the main town centre area and the area within which the selected crimes and offences were identified and analysed.

A total of 17 licensed premises are identified within this area by blue triangle icon. These are considered to be the main premises where alcohol is sold namely:-

- Joannas Nightclub
- Thunderton
- Granary
- Dacey Rileys
- Victoria Bar
- White Horse
- Muckle Cross
- Flanagans
- Ionic PH
- Midas PH

Torr House
 Royal Hotel
 Sunninghill Hotel
 Zed Bar
 Laichmoray Hotel
 Mansefield Hotel
 The Cooperage

There have been no new licensed premises within the town centre of Elgin since the previous report. The Zed Bar has opened and was in a premises which was previously licensed.

3. CRIMES AND OFFENCES

The following table details the number of crimes or offences committed within the identified town centre area in 2012.

Crime Type	No of Crimes or Offences
Common Assault	101
Breach of the Peace	75
Vandalism	31
Drugs Possession	27
Urinating	25
Serious Assault	4
Disorder Offences in Licensed Premises	3
Drugs Supply	2
Culpable & Reckless Conduct	3
Consume alcohol in a public Place	1

The detection rate for the above crimes and offences in this period is 77%.

A large proportion of the town centre area is covered by Police monitored CCTV.

67 of the 269 crimefiles created in this period occurred within or in the close vicinity of licensed premises in the town centre area.

The following are the numbers of crimefiles where the crime or offence is assessed to have taken place within or in the near vicinity of the licensed premises:-

- The Granary, 26 crimefiles
- Joannas Nightclub 12 Crimefiles
- Downtown Bar 7 crimefiles
- Muckle Cross 5 crimefiles
- Cooperage Bar 2 Crimefiles
- Dicey Rileys Bar 2 Crimefiles
- Zed Bar 1 Crimefile
- Victoria Bar 2 Crimefile
- Flannigans Bar 1 Crimefile

The above figures have been counted by the number of crimefiles rather than the number of offences as more than one crime or offence may be detailed on the crimefile but in essence it relates to one incident.

151 of the 269 crimefiles examined occurred on the street or in a public place within the town centre zone. It is very difficult to attribute any of these crimes and offences to specific licensed premises particularly in the two busiest areas of the town centre where the two nightclubs Joannas and The Granary are located as there are a number of other licensed premises in close proximity to these premises.

It is also in the nature of individuals to visit a number of licensed premises within the town centre which means at peak weekend times there can be a large movement of persons between pubs and clubs.

The exact location of where the crime or offences took place is dependent on the Police Officer recording the exact location and for this reason STORM incidents were not included in the mapping process of this report as there is a high degree of incidents where the location is given as the street name i.e. High Street but not the exact location where the incident is taking place.

The number of STORM incident calls to Licensed Premises have been included for the calendar year 2012 :-

- The Granary 60 calls
- Joannas Nightclub 26 calls
- Cooperage Bar 11 Calls
- Downtown Bar 8 calls
- White Horse Bar 6 calls
- Dicey Rileys 6 calls
- Victoria Bar 3 calls
- Ionic Bar 3 calls
- Zed Bar 2 calls
- Flannigans Bar 1 call

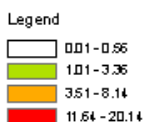
The three most common calls to licensed premises in Elgin are Disturbance, Assault and Assist Member of the Public.

4. DATE & TIMES

Analysis was carried out on the data for day and time the offences occurred within the town centre by means of a data clock



Data Clock

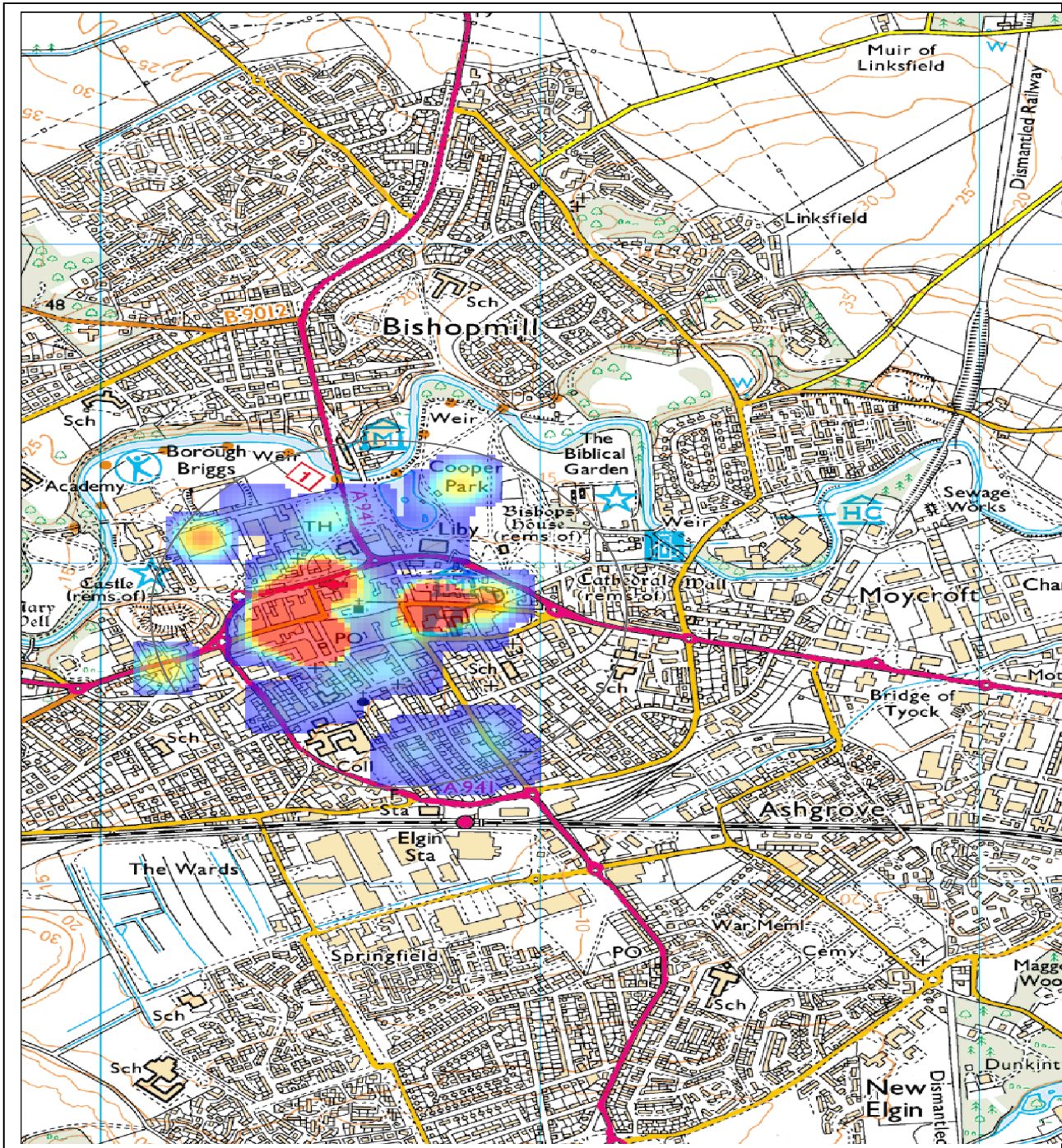


All records successfully processed.

The peak times for crimes and offences occurring in this area are Friday into Saturday 2200 to 0300 and Saturday into Sunday 2300 to 0400

The above times are the busiest relative to the bars and clubs in the town centre area.

5. HOT SPOT AREAS



The two hot spot areas for the town centre relative to the selected crimes and offences detailed in this report are to the west end of High Street which is the area of the largest concentration of licensed premises including the two nightclubs and the area likely to attract the largest number of persons.

The second hot spot is identified on the map as being the area to the east of the High Street where again there are a number of licensed premises including the Muckle Cross Public House, Ionic Bar, Flanagans and Midas Bar

6. POLICE ACTIVITY

Regular visits are made by Police Patrols to licensed premises in the Elgin town centre which are recorded on the Inn Web System.

177 visits were made to licensed premises in the whole of the Elgin area in 2012 with the two nightclubs Joannas and The Granary recording the highest number of visits.

7. CONCLUSION

- The pattern of crimes and offences being committed within Elgin town centre and associated to licensed premises has not changed since the 2009 report.
- The hot spot areas are the same as were identified in 2009.
- The problem of linking crimes and offences which have occurred on the street and in a public place directly with a named licensed premises still exists as the offender may have visited a number of premises before the crime was committed.
- There has been no increase in the number of licensed premises in High Street, Elgin since 2009 which would impact on the 2012 figures.
- The fact that a licensed premises is recording a large number of crimes and offences may not be an indicator of the running of that premises rather that the staff within are reporting crimes and offences to the Police and dealing with criminality in their premises.

LLF Data Collation and Analysis

The following section sets out the data, analysis and report from the Local Licensing Forum in full.

LLF Strategy Development – Data Report (Redacted - With Benchmarking)

Information provided by:

Amanda Ware (Research and Information Officer) – MADP

Document Last Updated: 5/6/13

Document Reference 8/13/2578

Antisocial Behaviour Crimes

These crimes include Drinking in a public Place, Drunk and Incapable, Breach of the Peace, Threatening or Abusive Behaviour, Urinating, Common Assault and Vandalism.

Drinking in Public charges general rise in Quarter 2 and Moray is no different, the highest number of Drinking in Public charges has generally been during this time, this may be due to the lighter nights and warmer weather.

There has been a drop in the number of Drunk and Incapable charges between fiscal years 2009/10-2011/12.

Breach of the Peace charges have also dropped in the same time frame, although it should be noted that Threatening or Abusive behaviour crime category came into legislation during Q4 of 2011/12.

Common Assault in Moray has also dropped to its lowest figure in the three year period during Q4 of 2011/12.

Vandalism has also dropped to its lowest figure in Q4 of 2011/12. Generally Q4 is the lowest figure for Vandalism this may be due to Winter falling during this time and the bad weather that has been experienced over the past few winters in Moray.

Antisocial Behaviour Crimes Committed Under the Influence

There has been a drop in all of the Antisocial Behaviour Crime Categories over the three year period, except in Drinking in a Public Place, this may be due to better enforcement of this legislation.

Breach of the Peace has seen the biggest fall in Crime Committed under the influence. By the end of 2011/12 it had dropped more than 4 times, when compared to the figure in Q1 of 2009/10.

Common Assault has also seen a drop in the number of crimes committed under the influence, it should also be noted that Q4 of 2011/12 bucks the trend of the previous two years in that the number of Common Assaults committed during Q4 of 2011/12 were lower than the same quarter in the previous two years, as well as being the lowest in the year for 2011/12.

Quarter 4 is generally the quarter with the highest percentage of Antisocial Behaviour Crimes committed under the influence, this may be due to the festive season falling at this time, with more people consuming alcohol.

Serious and Violent Crimes

Includes Serious Assault, Murder, Attempted Murder, Culpable Homicide, Rape, Assault and Robbery and Indecent Assault.

Serious Assault and Indecent Assault are the crimes in this category that has the highest percentage of crimes committed whilst under the influence of alcohol.

Domestic Abuse Crimes

The number of reported Domestic Abuse Incidents has risen over the past three years; this may

be due to increased awareness of this crime, with Campaigns being run by the Domestic Abuse Partnership leading to more people reporting crimes of this nature.

Perhaps unsurprisingly there are more perpetrators that are found under the influence of alcohol in Moray than victims. The number of victims reported to be under the influence of alcohol at the time of the incident has not shown any real significant change statistically over the past 3 years. It should be noted that both the Victim and the Perpetrator can be under the influence of alcohol.

Licensing Crimes

Crimes including: Drunk and Attempting to enter a Licensed Premises, Drunk in Charge of a Child, Licensee, Employee or Agent Drunk in a Licensed Premises, Licensed Person Other Offenses, Licensing Other Offenses, Permit Riotous Behaviour in a Licensed Premises, Persons Under 18 Buying Liquor or Consume in a Bar, Licensing Purchase Liquor for Consumption by an Under 18, Licensing Sale of Drink to Persons Under 18, Licensing wholesale of liquor to persons under 18.

The numbers for these crimes in the past 3 years has been very low; the highest numbers have been in Licensing Purchasing Liquor for consumption by under 18's.

Salsus Data ¹

This report presents the key findings from the 2010 Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS). The findings show the prevalence of smoking, drinking and drug use among 13 and 15 year olds attending school in Moray, as well as exploring their attitudes and behaviour in relation to substance use.

This data is published every two years by the Scottish Government.

Have you ever had a proper alcoholic drink?

	13 yrs	15 yrs	boys	girls	total	national 13 yrs	national 15 yrs
Yes	46%	87%	66%	66%	66%	44%	77%
No	54%	13%	34%	34%	34%	56%	23%

- The Moray percentage for young people who have ever had a proper alcoholic drink is higher than the national average. For 13 year olds it is 2 percentage point higher but for 15 year olds it is 10 percentage points higher.

	<u>Angus Data</u>					<u>Aberdeenshire Data</u>				
	13 yrs	15 yrs	boys	girls	total	13 yrs	15 yrs	boys	girls	total
Yes	46%	82%	66%	63%	64%	Yes 42%	80%	63%	59%	61%
No	54%	18%	34%	37%	36%	No 58%	20%	37%	41%	39%

- From the comparable Angus and Aberdeenshire data is clear that the percentage of 15 year olds who have ever had an alcoholic drink is slightly higher in Moray than the other two areas.
- The percentage of 13 year olds who have ever had an alcoholic drink is the same in Angus and Moray it is slightly lower in Aberdeenshire.

¹ http://www.drugmisuse.isdscotland.org/publications/abstracts/salsus/Moray_2010.pdf

Type of Alcohol Consumed in the last week

	13 yrs	15 yrs	boys	girls	total
Any beer, lager or cider	67%	71%	90%	52%	70%
Normal beer, lager or cider	59%	69%	87%	47%	66%
Spirits, Liqueurs etc.	57%	65%	56%	70%	63%
Alcopops	64%	52%	38%	71%	56%
Strong beer, lager or cider	43%	39%	51%	30%	40%
Wine	19%	29%	17%	36%	27%
Fortified wine	23%	22%	27%	19%	22%
Shandy	30%	13%	25%	12%	18%
Sherry or Martini	17%	10%	11%	14%	12%
base: pupils who had drunk in the last week	45 113	77 80	158 48	115 88 74	163

- More boys in Moray have drunk any beer, larger or cider than any of the other alcoholic drinks, however more girls have drunk Alcopops in the past week.
- The younger age group tend to go for beer, lager of cider or Alcopops as the drink they have consumed in the past week. While the older age group have drunk any beer, lager or cider or normal beer, larger or cider.

Angus Data

	13 yrs	15 yrs	boys	girls	total
Any beer, lager or cider	66%	78%	88%	61%	75%
Normal beer, lager or cider	61%	73%	88%	52%	70%
Spirits, Liqueurs etc.	64%	65%	55%	73%	65%
Alcopops	53%	56%	38%	72%	55%
Strong beer, lager or cider	40%	44%	47%	39%	43%
Wine	37%	25%	19%	37%	28%
Fortified wine	39%	12%	23%	14%	19%
Shandy	12%	13%	9%	15%	12%
Sherry or Martini	13%	8%	7%	12%	9%

Aberdeenshire Data

	13 yrs	15 yrs	boys	girls	total
Any beer, lager or cider	80%	75%	89%	61%	76%
Normal beer, lager or cider	72%	71%	84%	56%	72%
Spirits, Liqueurs etc.	43%	65%	52%	68%	59%
Alcopops	55%	56%	37%	77%	56%
Strong beer, lager or cider	48%	39%	47%	34%	41%
Wine	26%	27%	16%	39%	27%
Fortified wine	31%	13%	13%	18%	15%
Shandy	21%	13%	22%	12%	18%
Sherry or Martini	16%	7%	7%	12%	10%

- The comparable data from Angus and Aberdeenshire shows that the percentage of 13 year olds who have drunk any beer lager or cider in Moray is less compared to Aberdeenshire, however the percentage for those consuming these types of drinks in Angus is slightly less than in Moray.
- There is a higher percentage of young people who had consumed normal beer, lager or cider, Wine and fortified wine in both Angus and Aberdeenshire compared to Moray.
- Among 13 year olds Alcopops seem to have a higher percentage of young people consuming this type of drink in Moray than in the other two areas.

Sources of purchased alcohol

	13 yrs	15 yrs	boys	girls	Total
Never buy alcohol	64%	43%	56%	43%	50%
From a friend	19%	44%	30%	41%	36%
From a relative	13%	17%	12%	20%	16%
From a shop	6%	7%	8%	6%	7%
From a supermarket	1%	5%	3%	4%	4%
From an off-licence	3%	3%	4%	2%	3%
In a club or disco	-	1%	-	1%	1%
In a pub or bar	1%	2%	2%	-	1%
From somewhere/someone else	4%	2%	4%	2%	3%
base: pupils who had ever had an alcoholic drink	116	246	175	186	362

- Most of those who have ever drunk alcohol have obtained it from a friend. However the next highest source of obtaining alcohol is from a relative.
- Only 1% of 15 year olds report buying alcohol in a club or disco.

Angus Data

	13 yrs	15 yrs	boys	girls	Total
Never buy alcohol	67%	42%	55%	46%	51%
From a friend	11%	30%	16%	31%	23%
From a relative	9%	12%	8%	15%	11%
From a shop	2%	11%	9%	6%	8%
From a supermarket	3%	8%	7%	5%	6%
From an off-licence	3%	3%	4%	1%	3%
In a club or disco	1%	3%	3%	2%	2%
In a pub or bar	1%	2%	2%	1%	1%
From somewhere/someone else	3%	6%	4%	6%	5%

Aberdeenshire Data

	13 yrs	15 yrs	boys	girls	Total
Never buy alcohol	74%	46%	58%	52%	55%
From a friend	15%	33%	22%	33%	27%
From a relative	8%	18%	12%	18%	15%
From a shop	2%	9%	7%	6%	6%
From a supermarket	1%	4%	3%	3%	3%
From an off-licence	1%	2%	2%	1%	2%
In a club or disco	-	3%	2%	2%	2%
In a pub or bar	-	2%	1%	1%	1%
From somewhere/someone else	1%	3%	3%	2%	2%

- A higher percentage of 13 year olds report never buying alcohol in Angus and Aberdeenshire than in Moray.
- There is a lower percentage of young people who report buying alcohol from a supermarket, shop, or off-license in Angus than in Moray. However the Moray percentage is lower than that of Aberdeenshire.
- The percentage of young people who report buying alcohol in a club or disco is higher in Aberdeenshire and Angus compared with Moray. However the percentage of those buying alcohol in a pub or bar is the same throughout the three areas.

Other sources for obtaining alcohol

	13 yrs	15 yrs	boys	girls	total
A friend older than me	55%	56%	52%	58%	56%

My mother, father or carer	17%	15%	10%	20%	15%
My brother or sister	4%	7%	5%	8%	7%
A friend of my own age	-	8%	7%	6%	7%
Someone I knew of, but did not know personally	11%	5%	9%	4%	6%
A stranger	13%	3%	10%	-	4%
A friend younger than me	-	1%	-	1%	1%
My boyfriend/girlfriend	-	1%	-	1%	1%
My fathers partner or mothers partner	-	-	-	-	-
Someone else	-	5%	7%	1%	4%
base: pupils who got someone else to purchase alcohol for them in the last 4 weeks	15	82	40	57	97

Angus Data

	13 yrs	15 yrs	boys	girls	total
A friend older than me	9%	44%	31%	44%	38%
My mother, father or carer	29%	16%	31%	8%	19%
My brother or sister	20%	15%	16%	16%	16%
A friend of my own age	14%	7%	6%	9%	8%
Someone I knew of, but did not know personally	14%	4%	3%	8%	5%
A stranger	5%	5%	5%	6%	5%
A friend younger than me	-	2%	-	3%	2%
My boyfriend/girlfriend	-	1%	-	1%	1%
My fathers partner or mothers partner	-	-	-	-	-
Someone else	9%	6%	8%	5%	6%

Aberdeenshire Data

	13 yrs	15 yrs	boys	girls	total
A friend older than me	40%	49%	50%	45%	47%
My mother, father or carer	26%	16%	12%	23%	18%
My brother or sister	6%	7%	6%	8%	7%
A friend of my own age	6%	6%	9%	4%	6%
Someone I knew of, but did not know personally	5%	6%	10%	3%	6%
A stranger	4%	6%	8%	4%	5%
A friend younger than me	-	3%	1%	4%	3%
My boyfriend/girlfriend	-	1%	1%	-	1%
My fathers partner or mothers partner	-	-	-	-	-
Someone else	-	6%	7%	8%	6%

- The Moray percentage of those who obtain alcohol from a friend older than them or a stranger is higher in Moray than in the other two areas, for both 13 and 15 year olds.
- The percentage of those who obtain alcohol from their brother or sister or their mother, father or carer or someone their own age is higher in the other two areas than in Moray.

Protecting Children from Harm

Number of premises dealing with test purchases

Trading Standards (Moray Council) do not deal with test purchases of Alcohol. No test purchases have been carried out since late 2010, due to clarification being sought from the Office of Surveillance Commissioners, so no test purchases will have been carried out during

2011/12. This tactic is once again available, however is tightly restricted. (Provided by Ray Walker – Grampian Police)

Children Affected by Parental Alcohol Misuse

	2011/12				2012/13			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Number of Children on the Child Protection Register due to Parental Alcohol Misuse²	17 34%	13 25%	12 23%	8 16%	9 19.5%	12 22.6%	18 23%	16 (24%)

- The numbers of children in the CPR due to parental alcohol misuse declined in 2011/12 however by Q2 of 12/13 they had began to rise again to the highest point over the two years to 18 children in Q3 of 2012/13.

NHS Data

	2008/09	2009/10	2010/11	2011/12
Number of Alcohol Related deaths in Moray³	26	24	18	19
Number of Alcohol Related Deaths in Angus	30	23	15	22
Number of Alcohol Related Deaths in Aberdeenshire	33	29	20	22
Number of Alcohol Related deaths in Scotland	1,411	1,282	1,318	1,247
% of Alcohol related deaths in Scotland attributable to Moray	1.8%	1.9%	1.4%	1.5%

- The number of alcohol related deaths in Moray has dropped over the four year period from 26 in 2008/9 to 19 in 2011/12. This follows the national trend which has also dropped.
- All three areas seem to follow the trend of falling between 2008/9 and 2010/11 before rising again in 2011/12.
- It should be noted that Angus and Aberdeenshire both have higher numbers of Alcohol related Deaths than Moray throughout all four years.
- In 2011/12 there was a rate of 21.8 deaths in Moray per 100,000 population compared to the Scottish figure of 24 deaths per 100,000 related to alcohol.

The data below includes general acute inpatient and day case discharges with an alcohol related diagnosis in any position.

	2007/08	2008/09	2009/10	2010/11
General Acute Hospital Admissions Moray⁴	575	561	489	430
General Acute Hospital Admissions Angus	354	405	428	454
General Acute Hospital Admissions Aberdeenshire	1043	1051	1031	982

² Statistics provided by NESCP

³ <http://www.gro-scotland.gov.uk/statistics/theme/vital-events/deaths/alcohol-related/index.html>

⁴ <http://www.isdscotland.org/Health-Topics/Drugs-and-Alcohol-Misuse/Publications/2012-05-29/2012-05-29-alcoholhospitalstats2012-report.pdf>

General Acute Hospital Admissions Scotland	43,054	41,980	39,344	38,825
% of Scotland General Acute Hospital admissions attributable to Moray	1.3%	1.3%	1.2%	1.1%

It should be noted that these figures relate to admissions and not individual persons, one person could have had multiple admissions throughout the year.

- While Moray and Aberdeenshire have seen a drop in the number of General Acute Hospital Admissions with an alcohol related diagnosis Angus has risen from 354 in 2007/8 to 454 in 2010/11.
- Aberdeenshire has almost twice the number of General Acute Hospital Admissions with an alcohol related diagnosis than Moray over the past four years.
- However Angus has consistently lower number of General Acute Hospital Admissions with an alcohol related diagnosis compared to Moray and Aberdeenshire.
- There was a rate of 492.8 admissions per 100,000 population in Moray, with regards to General Acute Hospital Admissions. This is much lower than the national figure of 746.6 per 100,000.

The data below relates to Psychiatric Inpatient and Day case discharges with an alcohol related diagnosis in any position.

	2007/08	2008/09	2009/10	2010/11
Psychiatric Inpatient Hospitals Moray	30	16	*	No data
Psychiatric Inpatient Hospitals Angus	111	99	103	No data
Psychiatric Inpatient Hospitals Aberdeenshire	58	41	*	No data
Psychiatric Inpatient Hospitals Scotland	3,895	4,179	4,042	No data
% of Scotland Psychiatric Inpatient Hospital Admissions attributable to Moray⁵	0.8%	0.4%	-	-

- Moray has the lowest numbers of Psychiatric Inpatient and Day case discharges with an alcohol related diagnosis when compared to Angus and Aberdeenshire, with roughly half of the Aberdeenshire figure and roughly a quarter of the Angus figure.
- There has been a clear drop in the number of Psychiatric Inpatient and Day case discharges with an alcohol related diagnosis in Moray. By 2009/10, which are the latest available figures, the figure was so low it was not able to be published to avoid identification of patients.
- The rate per 100,000 for Moray was 18.3 compared to the national rate of 80.4 per 100,000 when looking at the numbers of Psychiatric Inpatient and Day case discharges related to alcohol.

The data below includes a breakdown of general acute inpatient and day case discharges with an alcohol related diagnosis in any position for 2010/11.

	All Alcohol Related Conditions	Mental & Behavioural Disorders due to use of Alcohol					Alcoholic Liver disease			Toxic effect of Alcohol
		Overall	Acute Intoxification	Harmful use	Alcohol Dependence	Alcohol Psychoses	Overall	Cirrhosis	Unspecified	
Moray	430	324	101	111	111	46	80	34	37	54

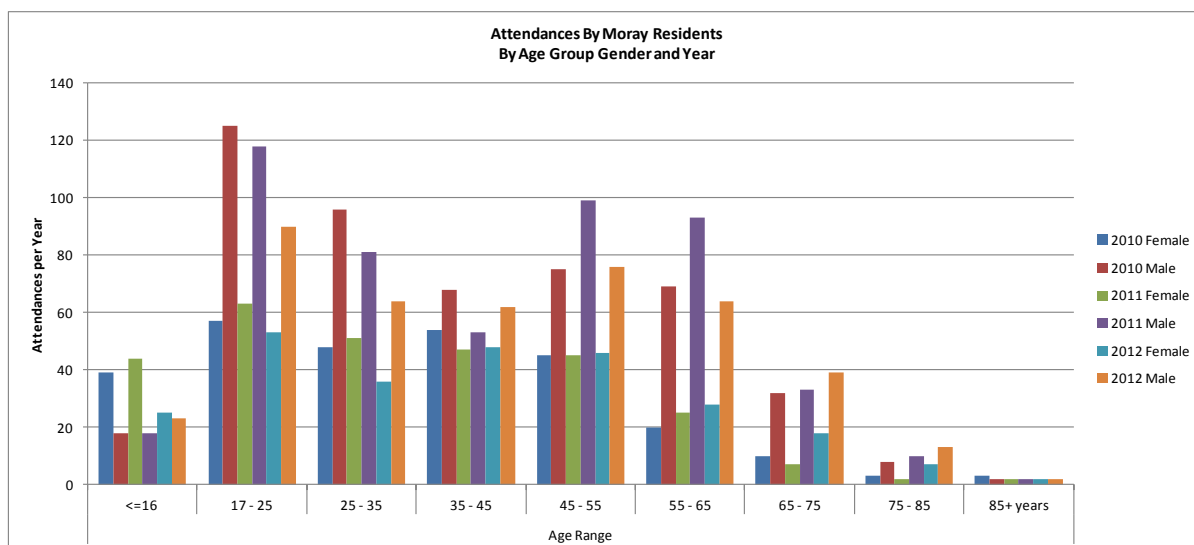
⁵ <http://www.isdscotland.org/Health-Topics/Drugs-and-Alcohol-Misuse/Publications/2012-05-29/2012-05-29-alcoholhospitalstats2012-report.pdf>

Angus	982	736	181	324	184	110	120	60	40	188
Aberdeen shire	1912	1408	330	653	357	263	319	117	147	287
Scotland	38,825	28,307	7,960	12,690	4,272	5,236	6,767	2,023	3,719	4,249

- Again Moray has consistently less general acute inpatient and day case discharges with an alcohol related diagnosis when compared to Angus and Aberdeenshire.
- However 25.8% of all alcohol related conditions in Moray are alcohol Dependant compared to 18.7% for both Angus and Aberdeenshire.
- 7.9% of all alcohol related conditions in Moray have cirrhosis compared to 6.1% in Angus and 7.7% in Aberdeenshire.
- Moray accounts for 1.14% of all Mental and behavioural disorders due to use of Alcohol. However it accounts for 2.6% of those who have alcohol dependence. Moray also accounts for 1.18% of all Alcoholic Liver Disease in Scotland.
- The Scottish rate per 100,000 for Alcohol dependence is 82.2 compared to 127.2 for Moray per 100,000.
- The Scottish rate per 100,000 for alcoholic liver disease is 39 compared to 91.7 in Moray per 100,000.

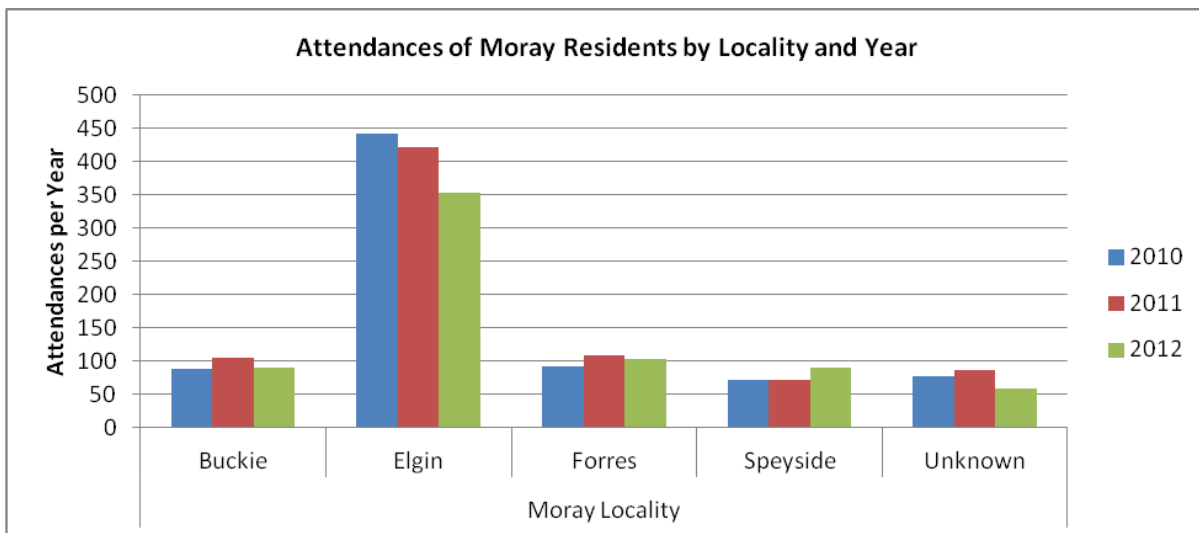
Please note that the following A&E data is reliant on A&E Staff adding the word alcohol or an alcohol related word in any of the available fields in the EDIS System so may be subject to under reporting.

Attendances at A&E Dr Grays - Moray Residents⁶



- Men attended more frequently than women each year for each age group except the 16 years and under age group. Comparing attendances in 2012 and 2010 there was a reduction of 10% in attendances overall. There is a clear downward trend for men and also men and women combined in the 17-25 and 25-35 age groups.
- The reduction from 2012 to 2010 was 21% and 31% respectively for the sexes combined.
- For women the peak in these age groups was in 2011. There were also reductions in the 16 and under age group (16%) and the 35-45 years (10%).
- The greatest percentage increases between 2010 and 2012 are for the older age groups: 36% for 65-75 years and 82% for 75-85 years, but the actual number of attendances for 75-85 years was small. Other increases were 3% or less.

⁶ Provided by Nicola Beech, Health Intelligence NHS Grampian



- Of the 2261 attendances for Moray residents over three years, 54% were for Elgin residents and between 10 and 13% for each of the other localities: Buckie, Forres and Speyside. A further 10% could not be allocated to a locality.
- The overall attendance rate for Moray in 2012 was 8 per 1,000 population. Within the localities the rate may range from 5 per 1,000 to 11 per 1,000, depending on where the patients with unknown locality reside.
- Attendances from Elgin residents have reduced over the three years, with a reduction of 20% between 2010 and 2012. In the three other localities there were increases, with a 26% increase for Speyside, a 12% increase for Forres and a 1% increase for Buckie.
- The proportion of attendances with an injury recorded is 31.2%. The most common reason for injury is "assault" or "struck/collision with object/person" at 38.5%, followed by a "fall" at 34.8% of all injuries. The general pattern of these injuries suffered by Moray residents follows that for all Grampian residents: "fall" is more likely the older the age group, with 79% for those aged 65+ and 17% for those under 25. "Assault" or "struck" is more likely the younger the age group, with 49% for those aged under 25 and 13% (only 6 cases) for those aged 65+.
- The patient's CHI number was recorded for 93% of the records overall. The CHI number was used to identify the percentage of patients who were repeat attendees over the three year period. For Moray residents, 21.4% of female attendees, and 20.5% of male attendees were repeat attendees for alcohol misuse. The most frequent attendees were one woman who attended 14 times, and one man who attended 32 times for alcohol misuse.

Moray Alcohol related Hospital Admissions⁷

IZ Name	Multimember Ward	Average rate of alcohol related hospital admissions per 100 000 population per year*
Scottish Average		1088
Elgin Cathedral to Ashgrove and Pinefield	Elgin City North	1782
New Elgin East	Elgin City South	1653
Elgin Bishopmill East and Ladyhill	Elgin City North	1492
Lossiemouth West	Heldon and Laich	1441
New Elgin West	Elgin City South	1409
Buckie Central East	Buckie	1360
Elgin Bishopmill West and Newfield	Elgin City North	1341
Lossiemouth East and Seatown	Heldon and Laich	1338
Keith and Fife Keith	Keith & Cullen	1318
Forres Central East and seaward	Forres	1308
Buckie West and Mains of Buckie	Buckie	1222
South Speyside and the Cabrach	Speyside Glenlivet	1194
Lhanbryde, Urquhart, Pitgavney and seaward	Fochabers Lhanbryde	1159
Forres South West and Mannachie	Forres	1159
Mosstodloch, Portgordon and seaward	Fochabers Lhanbryde	1152
Elgin Central West	Elgin City South	1139
North Speyside	Speyside Glenlivet	1039
Fochabers, Aultmore, Clochan and Ordiquish	Fochabers Lhanbryde	1105
Cullen, Portknockie, Findochty, Drybridge and Berryhillock	Keith & Cullen	998
Heldon West, Fogwatt to Inchberry	Fochabers Lhanbryde	945
Burghead, Roseisle and Laich	Heldon and Laich	911
Rural Keith and Strathisla	Keith & Cullen	843
Findhorn, Kinloss and Pluscarden Valley	Forres	839
Rafford, Dallas, Dyke to Dava	Forres	814

*This number is an average of the 3 year directly age-sex standardised rate of hospital admissions with alcohol related and alcohol attributable conditions. Figures were obtained from SCOTPHO sub CHP profiles. These data relate to the period 2007-9 and are obtained from ISD Scotland using the SMR1/01 database.

- 42% of the intermediate geographies show a statistically significantly worse rate of alcohol related admissions than the Scottish average.
- 42% of the intermediate geographies show a rate of alcohol related admissions not statistically significantly different from the Scottish average.
- 16% of the intermediate geographies show a statistically significantly better rate of alcohol related admissions than the Scottish average.

⁷ Statistics provided by NHS Grampian

Conclusion

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- Drinking in Public charges general rise in Quarter 2 and Moray is no different, the highest number of Drinking in Public charges has generally been during this time, this may be due to the lighter nights and warmer weather.
- Common Assault in Moray has also dropped to its lowest figure in the three year period during Q4 of 2011/12.
- Vandalism has also dropped to its lowest figure in Q4 of 2011/12. Generally Q4 is the lowest figure for Vandalism this may be due to Winter falling during this time and the bad weather that has been experienced over the past few winters in Moray
- Quarter 4 is generally the quarter with the highest percentage of Antisocial Behaviour Crimes committed under the influence, this may be due to the festive season falling at this time, with more people consuming alcohol.
- Serious Assault and Indecent Assault are the crimes in this category that has the highest percentage of crimes committed whilst under the influence of alcohol.
- The numbers of Licensing crimes in the past 3 years has been very low; the highest numbers have been in Licensing Purchasing Liquor for consumption by under 18's,
- The Moray percentage for young people who have ever had a proper alcoholic drink is higher than the national average. For 13 year olds it is 2 percentage point higher but for 15 year olds it is 10 percentage points higher.
- More boys in Moray have drunk any beer, larger or cider than any of the other alcoholic drinks, however more girls have drunk Alcopops in the past week.
- Most of those who have ever drunk alcohol have obtained it from a friend. However the next highest source of obtaining alcohol is from a relative.
- From the comparable Angus and Aberdeenshire data is clear that the percentage of 15 year olds who have ever had an alcoholic drink is slightly higher in Moray than the other two areas.
- The percentage of 13 year olds who have ever had an alcoholic drink is the same in Angus and Moray it is slightly lower in Aberdeenshire.
- A higher percentage of 13 year olds report never buying alcohol in Angus and Aberdeenshire than in Moray.
- There is a lower percentage of young people who report buying alcohol from a supermarket, shop, or off-license in Angus than in Moray. However the Moray percentage is lower than that of Aberdeenshire.
- The percentage of young people who report buying alcohol in a club or disco is higher in Aberdeenshire and Angus compared with Moray. However the percentage of those buying alcohol in a pub or bar is the same throughout the three areas.
- The numbers of children in the CPR due to parental alcohol misuse declined in 2011/12 however by Q2 of 12/13 they had began to rise again to the highest point over the two years to 18 children in Q3 of 2012/13.
- In 2011/12 there was a rate of 21.8 deaths in Moray per 100,000 population compared to the Scottish figure of 24 deaths per 100,000 related to alcohol.
- There was a rate of 492.8 admissions per 100,000 population in Moray, with regards to General Acute Hospital Admissions. This is much lower than the national figure of 746.6 per 100,000.
- While Moray and Aberdeenshire have seen a drop in the number of General Acute Hospital Admissions with an alcohol related diagnosis Angus has risen from 354 in 2007/8 to 454 in 2010/11.
- Moray has the lowest numbers of Psychiatric Inpatient and Day case discharges with an alcohol related diagnosis when compared to Angus and Aberdeenshire, with roughly half of the Aberdeenshire figure and roughly a quarter of the Angus figure.
- 25.8% of all alcohol related conditions in Moray are alcohol Dependant compared to 18.7% for both Angus and Aberdeenshire.

- 7.9% of all alcohol related conditions in Moray have cirrhosis compared to 6.1% in Angus and 7.7% in Aberdeenshire.
- The Scottish rate per 100,000 for Alcohol dependence is 82.2 compared to 127.2 for Moray per 100,000.
- The Scottish rate per 100,000 for alcoholic liver disease is 39 compared to 91.7 in Moray per 100,000.
- Men attended more frequently than women each year for each age group except the 16 years and under age group. Comparing attendances in 2012 and 2010 there was a reduction of 10% in attendances overall. There is a clear downward trend for men and also men and women combined in the 17-25 and 25-35 age groups.
- The greatest percentage increases between 2010 and 2012 are for the older age groups: 36% for 65-75 years and 82% for 75-85 years, but the actual number of attendances for 75-85 years was small. Other increases were 3% or less.
- Of the 2261 attendances for Moray residents over three years, 54% were for Elgin residents and between 10 and 13% for each of the other localities: Buckie, Forres and Speyside. A further 10% could not be allocated to a locality.
- The proportion of attendances with an injury recorded is 31.2%. The most common reason for injury is "assault" or "struck/collision with object/person" at 38.5%, followed by a "fall" at 34.8% of all injuries. The general pattern of these injuries suffered by Moray residents follows that for all Grampian residents: "fall" is more likely the older the age group, with 79% for those aged 65+ and 17% for those under 25. "Assault" or "struck" is more likely the younger the age group, with 49% for those aged under 25 and 13% (only 6 cases) for those aged 65+.
- The patient's CHI number was recorded for 93% of the records overall. The CHI number was used to identify the percentage of patients who were repeat attendees over the three year period. For Moray residents, 21.4% of female attendees, and 20.5% of male attendees were repeat attendees for alcohol misuse. The most frequent attendees were one woman who attended 14 times, and one man who attended 32 times for alcohol misuse.
- 42% of the intermediate geographies show a statistically significantly worse rate of alcohol related hospital admissions in Moray than the Scottish average.

Community Engagement Exercise

The following section sets out the data from the Moray Licensing Board's community engagement exercise. Much of the information is provided for context as it does not directly relate to overprovision. The main considerations in respect of overprovision were contained within Section 1. The comments in the main report above also concentrate on Section 1.

Moray Licensing Board Licensing Policy Consultation

Analysis of Responses

Executive Summary

Between 27th March and 31st May 2013 a consultation was run by the Moray Licensing Board to gather views on licensing policy, in particular Overprovision and Licensing Hours.

A total of 197 completed surveys were received, predominantly through Survey Monkey but also a handful by email, or hard copies. Respondents came from across Moray and were aged 25 and over.

S1: Overprovision

In general respondents feel there are enough licensed premises in Moray with too many in Forres, Laich and Buckie in particular. Where there are too many the issue is more with an overprovision of off sales premises than on sales, again particularly in Forres and Buckie, Laich and Milne's.

Across Moray respondents indicated that there are too many licensed premises in Elgin, Forres, Buckie and Keith, the main negative impacts of which are drunken behaviour and crime.

Only respondents in Forres were more in favour than not of increasing control over the number of licensed premises though some respondents from all areas indicated that there should be more control.

The main suggestion for how to increase control related to the ease with which a licence can be obtained. Reducing / restricting opening hours and limiting the number of premises / amount that can be purchased were other suggestions.

NHS: too many licensed premises in Moray.

WSTA: no overprovision in Moray.

AFS: not in a position to comment on individual areas. To reduce harm, reduce consumption by controlling price and availability.

S2: Licensed Hours

The majority of respondents who gave an answer indicated that licensing hours are OK as they are. This was the same in all areas of Moray

Those that think licensing hours are too long identify the resultant ASB as the reason for their opinion. This mainly applied to respondents from Forres, Elgin, Buckie and Speyside.

However, the majority of suggestions made regarding what changes if any should be made to the licensing policy indicated that hours should be reduced. Forres respondents were also supported reducing the availability of cheap alcohol while respondents from Laich and Speyside were keen to see controls to prevent the serving of drunk individuals.

The majority of respondents are in favour of a curfew and the majority think the current time of 00:30 is fine. Respondents from Forres were more in favour of a slightly earlier curfew of 00:00.

Slightly more than half of respondents who gave an answer indicated that people who leave a premises to smoke should not be allowed to re-enter a premises after the curfew. Only Elgin and Milne's indicated that they should be allowed to re-enter.

NHS: Licensed hours too long. Curfew 12:30, smokers not allowed to re-enter.

WSTA: Licensed hours based on needs of area.

AFS: Clear policy on number of hours in day and maintain it. No increase but may reduce. Off-sales 10am – 10pm is maximum – should be exception not norm where high rate of alcohol harm.

S3: Children / Young Persons in Licensed Premises

The majority of respondents who gave an answer indicated that children and young people should be allowed in licensed premises, predominantly for meals and/or with family or another responsible adult. The findings were very similar across the all areas.

Nearly 85% of respondents who replied indicated that there were times / situations when children and young people should NOT be allowed in licensed premises. Mainly they should not be allowed in a public bar and they should only be allowed in for meals or functions.

The most common suggested time limit was 21:00 to 21:30 though some suggested later times of 22:00 or 23:00. Very few suggested earlier times.

Respondents from Keith and Speyside were particularly keen for children and young people not to be allowed in a public bar. In Forres, Milne's and Elgin respondents were most in favour of only allowing children and young people in for meals/functions and in Laich only allowing children and young people in if there was a designated area / suitable environment.

NHS: Not encouraged. Allowed for meals and functions. Positive – observe and experience family and social benefits. Negative – exposure to a range of issues including noise, inappropriate TV, music / lyrics, images, poor housekeeping.

WSTA: Should be allowed for meals and functions. Positive – being able to set example of responsible drinking by sharing a drink at family meal or special occasion.

AFS: Premises applying for licence to allow children and young people must demonstrate how going to protect them from harm. Consideration of whether occasional licences are appropriate for family-orientated events.

S4: The Five Licensing Objectives

LO1 – Preventing Crime & Disorder

Slightly more than half of those who gave an answer believe licensed premises / patrons do cause crime and disorder, predominantly through ASB. The picture was very similar for all areas except in Speyside where respondents thing having too much to drink is the mian cause of crime and disorder.

The most common suggestions for how to deal with the issues, both overall and in all areas were:

- Taking a tougher stance on those who cause trouble or break the law
- Introducing tougher consequences for licensees of troublesome premises
- Stopping serving individuals who have already had enough to drink
- Provide better training for staff to deal with the issues

- More police involvement

Just under half of those who replied to this question believe licensed premises or the Moray Licensing Board can act to prevent crime and disorder. The most common suggestions overall and in all areas were:

- Stop serving individuals who had already had enough to drink
- Tougher consequences for licensees of troublesome premises
- Taking a tougher stance on irresponsible drinkers and those who cause trouble

LO2 – Securing Public Safety

Overall about the same proportion of respondents felt public safety was an issue licensed premises as thought it was not an issue. In 4 of the 7 areas public safety was felt not to be an issue in licensed premises but in Elgin, Speyside and overwhelmingly in Milne's respondents felt public safety was an issue on licensed premises.

Suggestions on how licensed premises or the MLB could promote public safety were topped by stopping serving individuals who had already had enough to drink and reducing opening hours. Also quite popular were crowd control at closing time, taking a tougher stance on irresponsible drinkers and those who cause trouble, having better security on the doors and inside, and ensuring policies are in place and the code of practice is followed.

At least one of these 4 suggestions was among the most popular in all areas except Keith, where respondents suggested promoting positive behaviour, and in Forres where no suggestions were made.

LO3 – Preventing Public Nuisance

A majority overall and in each area believe that licensed premises / patrons cause public nuisance, the main causes of which are noise / ASB and too long hours / excessive drinking.

Overall the most common suggestions for dealing with public nuisance were:

- Licensees to be held more accountable – 27%
- Taking a tougher stance on irresponsible drinkers and those who cause trouble – 23%
- More policing – 15%

One or more of these three was most popular in all areas except Keith where collaborative working was most popular.

Holding licensees more accountable was most commonly indicated as the way licensed premises or the MLB can help to prevent public nuisance. Taking a tougher stance on irresponsible drinkers and those that cause trouble was also popular and one of these two suggestions was most commonly identified in most areas. In Forres a police presence was most commonly suggested.

LO4 – Protecting and Improving Public Health

The majority of respondents think that licensing decisions should try to protect and improve public health and this is the same in all areas except Milne's where the respondents felt the opposite.

Almost unanimously, respondents believe alcohol causes some health problems, identifying a wide range of conditions, including some non-health issues like family problems and crime. The most commonly identified health problems related to alcohol, overall and in each area, was liver problems. Heart / blood pressure problems, alcoholism and physical injuries / accidents were commonly identified by all areas, cancer and mental health problems by all but 1 area and violence including domestic abuse by all but 2 areas.

A slightly higher proportion of respondents than not felt that licensing can help deal with health problems related to alcohol. Only two areas did not feel that they could – Forres and Keith. The most common suggested way was to promote healthy consumption limits and discourage overindulgence, second was to develop a policy to reduce sales, particularly off sales but also on sales. These were also the two most common suggestions in all areas.

LO5 – Protecting Children from Harm

A range of comments were made, the most common indicating that it is the responsibility of parents to protect their children. Also common was providing education to children and young people regarding the dangers of alcohol. Raising off sale prices was seen as another way of protecting children and young people as were minimising exposure to the "drink to excess" culture and enforcing penalties for supplying underage drinkers. Together these comments account for nearly 80% of all comments.

The most common suggestion(s) varies across the areas but in all cases feature(s) in the 5 mentioned above.

NHS comments on Licensing Objectives: NHS feel that licensed premises / patrons do cause crime and disorder and public nuisance and that public safety is an issue in licensed premises. They suggest a local zero tolerance licensing policy / social marketing campaign / training and support to licensed premise personnel to help prevent crime, disorder and public nuisance and promote public safety. Licensed premises should try to protect and improve public health and the health problems caused by alcohol, such as intoxication, alcoholic liver disease, alcohol dependence – more health evidence available on request.

WSTA: No comments on Licensing Objectives.

AFS comments on Licensing Objectives: Must assess the impact of the concentration of licensed premises of particular types and the aggregate effect of on- and off-licensed premises in an area. Sufficient information on each of the licensing objectives must be gathered to enable the most appropriate licensing measures to be applied to achieve the objectives. Licensing prevents and reduces alcohol problems by controlling the overall availability of alcohol through the number, type and opening hours of licensed premises and by regulating the way individual on-trade establishments and off-licenses do business. In promoting the licensing objective, MLB must take account of the relationship between overall alcohol availability and harm as well as operating condition of individual premises.

Final Comments

A number of final comments were made (21), three of which were mentioned more than once:

- Be reasonable and firm and enforce rules and laws strictly – 6 times
- Reduce opening hours – 3 times
- Current policy is about right – 3 times

AFS: A licensing policy statement should be evidence based to ensure it is fully reflective of the relevant issues and for it to be robust. Therefore suggest the inclusion of both statistical and expert opinion, as well as any available local data on the issues in Moray. It would be helpful for the policy statement to set out and explain the evidence underpinning the policy approach.

Introduction

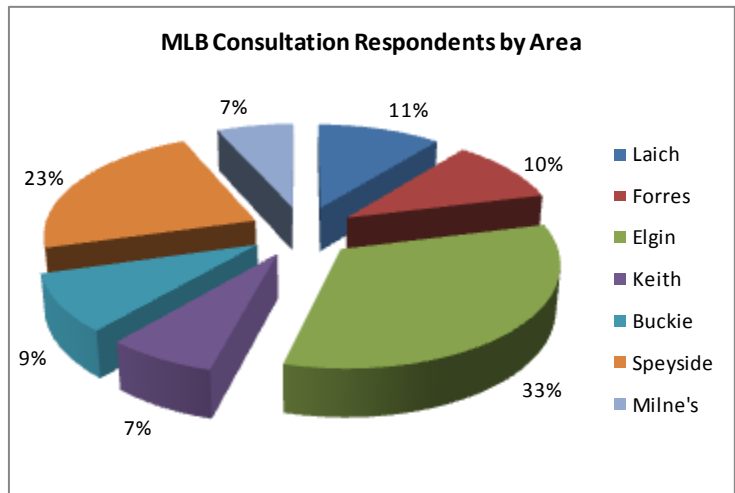
Between 27th March and 31st May 2013 a consultation was run by the Moray Licensing Board to gather views on licensing policy, in particular Overprovision and Licensing Hours. The consultation was publicised on both the Moray Council website and the intranet (the internal internet for Council employees) with links to Survey Monkey, through the Community Planning Partners database and hard copies were available from all Moray libraries and access points. In addition regular contacts including hotels, licensed premises and national organisations, such as Alcohol Focus Scotland, were advised of the consultation and how to respond.

The analysis of the findings of the consultation is presented below. Many of the survey questions included a free text box resulting in a great variety of responses. For these questions, like responses were categorised in order to provide a manageable set to analyse.

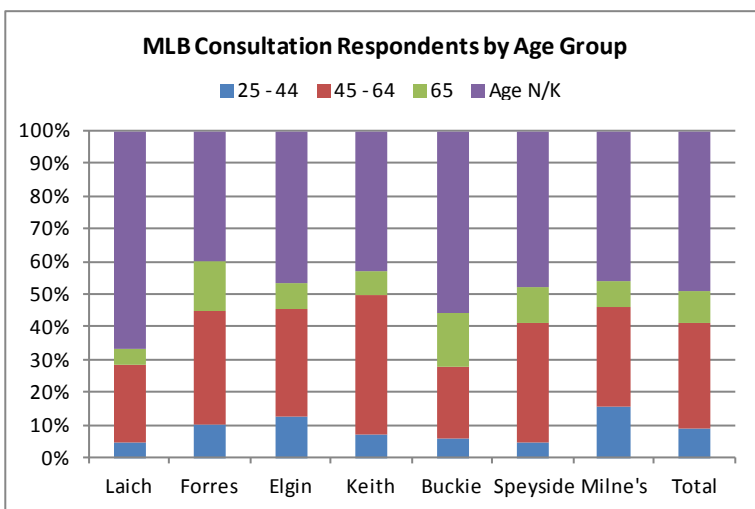
Respondents

In total 197 completed surveys were received, 190 through Survey Monkey, 3 through libraries and 4 via email. The respondents included NHS Grampian (NHSG), Alcohol Focus Scotland (AFS) and The Wine & Spirit Trade Association (WSTA).

A breakdown of respondents (excluding NHSG, AFS and WSTA) by area shows that more than half of respondents were from either Elgin or Speyside, the remainder being spread relatively evenly across the other 5 areas.



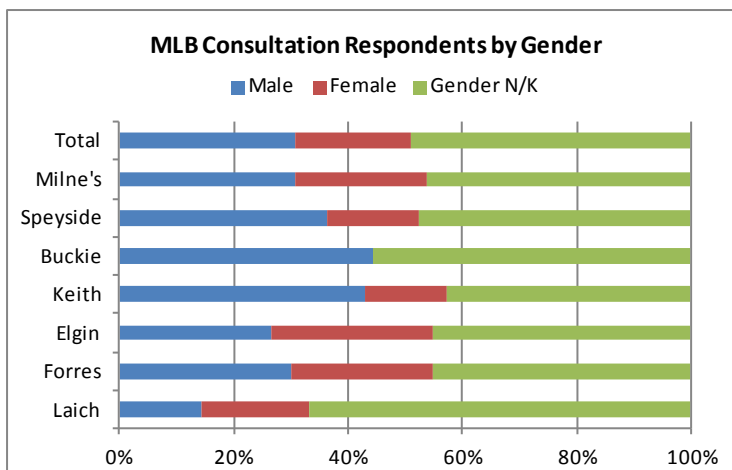
Overall nearly half of respondents did not provide their age but of those who did none were under the age of 25yrs and between 50% and 75% were aged 45-64yrs. The remaining respondents were aged 25-44yrs or 65yrs and over.



In each individual area the age breakdown was fairly similar although more than 2/3 of respondents in Laich did not provide their age.

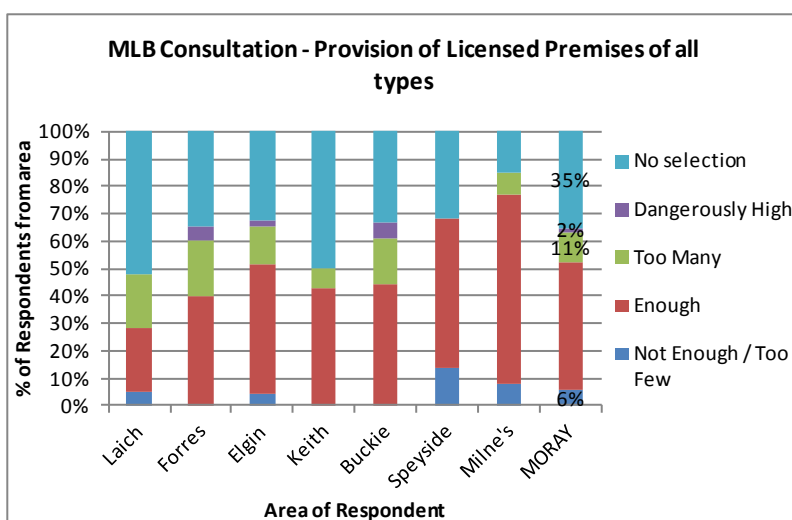
Overall nearly 50% of respondents did not disclose their gender and of those that did about 60% were male.

In each individual area the gender split varied but generally there were more males than females and in Buckie there were no female respondents recorded.



S1: Overprovision

Q1) Looking at licensed premises as a whole **in your catchment area** do you feel that there are: Not Enough / Enough / Too Many/ Too Few / Dangerously High Number.



Overall across Moray nearly half of respondents think that there are enough licensed premises in the area, while 13% think there are too many or a dangerously high number. Only 6% feel that there are not enough / too few licensed premises.

Looking at individual areas highlights that a greater proportion of respondents in Forres, Buckie and Laich believe there are too many or a dangerously high number of

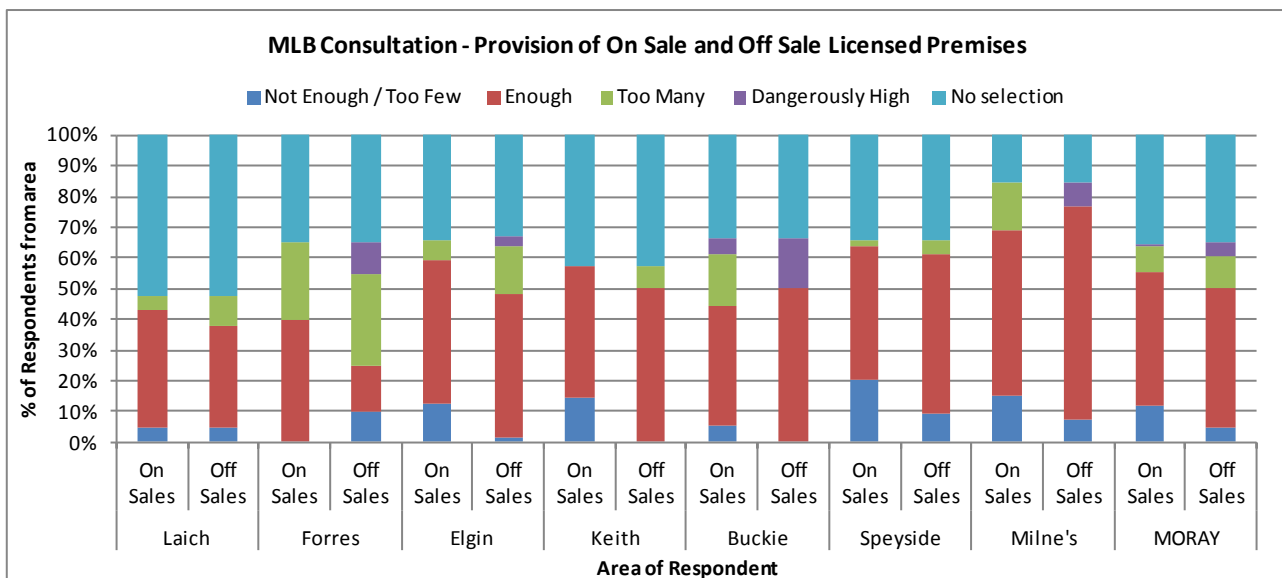
licensed premises in their area at 25%, 23% and 19% respectively.

Q2) Looking at on sale licensed premises e.g. pubs, nightclubs, restaurants **in your catchment area** do you feel that there are: Not Enough / Enough / Too Many/ Too Few / Dangerously High Number.

Q3) Looking at off sale licensed premises e.g. supermarkets, convenience stores, wine / beer / spirit shops **in your catchment area** do you feel that there are: Not Enough / Enough / Too Many/ Too Few / Dangerously High Number.

In order to determine whether the issue is a general one or whether it relates to on sale or off sale premises, a comparison of the responses relating to each type was made.

Overall the proportion of respondents indicating that there are enough licensed premises in Moray is the same for both on and off sales premises. The proportion that believe there are not enough licensed premises is higher at 12% for on sales than for off sales at 5%. The proportions indicating that there are too many / dangerously high number of licensed premises in Moray are smaller for on sales than for off sales premises – 8% / 1% for on sales compared with 11% / 4% for off sales.



With the exception of Forres, in all areas the proportion of respondents indicating that there are not enough licensed premises is smaller for off sales premises than for on sales premises.

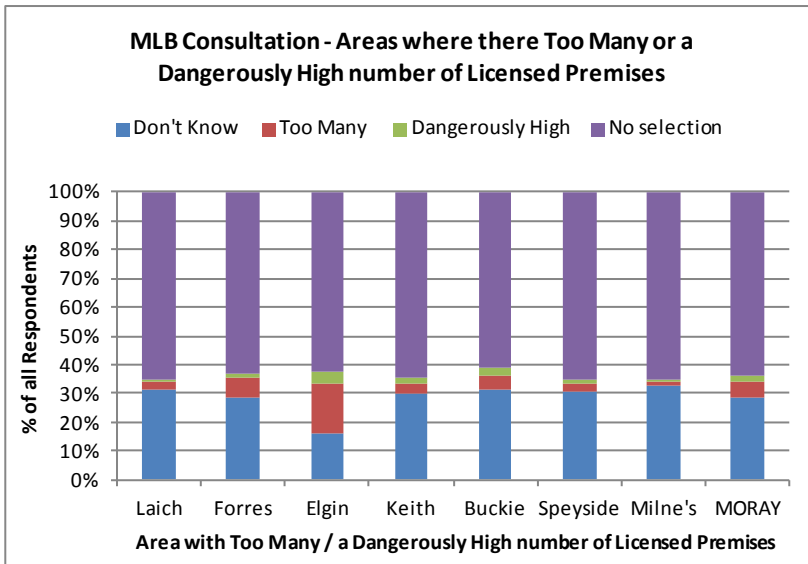
With the exception of Forres and Laich, in all areas the proportion of respondents indicating that there are enough licensed premises is higher for off sales premises than for on sales premises. In Laich 5% fewer respondents indicated that there are enough off sales premises than for on sales while in Forres 15% of respondents felt there were enough off sales premises compared with 40% for on sales premises.

In all areas except Buckie and Milne's the proportion of respondents indicating that there are too many or a dangerously high number of off sales premises is higher than for on sales premises. By far the biggest difference is in Forres where 40% of respondents think there are too many or a dangerously high number of off sales premises compared with 15% for on sales premises.

Although the proportion of respondents indicating that there are too many or a dangerously high number of off sales premises in Buckie and Milne's is smaller than for on sales premises, there has been a rise in those thinking the provision is dangerously high – from 6% to 17% in Buckie and from 0% to 8% in Milne's.

Q4) Can you identify any catchment areas where you believe there are too many licensed premises or a dangerously high number of licensed premises?

Overall, approximately $\frac{2}{3}$ selected no areas, while just under $\frac{1}{3}$ did not know whether there were too many or a dangerously high number of licensed premises. 8% indicated that there are too many or a dangerously high number of licensed premises in Moray.



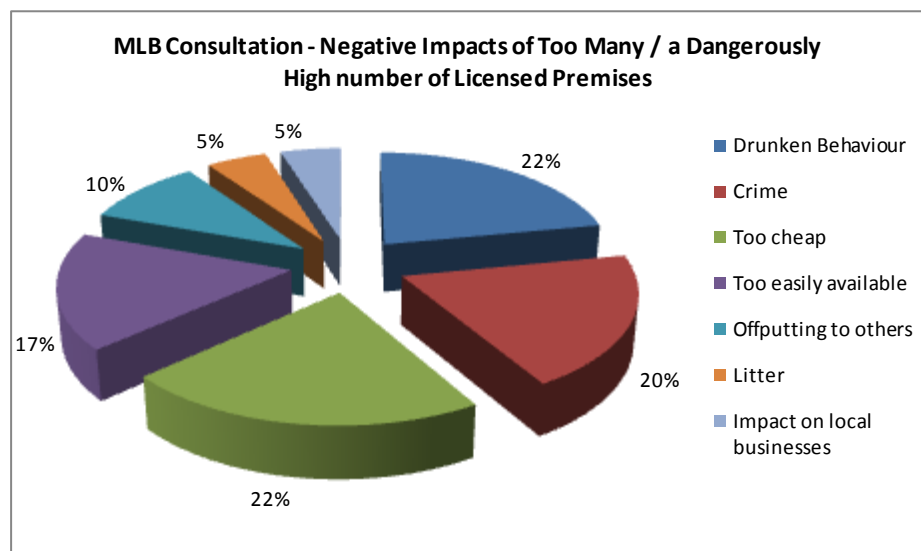
The area most commonly indicated was Elgin, identified by 22% of respondents who were from all areas of Moray. Forres was the next most commonly identified area, specified by 9% of respondents from four of the seven areas. Buckie was identified as having too many or a dangerously high number of licensed premises by 5% of respondents from five areas and Keith was identified by 4% of respondents from three areas.

Q5) If such catchment areas exist is it having a negative impact on the community and if so how?

In total 41 comments were made by respondents, none of whom were from Speyside, broken down as shown in the graph. A number of comments were made that were more general problems in relation to alcohol than negative impacts, notably comments relating to the cheapness and availability of alcohol.

The two most commonly cited negative impacts of too many / a dangerously high number of licensed premises are drunken behaviour and crime.

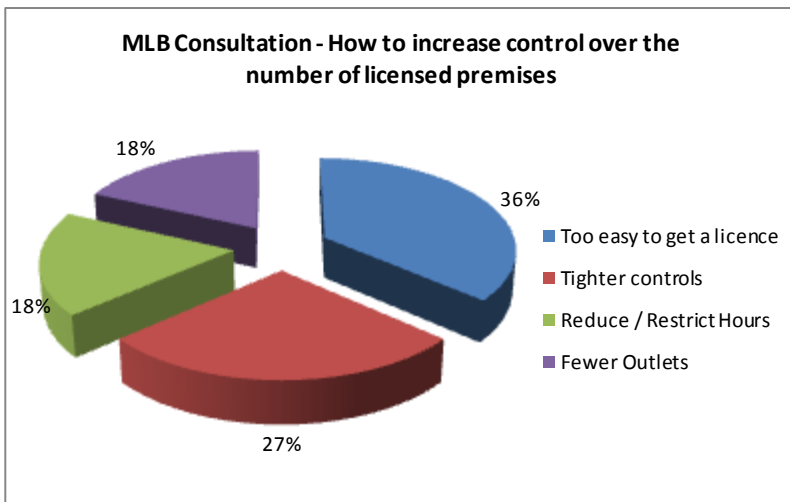
Drunken behaviour was mentioned as a negative impact in all areas except Speyside and Buckie, while crime was identified by all areas except Laich Speyside and Milne's.



Other negative impacts suggested by respondents include litter (Forres & Elgin), being off-putting to families and visitors to the area (Elgin) and the effect on local licensing businesses of having too many licensed premises in an area.

Q6) Do you think there should be more control over the number of licensed premises?

Overall a little over 40% did not respond but of the remainder nearly 60% said no. At an area level only Forres respondents were more in favour of more control than not.



Only 11 suggestions were made relating to how more control could be introduced over the number of licensed premises, the most common of which related to the ease with which a licence could be obtained. Other suggestions included introducing tighter controls such as maximum purchase rules / enforcing the existing rules, reducing / restricting the hours of opening and limiting the number of outlets that there can

be in an area.

NHS: All areas have too many licensed premises, both on and off sale. Major impact of alcohol consumption is on health and wellbeing of individuals, families and communities. Intoxication leads to risk of injury and is associated with violence and social disorder. Over the longer term, irreversible damage, e.g. liver disease. Increasing trends in general acute inpatient and day case discharges with an alcohol diagnosis over 5 years, some above national figures e.g. alcohol dependence and alcoholic liver disease.

More control over number of licensed premises through approved CPP intelligence.

WSTA: No areas have too many licensed premises, either on or off sale. They do not think any more control over the number of licensed premises is necessary.

AFS: Not in a position to comment about individual areas in Moray. They point out that ease of access to alcohol is a contributory element in levels of alcohol consumption and harm. Controls on price and availability represent the most effective action that can be taken to reduce harmful consumption.

Summary

In general respondents feel there are enough licensed premises in Moray with too many in Forres, Laich and Buckie in particular. Where there are too many the issue is more with an overprovision of off sales premises than on sales, again particularly in Forres and Buckie, Laich and Milne's.

Across Moray respondents indicated that there are too many licensed premises in Elgin, Forres, Buckie and Keith, the main negative impacts of which are drunken behaviour and crime.

Only respondents in Forres were more in favour than not of increasing control over the number of licensed premises though some respondents from all areas indicated that there should be more control.

The main suggestion for how to increase control related to the ease with which a licence can be obtained. Reducing / restricting opening hours and limiting the number of premises / amount that can be purchased were other suggestions.

NHS: too many licensed premises in Moray.

WSTA: no overprovision in Moray.

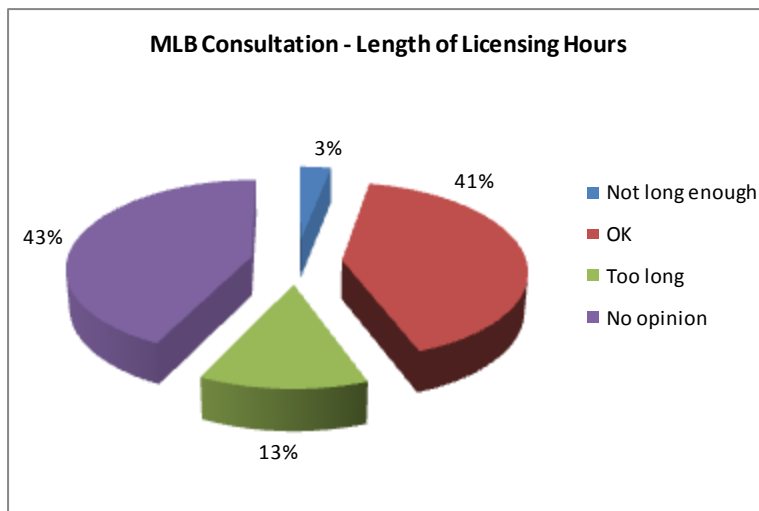
AFS: not in a position to comment on individual areas. To reduce harm, reduce consumption by controlling price and availability.

S2: Licensing Hours

Q7) *Licensing hours, do you think that they are: Not Long Enough / OK / Too Long*

41% of respondents indicated that the current licensing hours are OK and 13% believe them to be too long. Only 3% of respondents indicate that licensing hours are not long enough. The breakdown is similar for each individual area.

Those respondents who indicated that the hours are too long were invited to provide reasons for their opinion.



A total of 20 comments was made and the predominant reason given for why the hours are too long was the antisocial behaviour (ASB) that occurs as a result. Other reasons include the resultant over consumption, the cost / waste of resources and the belief that they do not need to be that long.

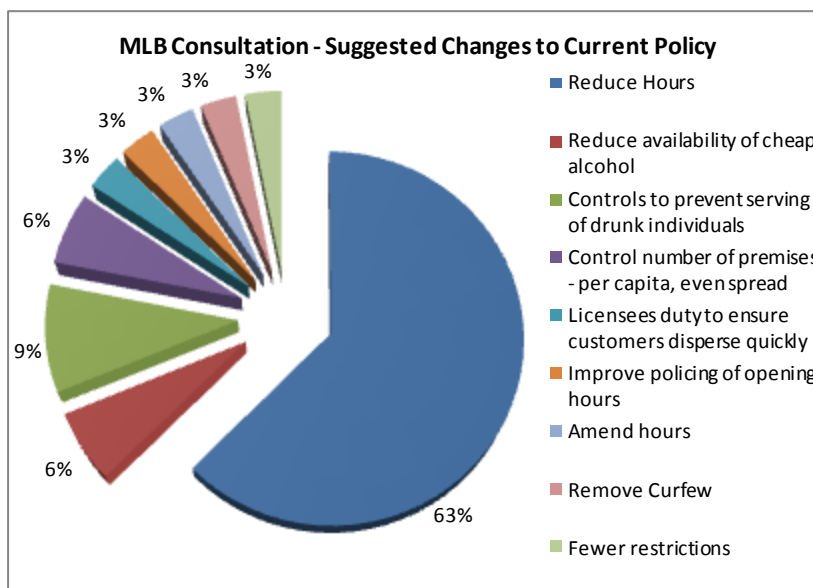
Due to the small number of comments an area analysis is unreliable and should be viewed with caution. Over consumption was the main reason given by Laich respondents, while Buckie and Speyside were more concerned about the resultant ASB.

Q8) *What changes would you like to see made to the current policy?*

A total of 32 suggestions were made regarding possible changes to the current licensing policy.

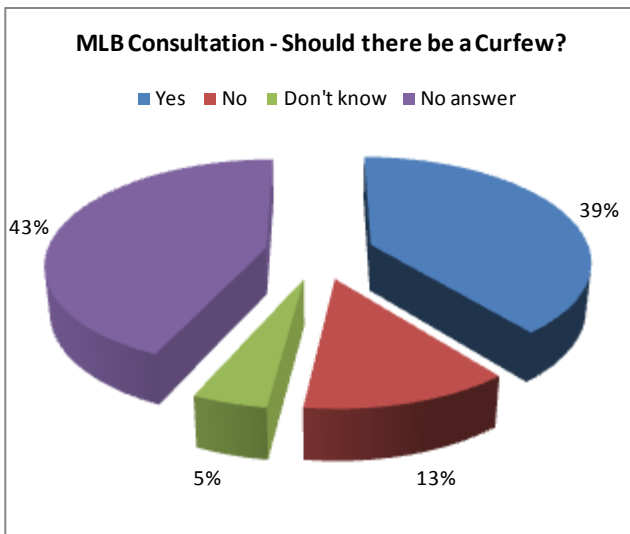
By far the most common suggested change to is to reduce the opening hours of licensed premises, accounting for 63% of the comments.

9% of comments suggested introducing controls to prevent the continued serving of drunk individuals and 6% of comments suggested each of reducing the availability of cheap alcohol and controlling the number of premises, e.g. on a per capita basis.

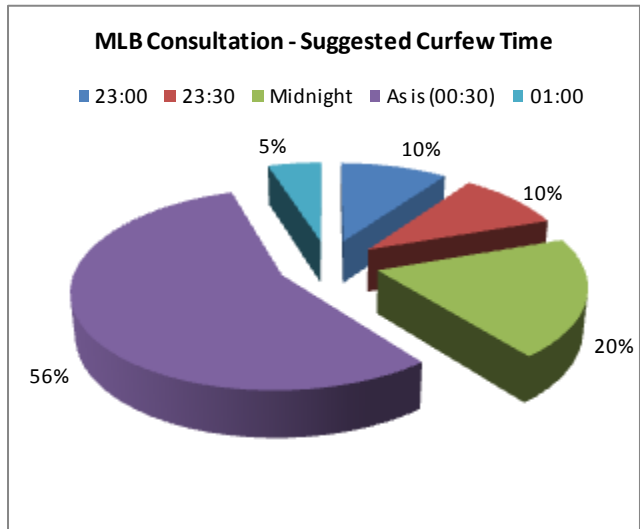


Q9) Should there be a curfew and if so, at what time?

Nearly half of respondents did not provide a response. Of those that did the majority, 70%, are in support of a curfew. About 23% do not support a curfew and the remaining few do not know.



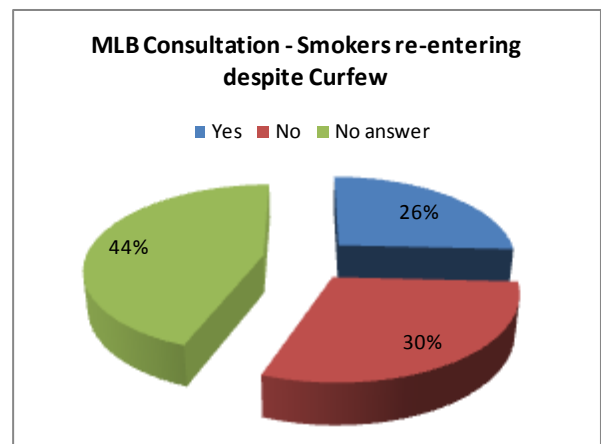
Overall 61 respondents suggested a curfew time, just over half of whom were from Elgin and Speyside. More than half were happy with the current time of 00:30, while 40%



suggested earlier times ranging from 23:00 to 00:00. Only 5% (3) of respondents suggested a later time of 01:00.

Q10) Should people leaving the premises to smoke be allowed to re-enter despite the curfew?

Again nearly half of respondents did not provide a response and of those that did a little over half indicated no, smokers should not be allowed to re-enter a premises despite the curfew. The same is true for all areas apart from Elgin and Milne's, which each had a majority indicating yes, smokers should be allowed to re-enter a premises despite the curfew.



NHS: Licensed hours are too long. Policy needs to take account of the aggregate effect of licensed premises on drinking behaviour and levels of harm in Moray, as well as operating conditions on individual premises. They believe there should be a 12:30 curfew, as now, and that smokers should not be allowed to re-enter despite the curfew.

WSTA: Hours should be based on needs of the Moray region and each application judges on its own merits. A curfew should be based on the merits of individual applications.

AFS: Recommends MLB have a clear limit to licensed hours in a day and maintain it. Evidence suggests extending or reducing hours can influence problems related to alcohol use, particularly social disorder and violence. Believes that standard hours for both on-sales and off-sales should not be increased and may be reduced. 10am to 10pm for off-sales is the maximum, which in areas with high rates of alcohol harm, should be the exception and not the norm. Early morning licensed hours should be for specific purposes and difficult to justify pre 9am and post 3am.

Summary

The majority of respondents who gave an answer indicated that licensing hours are OK as they are. This was the same in all areas of Moray

Those that think licensing hours are too long identify the resultant ASB as the reason for their opinion. This mainly applied to respondents from Forres, Elgin, Buckie and Speyside.

However, the majority of suggestions made regarding what changes if any should be made to the licensing policy indicated that hours should be reduced. Forres respondents were also supported reducing the availability of cheap alcohol while respondents from Laich and Speyside were keen to see controls to prevent the serving of drunk individuals.

The majority of respondents are in favour of a curfew and the majority think the current time of 00:30 is fine. Respondents from Forres were more in favour of a slightly earlier curfew of 00:00.

Slightly more than half of respondents who gave an answer indicated that people who leave a premises to smoke should not be allowed to re-enter a premises after the curfew. Only Elgin and Milne's indicated that they should be allowed to re-enter.

NHS: Licensed hours too long. Curfew 12:30, smokers not allowed to re-enter.

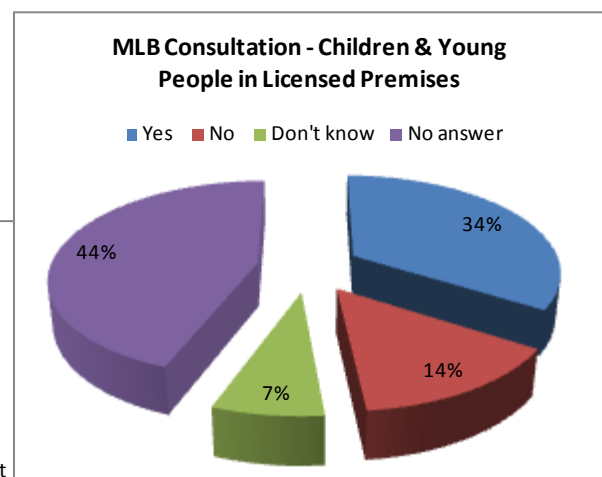
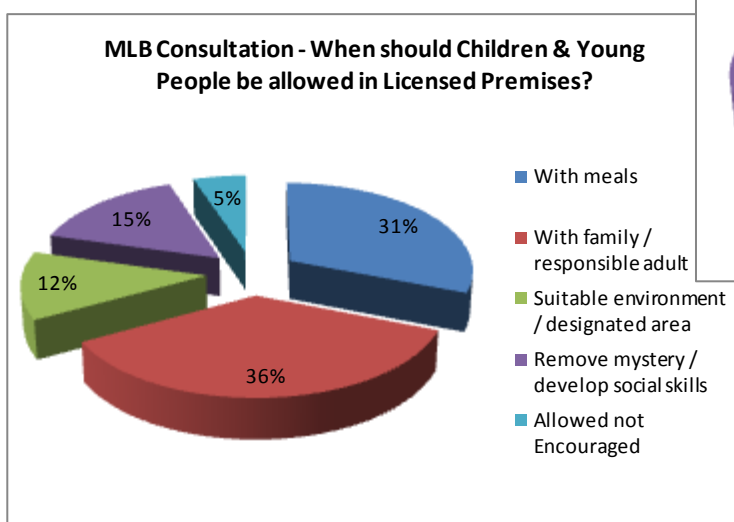
WSTA: Licensed hours based on needs of area.

AFS: Clear policy on number of hours in day and maintain it. No increase but may reduce. Off-sales 10am – 10pm is maximum – should be exception not norm where high rate of alcohol harm.

S3: Children / Young Persons in Licensed Premises

Q11) *Are there times or situation when licensed premises should encourage children and young people?*

Nearly half of respondents did not provide an answer. Of those that did the majority indicated that there are times or situations when licensed premises **should** encourage children and young people and the same was



true for each area. 26% of those that provided an opinion indicated that they should not be encouraged while 13% did not know.

A total of 97 comments were made

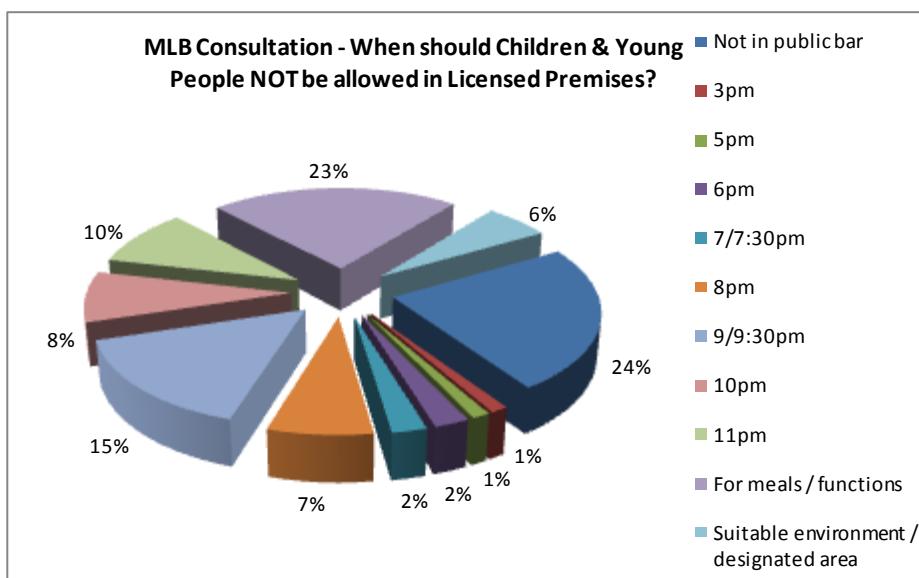
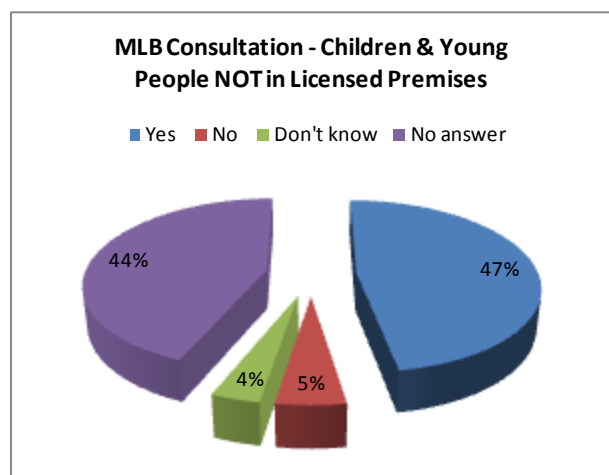
regarding when licensed premises should encourage children and young people. The most common indicated that it should be with family or another responsible adult (36%) and / or for meals (31%). 12% thought there should be a designated area or a premise with a suitable environment for children and young people to be allowed in. Other responses indicated that children and young people should be *allowed* in, not encouraged and others that it would help to remove the mystery of alcohol / drinking and the development of social skills.

The results are fairly consistent across all areas.

Q12) Are there times or situations when children / young people should NOT be allowed into licensed premises? And if so when?

The same proportion of respondents did not answer this question as the previous one. Of those that did nearly 85% indicated that there are times / situations when children & young people **should not** be allowed in licensed premises. The picture is the same at area level.

In total 84 suggestions were made about when children and young people should not be allowed in licensed premises. Just over half related to situations, the rest to specific times of day. The two most common were



not in a public bar and only for meals / functions, each accounting for about 1/4 of comments. The other situation related suggestions were only in a designated area or a premise with a suitable environment for children and young people, otherwise they should not be allowed.

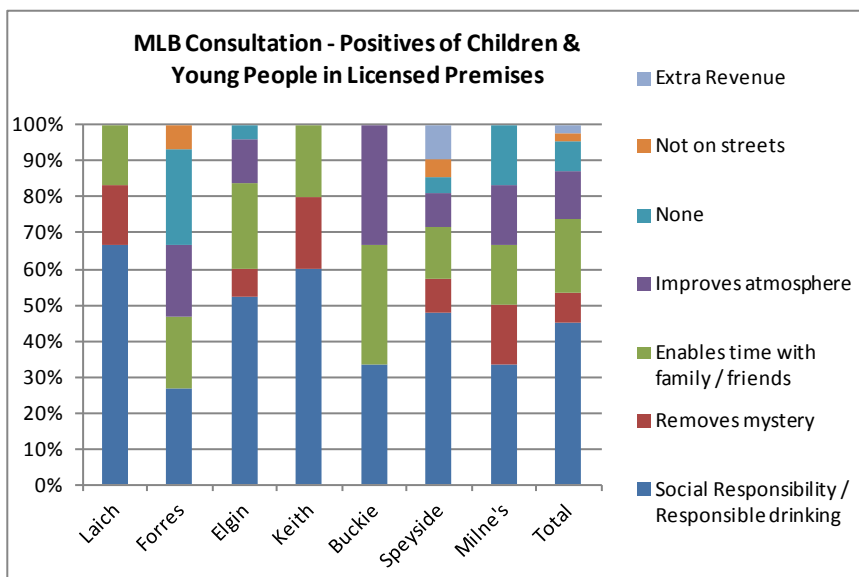
A small number (4) of the time limit suggestions

differentiated between children and young people but in the majority the times related to both groups. The most common time after which children and young people should not be allowed in licensed premises was 21:00 to 21:30 accounting for 15% of suggestions. 23:00 accounted for 10% of suggestions, 1/4 of which specified young people not children. 8% of suggestions though 22:00 should be the latest time for children and young people and 7% though 20:00 should be the latest time. A small number of respondents (6) suggested times earlier than this, ranging between 15:00 and 19:30.

Respondents from Keith and Speyside were particularly keen for children and young people not to be allowed in a public bar. In Forres, Milne's and Elgin respondents were most in favour of only allowing children and young people in for meals/functions and in Laich only allowing children and young people in if there was a designated area / suitable environment.

Q13) What are the positive and negative points of children and young people in licensed premises? And what solutions are there for the negative points?

A total of 84 positive points were made compared with 67 negative ones.



About 70% of both positive and negative points were from respondents from Elgin, Speyside and Forres. The most common positive identified, which accounted for 45% of comments, was that allowing children and young people into licensed premises would encourage social responsibility and responsible drinking. This was the same across all areas of Moray.

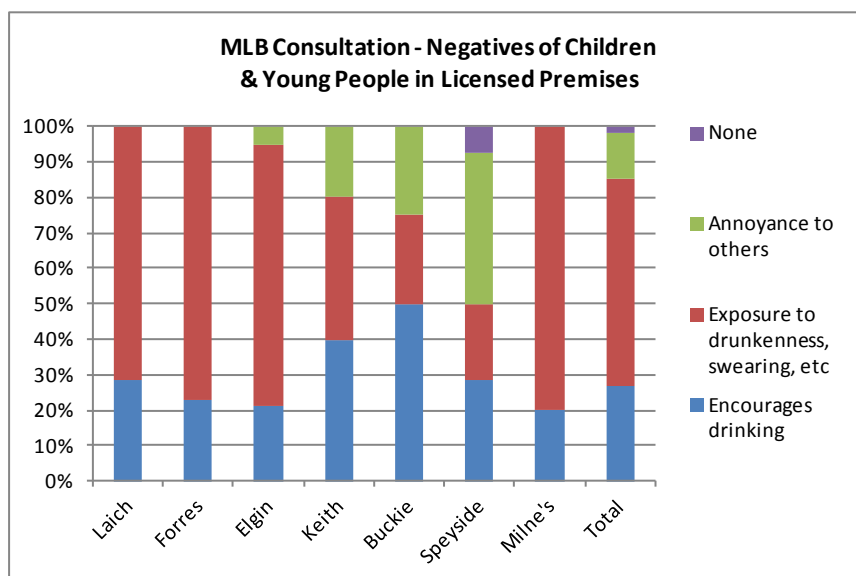
The second most common positive accounting for 20% of comments, was that it enables the children and young people to enjoy time with family and friends in a social setting. Again this was the same across all areas of Moray.

All but 2 areas, Laich and Keith, though that children and young people in licensed premises improves the atmosphere and potentially the behaviour of other customers.

All areas except Forres and Buckie commented that allowing children and young people into licensed premises helps to remove the mystery around alcohol, drinking and pubs.

However, 8% of comments made stated that there were no positives, with respondents from Forres, Elgin, Speyside and Milne's.

Overall the most common negative comment related to the exposure to drunken behaviour, swearing etc that children and young people would experience. This was the case in all areas except Buckie and

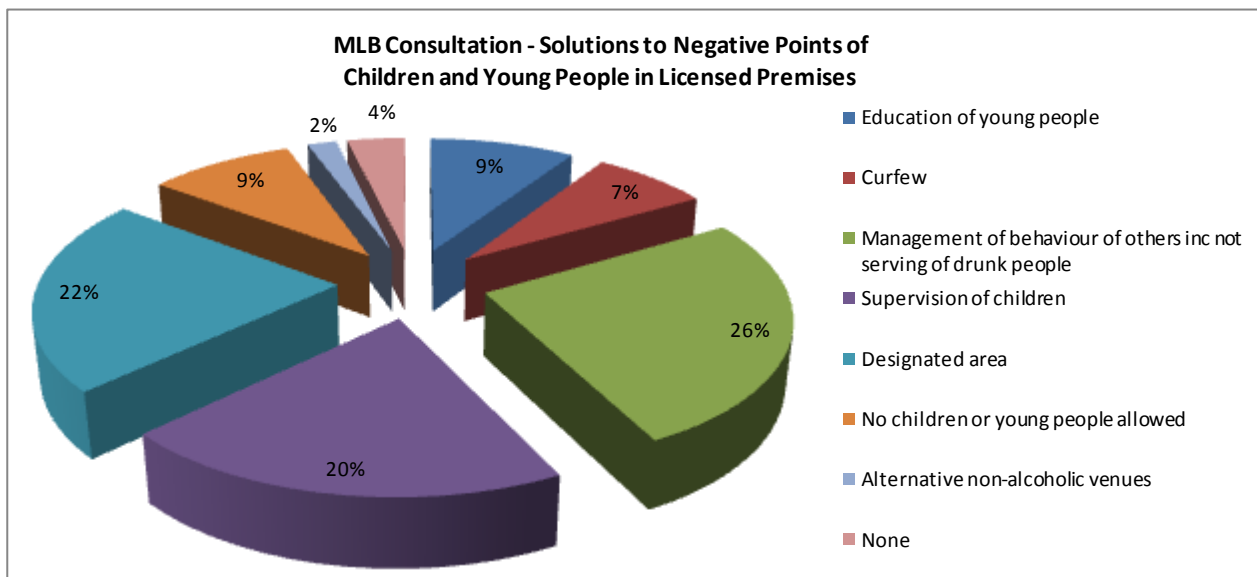


Speyside.

That allowing children and young people into licensed premises encourages drinking accounted for 27% of negative comments and was the second most common negative in all areas except Buckie where it was the most common negative point made.

The most common negative identified in Speyside was that children and young people in licensed premises is an annoyance to others, which accounted for 13% of all negative comments. As well as Speyside it was identified by respondents from Buckie, Keith and Elgin.

Overall the most common suggestion, accounting for 26% of comments, for dealing with the negative points identified was for the management of the behaviour of others, including refusing to serve people who are already drunk. This was also the most common suggestion in Forres, Elgin and Milne's.



22% of comments proposed having a designated area for children and young people, in some cases it was suggested that this be completely separated from the main bar. This was the most common suggestion made by respondents from Buckie.

Ensuring children are supervised accounted for 20% of solution comments and was the top suggestion made by respondents from Keith and Speyside.

NHS: Children and young people should not be encouraged. Could encourage families where provision of family friendly service, e.g. meals, functions. There are times when children and young people should be allowed in. Positive – observe and experience family and social benefits. Negative – exposure to harmful drinkers and associated problems/risks; observing and experiencing drunk and/or underage customers, inappropriate TV, offensive music/lyrics, noise & excitement, lack of good housekeeping, drug dealing / use. Need to adopt and adhere to a formal local and regulated family friendly licensing policy and procedures.

WSTA: Protection of children from harm should be high priority for MLB. Robust laws around sale of alcohol to persons under 18yrs. Providing certain conditions met, should be able to attend in a family friendly setting with family or caregivers. Positive – being able

to set example of responsible drinking by sharing a drink at family meal or special occasion.

AFS: Children and young people influenced by behaviour of adults they observe. Should be taken into account when deciding on licences to allow children and young people access to licensed premises. Premise must demonstrate how going to protect children and young people from harm. Recommend whether occasional licences are appropriate for family-orientated events.

Summary

The majority of respondents who gave an answer indicated that children and young people should be allowed in licensed premises, predominantly for meals and/or with family or another responsible adult. The findings were very similar across the all areas.

Nearly 85% of respondents who replied indicated that there were times / situations when children and young people should NOT be allowed in licensed premises. Mainly they should not be allowed in a public bar and they should only be allowed in for meals or functions.

The most common suggested time limit was 21:00 to 21:30 though some suggested later times of 22:00 or 23:00. Very few suggested earlier times.

Respondents from Keith and Speyside were particularly keen for children and young people not to be allowed in a public bar. In Forres, Milne's and Elgin respondents were most in favour of only allowing children and young people in for meals/functions and in Laich only allowing children and young people in if there was a designated area / suitable environment.

NHS: Not encouraged. Allowed for meals and functions. Positive – observe and experience family and social benefits. Negative – exposure to a range of issues including noise, inappropriate TV, music / lyrics, images, poor housekeeping.

WSTA: Should be allowed for meals and functions. Positive – being able to set example of responsible drinking by sharing a drink at family meal or special occasion.

AFS: Premises applying for licence to allow children and young people must demonstrate how going to protect them from harm. Consideration of whether occasional licences are appropriate for family-orientated events.

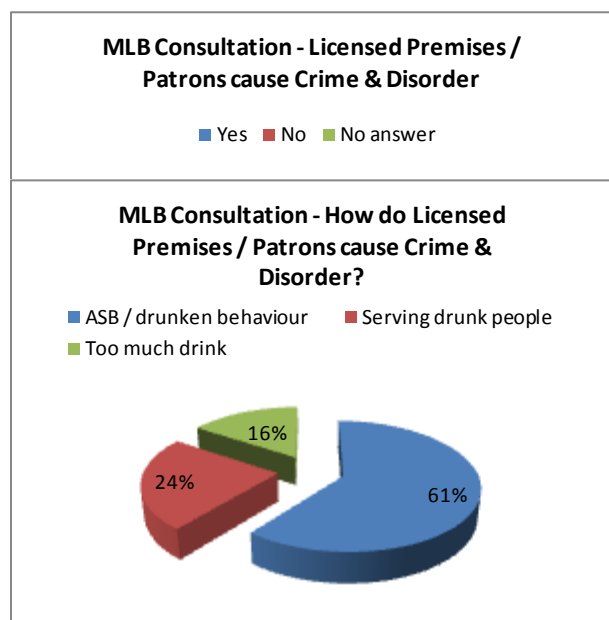
S4: The 5 Licensing Objectives

LO1 Preventing crime and disorder

Q14) Do licensed premises / patrons cause crime & disorder? If so, how?

Half of respondents did not provide an answer but of those who did, slightly more than half indicated that they believe licensed premises / patrons do cause crime and disorder. This was true in most areas but Buckie, Laich and Milne's were split down the middle.

The most common way licensed premises /

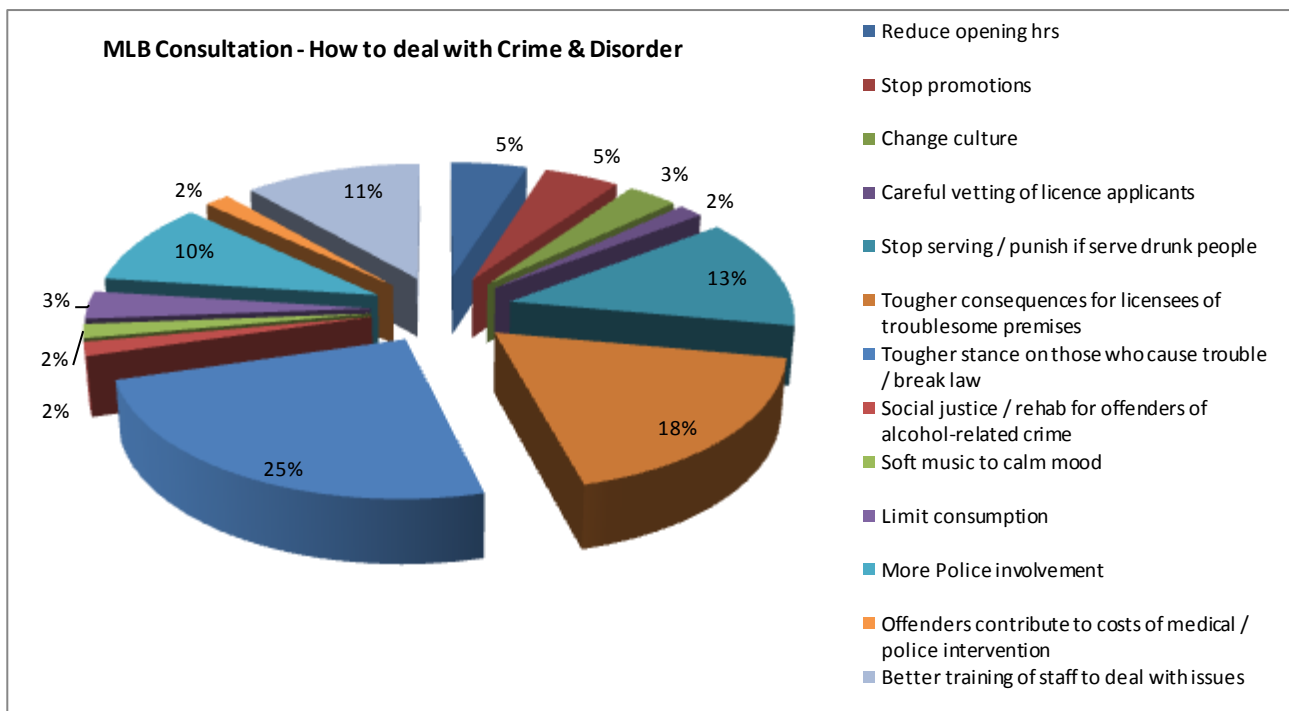


patrons are believed to cause crime and disorder was through anti social behaviour (ASB), accounting for 61% of comments. Other causes were serving people who had already had too much to drink and by drinking too much. This pattern was the same across all areas except Speyside where more respondents indicated having too much to drink as the main cause of crime and disorder.

Q15) How would you deal with the issues raised?

A range of suggestions were made regarding how to deal with the crime and disorder caused by licensed premises / patrons, which were categorised as shown in the graph below. Five of the categories each account for 10% or more of the total:

- i. Taking a tougher stance on those who cause trouble or break the law – 25%
- ii. Introducing tougher consequences for licensees of troublesome premises – 18%
- iii. Stopping serving individuals who have already had enough to drink – 13%
- iv. Provide better training for staff to deal with the issues – 11%
- v. More police involvement – 10%



Taking a tougher stance on those who cause trouble or break the law was the most common suggestion in all areas except Keith, Speyside and Milne’s where tougher consequences for licensees of troublesome premises was more common.

Elgin was equally keen on tougher consequences for licensees of troublesome premises and better training for staff and Forres was equally keen on tougher consequences for licensees.

Q16) Can licensed premises or the Moray Licensing Board do more to prevent crime & disorder? If so what?

Half of respondents did not reply. Of those that did, just under half, 46%, think that licensed premises or the Moray Licensing Board (MLB) can do something to prevent crime & disorder and 16% think they cannot do anything. However, 37% do not know.

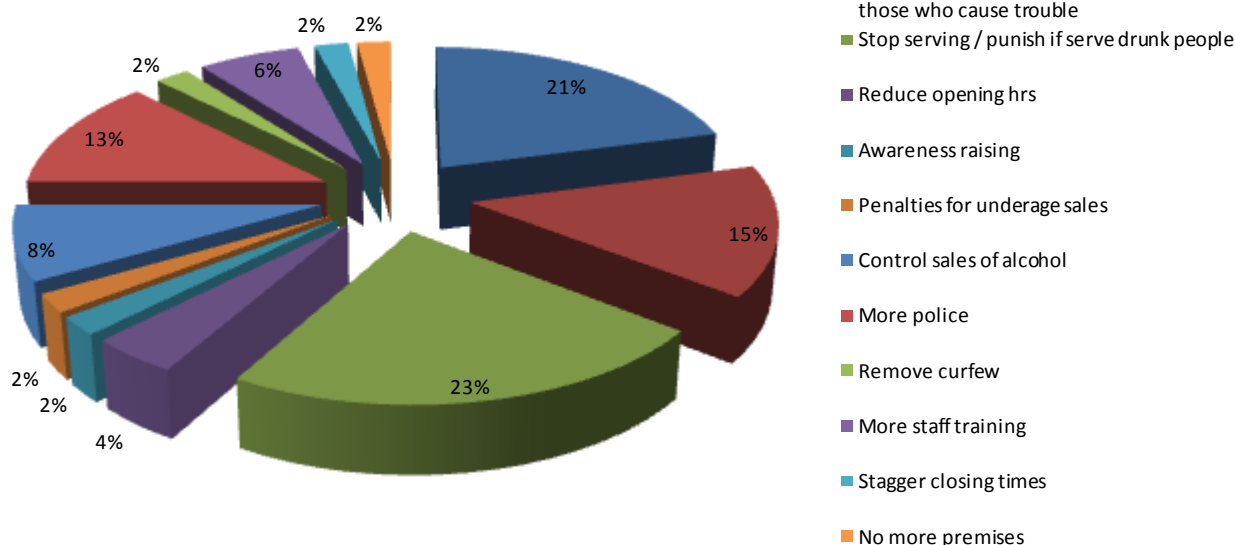
The pattern was the same for all areas.

Again there was a range of suggestions of what licensed premises or the MLB could do to prevent crime and disorder, many the same as for the previous question.

MLB Consultation - Can Licensed Premises or the Moray Licensing Board do more to prevent Crime & Disorder?

■ Yes ■ No ■ Don't know ■ No answer

MLB Consultation - What can Licensed Premises or the MLB do to prevent Crime & Disorder?



Overall the most common suggestion was to stop serving individuals who had already had enough to drink, followed by tougher consequences for licensees of troublesome premises. Taking a tougher stance on irresponsible drinkers and those who cause trouble, and having more police were other quite common suggestions.

Stopping serving was the top suggestion for all areas except Elgin and Speyside, where tougher consequences for licensees of troublesome premises was more common.

Summary

Slightly more than half of those who gave an answer believe licensed premises / patrons do cause crime and disorder, predominantly through ASB. The picture was very similar for all areas except in Speyside where respondents think having too much to drink is the main cause of crime and disorder.

The most common suggestions for how to deal with the issues, both overall and in all areas were:

- Taking a tougher stance on those who cause trouble or break the law
- Introducing tougher consequences for licensees of troublesome premises
- Stopping serving individuals who have already had enough to drink
- Provide better training for staff to deal with the issues
- More police involvement

Just under half of those who replied to this question believe licensed premises or the Moray Licensing Board can act to prevent crime and disorder. The most common suggestions overall and in all areas were:

- Stop serving individuals who had already had enough to drink
- Tougher consequences for licensees of troublesome premises
- Taking a tougher stance on irresponsible drinkers and those who cause trouble

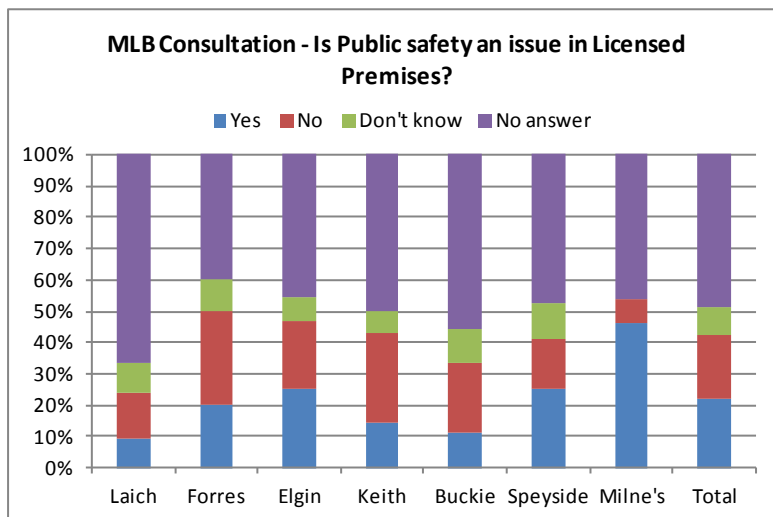
LO2 Securing Public Safety

Q17) Is public safety an issue in licensed premises?

Around half of respondents did not answer this question. Of those that did about 40% said yes and 40% said no. The remainder did not know.

In four of the seven areas – Laich, Forres, Keith and Buckie – more respondents indicated that public safety is **not** an issue in licensed premises than indicated it is an issue.

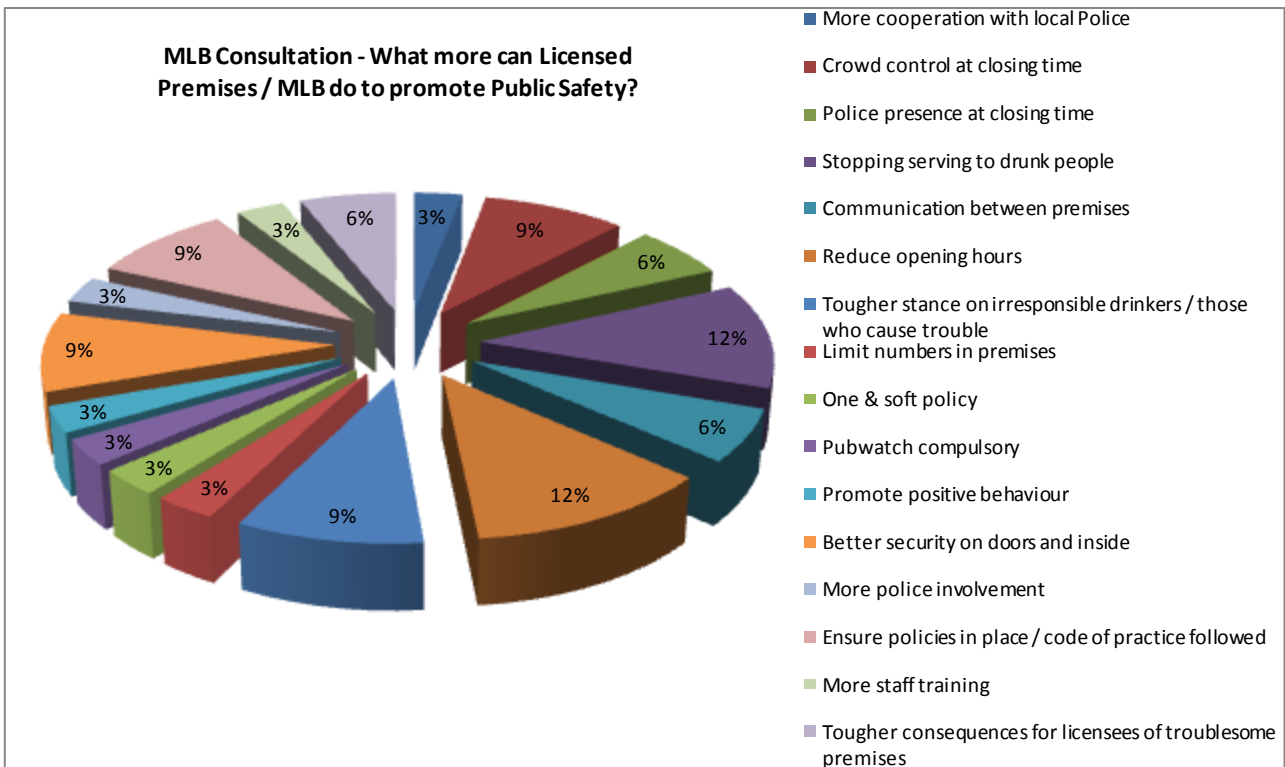
However, in Elgin, Speyside and very markedly in Milne's, more respondents indicated that public safety **is** an issue than indicated it is not.



Q18) Is there anything more licensed premises / MLB can do more to promote public safety?

A range of suggestions were made by respondents – 33 in total. The two most common, each accounting for 12% of suggestions, were stopping serving individuals who had already had enough to drink and reducing opening hours.

4 suggestions each accounted for 9% of the total: crowd control at closing time, taking a tougher stance on irresponsible drinkers and those who cause trouble, having better security on the doors and inside, and ensuring policies are in place and the code of practice is followed.



At least one of these 4 suggestions was among the most popular in all areas except Keith, where respondents suggested promoting positive behaviour, and in Forres where no suggestions were made.

Summary

Overall about the same proportion of respondents felt public safety was an issue licensed premises as thought it was not an issue. In 4 of the 7 areas public safety was felt not to be an issue in licensed premises but in Elgin, Speyside and overwhelmingly in Milne's respondents felt public safety was an issue on licensed premises.

Suggestions on how licensed premises or the MLB could promote public safety were topped by stopping serving individuals who had already had enough to drink and reducing opening hours. Also quite popular were crowd control at closing time, taking a tougher stance on irresponsible drinkers and those who cause trouble, having better security on the doors and inside, and ensuring policies are in place and the code of practice is followed.

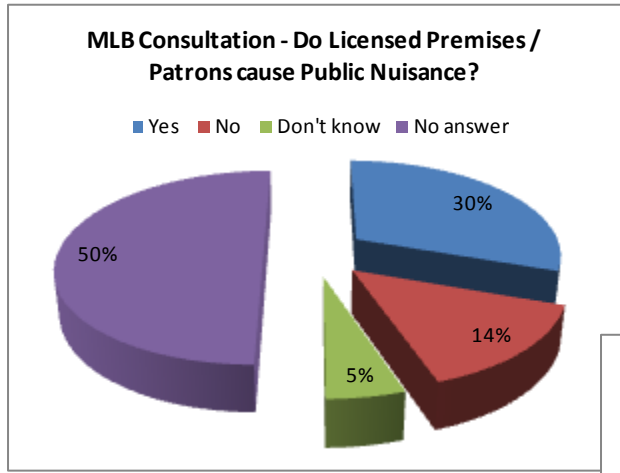
At least one of these 4 suggestions was among the most popular in all areas except Keith, where respondents suggested promoting positive behaviour, and in Forres where no suggestions were made.

LO3 Preventing Public Nuisance

Q19) *Do licensed premises / patrons cause public nuisance?*

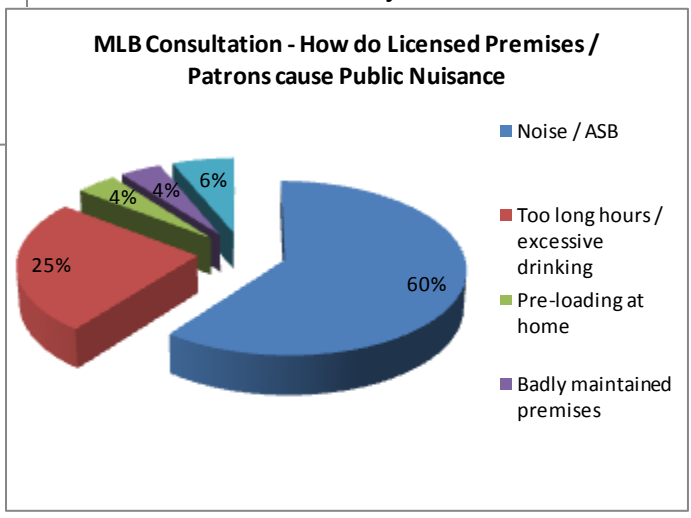
Half of respondents did not answer this question. Of those that did, 60% indicated that they think licensed premises / patrons to cause public nuisance.

In all areas the majority of respondents indicated that they think licensed premises / patrons cause public nuisance.



Overall the most common cause of public nuisance identified was noise/ ASB, accounting for 60% of the 48 comments made.

Too long hours and excessive drinking was the next most commonly identified cause.



Noise / ASB was identified as the most common cause in all areas except Speyside, where too long hours / excessive drinking was seen as the main cause.

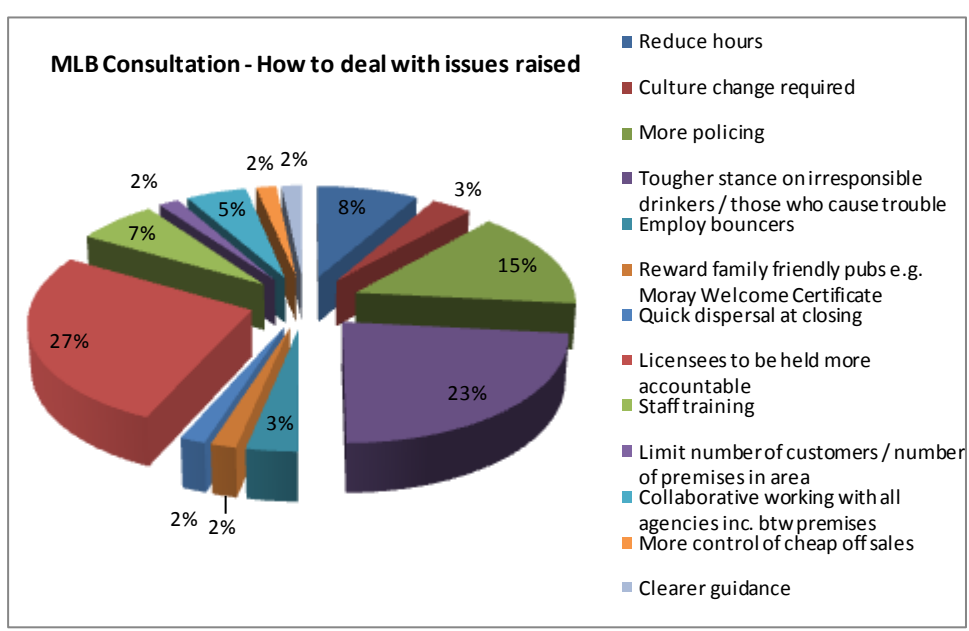
Q20) How would you deal with any issues raised?

As with other similar questions, a wide range of suggestions was made, three of which were particularly popular:

- Licensees to be held more accountable – 27%
- Taking a tougher stance on irresponsible drinkers and those who cause trouble – 23%
- More policing – 15%

Reducing hours and staff training were also fairly common.

The most popular suggestion varied across areas. In Laich and Forres more policing was most common; in Elgin and Buckie taking a tougher stance on irresponsible drinkers and those

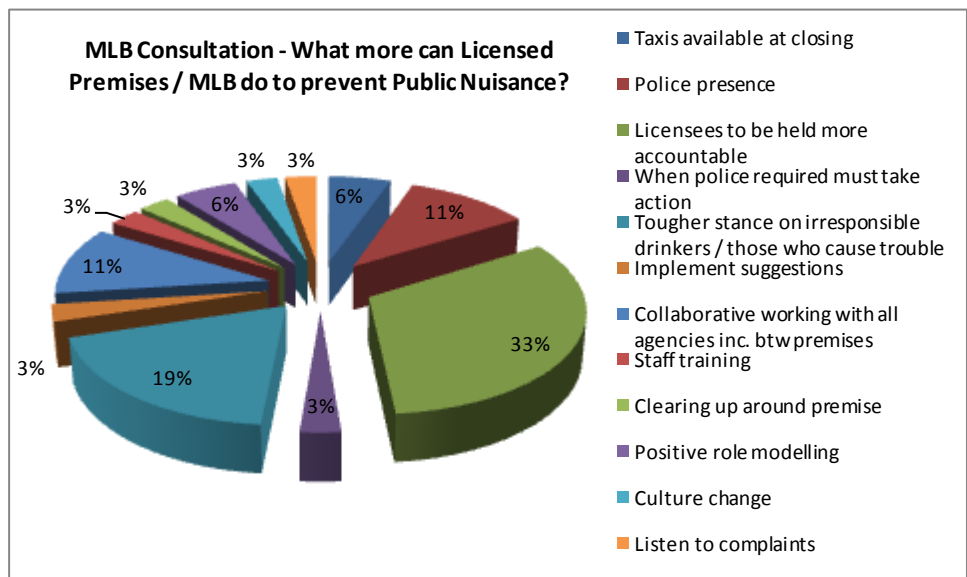


who cause trouble was top; also in Buckie holding licensees more accountable was equally popular. In Speyside and Milne’s respondents were most keen for licensees to be held more accountable. In Keith none of the 5 most common suggestions were made. Most commonly suggested in Keith was collaborative working with all agencies, including between premises and clearer guidance on relevant legislation.

Q21) What more can licensed premises / MLB do to prevent public nuisance?

In total 36 suggestions were made, 1/3 of which said that licensees should be held more accountable. A further 19% suggested taking a tougher stance on irresponsible drinkers and those who cause trouble and 11% thought a police presence would help and collaborative working with all agencies, including between premises.

In most areas holding licensees more accountable was the most popular suggestion though in some areas other suggestions were equally popular; in Laich a police presence and ensuring taxis are available at closing were common and in Keith collaborative working and positive role modelling were common.



In Forres having a police presence was thought the best way to prevent public nuisance together with police taking action when required to attend a premise. In Elgin taking a tougher stance on irresponsible drinkers and those that cause trouble was thought the best way.

Summary

A majority overall and in each area believe that licensed premises / patrons cause public nuisance, the main causes of which are noise / ASB and too long hours / excessive drinking.

Overall the most common suggestions for dealing with public nuisance were:

- Licensees to be held more accountable – 27%
- Taking a tougher stance on irresponsible drinkers and those who cause trouble – 23%
- More policing – 15%

One or more of these three was most popular in all areas except Keith where collaborative working was most popular.

Holding licensees more accountable was most commonly indicated as the way licensed premises or the MLB can help to prevent public nuisance. Taking a tougher stance on irresponsible drinkers and those that cause trouble was also popular and one of these two

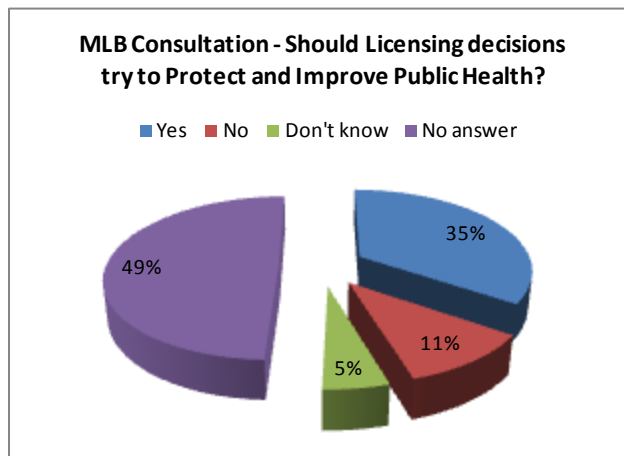
suggestions was most commonly identified in most areas. In Forres a police presence was most commonly suggested.

L04 Protecting and Improving Public Health

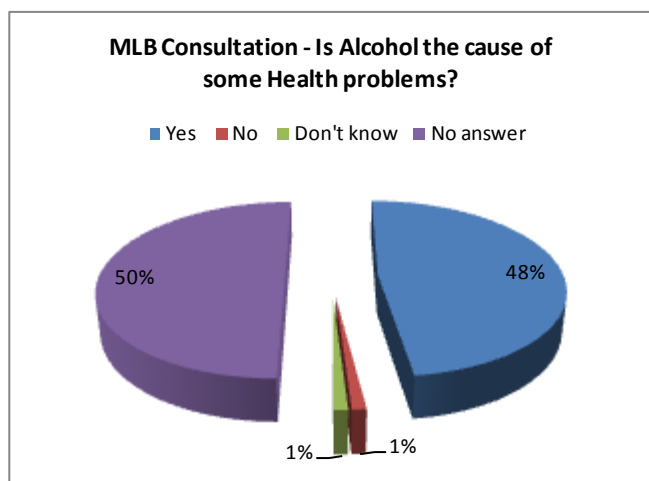
Q22) *Should licensing decisions try to protect and improve public health?*

About half of respondents did not answer this question. Of those that did nearly $\frac{3}{4}$ think that licensing decisions should try to protect and improve public health.

This was the same at an area level in all areas except Milne's where the majority of respondents indicated that licensing decisions should not try to protect and improve public health.



Q23) *Is alcohol the cause of some health problems?*

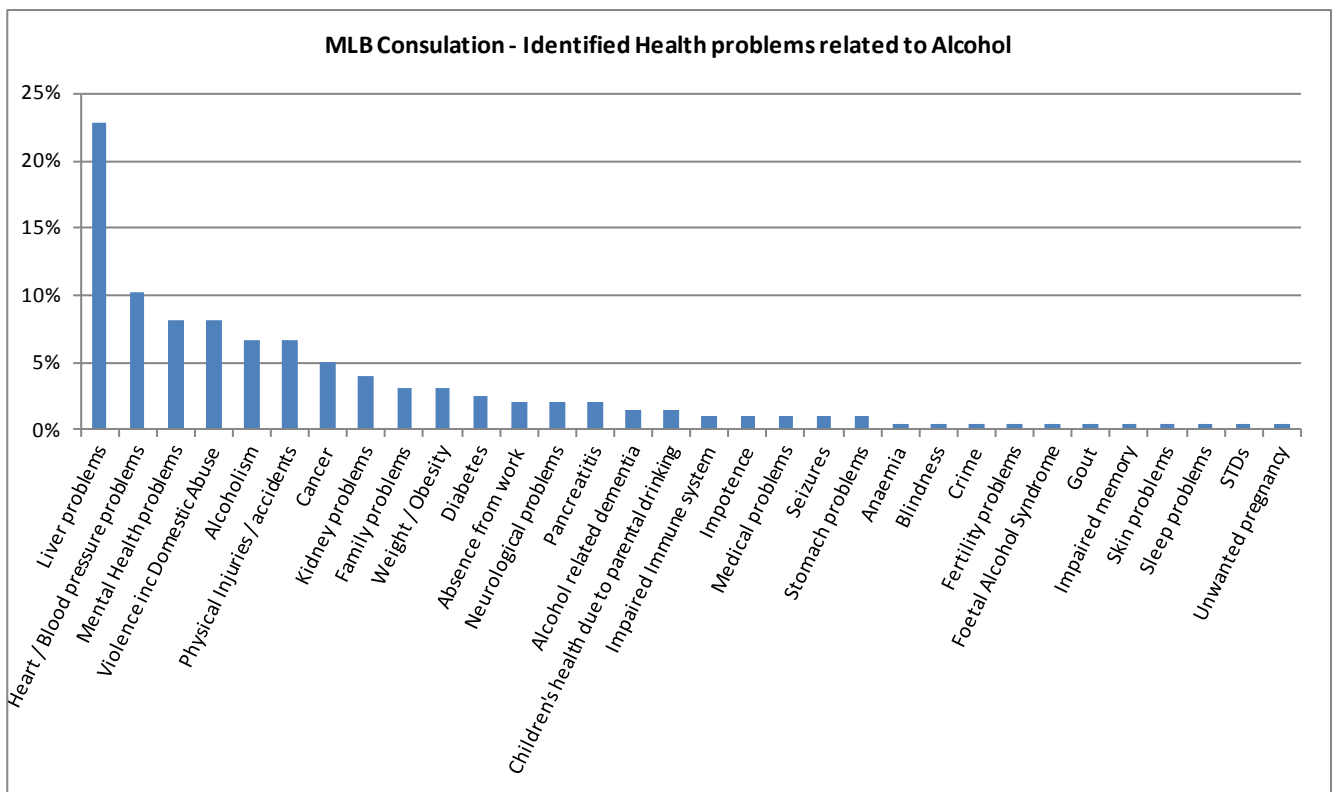


Again half of respondents did not answer this question but of those that did almost everyone said yes. Only a tiny number said no or didn't know (2 each). Respondents in four of the seven areas were unanimous in saying yes, alcohol did cause some health problems. Elgin, Buckie and Speyside had one or two people indicating no or don't know.

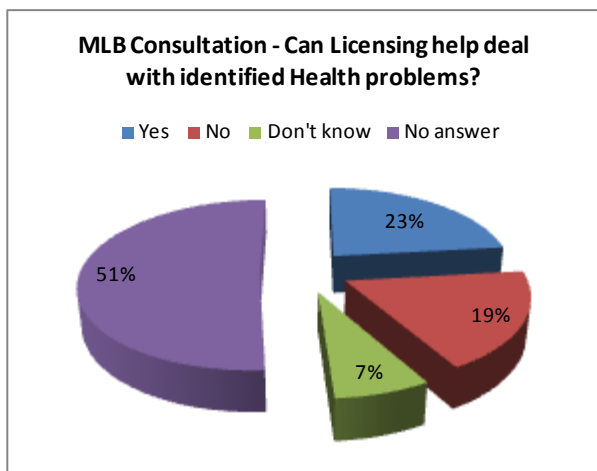
Q24) *Identify health problems related to alcohol.*

In total 32 different alcohol related problems were identified by respondents, 28 of which were health conditions. Also identified were violence including domestic abuse, absence from work, family problems and crime. In total respondents mentioned 197 alcohol related problems.

By far the most commonly identified alcohol related health problem was liver problems, which accounts for 23% of problems mentioned by respondents. This was also the most commonly identified problem in all areas. Other commonly identified problems identified by respondents from all areas are heart / blood pressure problems (10%), alcoholism and physical injuries / accidents (both 7%). Conditions identified by all areas except one are mental health problems (8%) and cancer (5%) while all but 2 areas identified violence including domestic abuse as an alcohol related condition (8%).



Q25) Can licensing help deal with them?

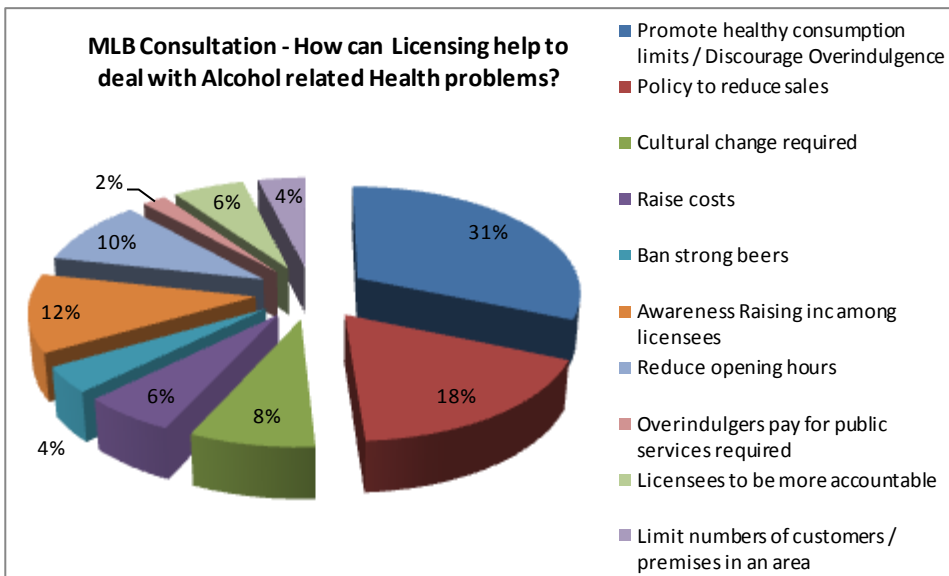


About half of respondents did not reply to this question. Of those who did, just under half, 47%, indicated that licensing **can** help to deal with alcohol related health problem while 38% think licensing **cannot** help to deal with the problems.

In four of the seven areas – Laich, Elgin, Speyside and Milne’s – more respondents felt licensing can help to deal with the problems than felt that they cannot. In Buckie opinion was divided in half, and in Forres and Keith respondents indicated that licensing cannot help deal with alcohol related health problems.

A range of suggestions were made as to how licensing can help deal with alcohol related health problems, the most common of which was to promote healthy consumption limits and discourage overindulgence, accounting for 31% of the 51 suggestions.

The second most common suggestion was developing a policy to reduce sales, particularly in off sales but also limiting consumption in on license premises. These were also the two most common suggestions in all areas.



Summary
 The majority of respondents think that licensing decisions should try to protect and improve public health and this is the

same in all areas except Milne's where the respondents felt the opposite.

Almost unanimously, respondents believe alcohol causes some health problems, identifying a wide range of conditions, including some non-health issues like family problems and crime. The most commonly identified health problems related to alcohol, overall and in each area, was liver problems. Heart / blood pressure problems, alcoholism and physical injuries / accidents were commonly identified by all areas, cancer and mental health problems by all but 1 area and violence including domestic abuse by all but 2 areas.

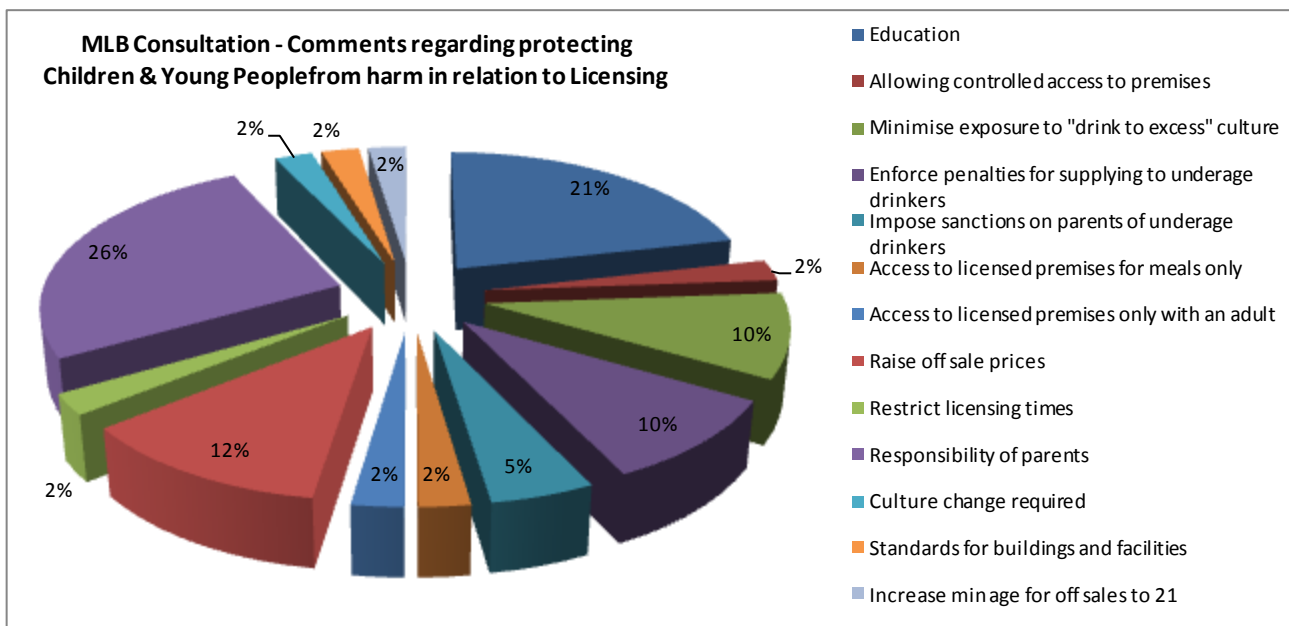
A slightly higher proportion of respondents than not felt that licensing can help deal with health problems related to alcohol. Only two areas did not feel that they could – Forres and Keith. The most common suggested way was to promote healthy consumption limits and discourage overindulgence, second was to develop a policy to reduce sales, particularly off sales but also on sales. These were also the two most common suggestions in all areas.

LO5 Protecting Children from Harm

Q26) Comments regarding protecting children and young people from harm in relation to licensing.

A range of comments were made, the most common indicating that it is the responsibility of parents to protect their children. Also common was providing education to children and young people regarding the dangers of alcohol. Raising off sale prices was seen as another way of protecting children and young people as were minimising exposure to the "drink to excess" culture and enforcing penalties for supplying underage drinkers. Together these comments account for nearly 80% of all comments.

The most common suggestion(s) varies across the areas but in all cases feature(s) in the 5 mentioned above.



NHS comments on Licensing Objectives: NHS feel that licensed premises / patrons do cause crime and disorder and public nuisance and that public safety is an issue in licensed premises. They suggest a local zero tolerance licensing policy / social marketing campaign / training and support to licensed premise personnel to help prevent crime, disorder and public nuisance and promote public safety. Licensed premises should try to protect and improve public health and the health problems caused by alcohol, such as intoxication, alcoholic liver disease, alcohol dependence – more health evidence available on request.

WSTA: No comments on Licensing Objectives.

AFS: Must assess the impact of the concentration of licensed premises of particular types and the aggregate effect of on- and off-licensed premises in an area. Sufficient information on each of the licensing objectives must be gathered to enable the most appropriate licensing measures to be applied to achieve the objectives. Licensing prevents and reduces alcohol problems by controlling the overall availability of alcohol through the number, type and opening hours of licensed premises and by regulating the way individual on-trade establishments and off-licenses do business. In promoting the licensing objective, MLB must take account of the relationship between overall alcohol availability and harm as well as operating condition of individual premises.

Q27) Any other comments about the licensing policy

A number of final comments were made (21), three of which were mentioned more than once:

- Be reasonable and firm and enforce rules and laws strictly – 6 times
- Reduce opening hours – 3 times
- Current policy is about right – 3 times

AFS: A licensing policy statement should be evidence based to ensure it is fully reflective of the relevant issues and for it to be robust. Therefore suggest the inclusion of both statistical and expert opinion, as well as any available local data on the issues in Moray. It would be helpful for the policy statement to set out and explain the evidence underpinning the policy approach.

Noise Disturbance Statistics

The following section sets out the data from the Moray Council's Environmental Services Section regarding noise disturbance complaints.

Reference	Nature of Complaint
10/02391/NOISEN	Noise complaint
10/02387/NOISEN	Noise from disco affecting neighbouring property
10/02673/NOISEN	Noise from delivery lorries, 3am occasionally, after 4.45 - 5.00am
10/02519/NOISEN	Complaint about the noise of disco.
11/01201/NOISEN	Noisy Automatic Door
13/00776/NOISEN	Excessive noise during a wedding function on 21 May 2011.
11/03490/NOISEN	Being affected by noise again, possibly from licensed premises.
11/01993/NOISEN	Letters of complaint dated 13 June and 21 June about noise
11/02938/NOISEN	Noise complaint - ceiliedh held in marquee sited in grounds of licensed premises on 30/09/11
12/00751/NOISEN	Vehicle Delivery early morning before 7 am - Issues: reversing vehicles - bleeping vehicles, loading unloading cages, noise of trolley movements
12/00909/NOISEN	Request for noise level at the Distillery to be monitored as caller stated noise volume has increased recently.
12/01264/NOISEN	Noise at the weekend from licensed premises, wedding marquee, music very loud
11/03823/NOISEN	
12/02221/NOISEN	Noise query regarding planning application
12/03062/NOISEN	Noise from fan at licensed premises
12/03129/NOISEN	Advice re curfew times at licensed premises
12/02952/NOISEN	Loud explosions from fireworks display.
12/03584/NOISEN	Noise coming from a fan at the restaurant.
13/00767/NOISEN	Noise from deliveries - delivered at 4.30 am - 5am.
13/01492/NOISEN	Lorries that are making deliveries at 5 o'clock every morning.
13/01781/NOISEN	Complainant states: the noise from a live music singer/group could be heard some distance from the licensed premises even through closed double glazed windows. Previously complained about noise from this location (2yrs ago).

Scottish Licensing Statistics Number of Premises per Population

The following section sets out the data from the Scottish Licensing statistics produced by the Scottish Government regarding the number of premises per population.

	Number of Premises Licences March 2011	Population 2010	Population per premises	Premises per 1000 population 2011	*Number of Premises Licences January 2013 *Only known for Moray	*Premises per 1000 population 2013
East Renfrewshire	154	89,540	581.43	1.72		
East Dunbartonshire	181	104,580	577.79	1.73		
North Lanarkshire	684	326,360	477.13	2.09		
Falkirk	350	153,280	437.94	2.28		
South Lanarkshire	723	311,880	431.37	2.32		
West Lothian	400	172,080	430.2	2.32		
Midlothian	191	81,140	424.82	2.35		
Renfrewshire	423	170,250	402.48	2.48		
Inverclyde	201	79,770	396.87	2.52		
Aberdeen City	560	217,120	387.71	2.58		
Aberdeenshire	639	245,780	384.63	2.6		
West Dunbartonshire	236	90,570	383.77	2.6		
East Ayrshire	338	120,240	355.74	2.81		
Fife	1055	365,020	345.99	2.89		
Glasgow	1715	592,820	345.67	2.89		
Dundee City	430	144,290	335.56	2.98		
North Ayrshire	404	135,180	334.6	2.99		
East Lothian	293	97,500	332.76	3		
Clackmannanshire	153	50,630	330.91	3.02		
Angus	349	110,570	316.82	3.16		
Moray	322	87,720	272.42	3.67	316	3.6
South Ayrshire	417	111,440	267.24	3.74		
Edinburgh	1867	486,120	260.37	3.84		
Eilean Siar	103	26,190	254.27	3.93		
Perth & Kinross	590	147,780	250.47	3.99		
Stirling	367	89,850	244.82	4.08		
Scottish Borders	473	112,870	238.62	4.19		
Dumfries & Galloway	645	148,190	229.75	4.35		
Highland	1184	221,630	187.19	5.34		
Orkney	114	20,110	176.4	5.67		

Shetland	143	22,400	156.64	6.38		
Argyll & Bute	592	89,200	150.67	6.64		

	Number of On Sale Premises Licences March 2011	Population 2010	On Sale Premises per 1000 population 2011
East Dunbartonshire	116	104,580	1.11
East Renfrewshire	113	89,540	1.26
North Lanarkshire	425	326,360	1.3
West Lothian	249	172,080	1.45
Falkirk	228	153,280	1.49
South Lanarkshire	470	311,880	1.51
West Dunbartonshire	146	90,570	1.61
Midlothian	133	81,140	1.64
Renfrewshire	288	170,250	1.69
East Ayrshire	206	120,240	1.71
Inverclyde	137	79,770	1.72
Aberdeenshire	434	245,780	1.77
Fife	714	365,020	1.96
North Ayrshire	279	135,180	2.06
Aberdeen City	449	217,120	2.07
Glasgow	1230	592,820	2.07
Dundee City	302	144,290	2.09
Clackmannanshire	107	50,630	2.11
East Lothian	209	97,500	2.14
Angus	270	110,570	2.44
Eilean Siar	68	26,190	2.6
Moray	232	87,720	2.64
South Ayrshire	300	111,440	2.69
Edinburgh	1359	486,120	2.8
Stirling	255	89,850	2.84
Perth & Kinross	451	147,780	3.05
Dumfries & Galloway	476	148,190	3.21
Scottish Borders	369	112,870	3.27
Orkney	77	20,110	3.83
Highland	896	221,630	4.04
Shetland	97	22,400	4.33
Argyll & Bute	426	89,200	4.78

	Number of Off Sale Premises Licences March 2011	Population 2010	Off Sale Premises per 1000 population 2011
East Renfrewshire	45	89,540	0.5
Clackmannanshire	27	50,630	0.53
East Dunbartonshire	64	104,580	0.61
Angus	80	110,570	0.72
Midlothian	59	81,140	0.73
South Lanarkshire	230	311,880	0.74
Aberdeenshire	192	245,780	0.78
Renfrewshire	140	170,250	0.82
Aberdeen City	181	217,120	0.83
Dundee City	120	144,290	0.83
Scottish Borders	94	112,870	0.83
Inverclyde	67	79,770	0.84
North Lanarkshire	281	326,360	0.86
Glasgow	518	592,820	0.87
West Lothian	153	172,080	0.89
North Ayrshire	120	135,180	0.89
Falkirk	138	153,280	0.9
Fife	331	365,020	0.91
East Lothian	91	97,500	0.93
Moray	82	87,720	0.93
Perth & Kinross	137	147,780	0.93
Edinburgh	492	486,120	1.01
West Dunbartonshire	93	90,570	1.02
East Ayrshire	123	120,240	1.02
Dumfries & Galloway	159	148,190	1.07
South Ayrshire	120	111,440	1.08
Eilean Siar	31	26,190	1.18
Highland	316	221,630	1.43
Stirling	137	89,850	1.52
Orkney	37	20,110	1.84
Argyll & Bute	166	89,200	1.86
Shetland	43	22,400	1.92

Total On Sale Capacity

16025 + 32300 = **48325**

Total Off Sale Capacity

2504.34228 + 724.94 = **3230 M³**

Table of Capacity Statistics

Premises Name	Premises Address	Premises Address 2	Premises Address 3	Premises Address 4	OP Capacity On	OP Capacity Off
The Star Inn	22 Bridgend	Buckie	AB56 1XN		84	0
Commercial Hotel	Dufftown	AB55 4AR			277	0
Harbour Inn	59 Granary Street	Burghead	IV30 5UA		127	0
Skerry Brae Hotel	Stotfield Road	Lossiemouth	IV31 6QS		399	0
The Loft Bistro & Venue	East Grange Farm	Kinloss	Forres	IV36 2UD	56	0
The Loft Bistro & Venue	East Grange Farm	Kinloss	Forres	IV36 2UD	50	0
Cullen Bay Hotel	Cullen Bay Hotel	Cullen	Moray	AB56 4XA	613	0
Gordon and MacPhail	58-60 South Street	Elgin	IV30 1JY		136	0
Caberfeidh	Main Street	New Elgin	Elgin	IV30 6BH	230	66
Glenavon Hotel	The Square	Tomintoul	AB37 9ET		210	0
The Dowans Hotel	Dowans Road	Aberlour	AB38 9LS		230	0
Ramnee Hotel	Victoria Road	Forres	IV36 3BN		209	0
Seafeld Arms Hotel	73 New Street	Rothies	AB38 7BJ		169	0
Victoria Hotel	1 Victoria Street	Portknockie	AB56 4LQ		115	0
Lennox Inn	5 Lennox Place	Portgordon	Buckie	AB56 5RY	91	0
The Braemou Inn	1 Cooper Street	Hopeman	IV30 5SD		178	0
The Mash Tun	Broomfield Square	Aberlour	AB38 9QP		115	0

Station Hotel	36 Harbour Street	Hopeman	IV30 5RU		227	0
Cardhu Distillery	Knockando	AB38 7RY			273	0
The Plough Inn	95-97 Mid Street	Keith	AB55 5AE		220	7.77
Brodie Countryfare	Brodie	By Forres	IV36 2TD		324	0
Royal Hotel	Church Road	Keith	AB55 5BR		422	36.1
Commercial Hotel	110-112 Mid Street	Keith	AB55 5AE		235	0
The Mosset Tavern	Gordon Street	Forres	IV36 1DY		274	0
Kirkie Bar	50 Main Street	New Elgin	Elgin	IV30 6BH	184	0
Ionic Bar	39 High Street	Elgin	IV30 1EE		112	0
Tennant Arms Hotel	Lhanbryde	IV30 8NZ			160	0
Brander Arms	Shore Street	Lossiemouth	IV31 6PB		56	0
The Glenfiddich & Balvenie Distillery	Dufftown	AB55 4DH			385	0
The Admirals Inn	6-7 Jubilee Terrace	Findochty	AB56 4QA		363	428.73
The White Horse	160 High Street	Elgin	IV30 1BD		271	0
The Station Hotel	2 Brander Street	Burghead	IV30 5UD		175	0
Craigenroan Bar	13 Great Eastern Road	Portessie	Buckie	AB56 1SL	113	0
1629 Restaurant and La Caverna	19-20 Clifton Road	Lossiemouth	IV31 6DJ		295	0
Johnstons of Elgin	Newmill	Elgin	IV30 4AF		164	0
The Whisky Shop Dufftown	1 Fife Street	Dufftown	Keith	AB55 4AL	50	4.2
Coulard Inn	Coulardbank Road	Lossiemouth	IV31 6ED		252	17.34
Beach Bar	Commerce Street	Lossiemouth	IV31 6BW		226	0
Glen Moray Distillery	Bruceland Road	Elgin	IV30 1SF		60	0
The Mansefield Hotel	Mayne Road	Elgin	IV30 1NY		390	0

Aberlour Distillery	Aberlour	AB38 9JP			208	0
Crown Inn	22 Reidhaven Square	Keith	AB55 5AB		196	5.56
Strathisla Distillery	Seafield Avenue	Keith	AB55 5BS		100	0
Kinloss Country Golf Club	Kinloss	Forres	IV36 2UB		60	12.23
The Steamboat	15 Pitgavney Street	Lossiemouth	IV31 6NT		140	0
Findhorn Foundation Community Centre	The Park	Findhorn	Forres	IV36 3TZ	250	0
29 South Street	Elgin	IV30 1JZ			45	0
Eight Acres Hotel	Morrison Road	Elgin	IV30 6UL		1374	0
Victoria Bar	1 Seafield Square	Rothies	AB38 7AZ		125	0
Grant Arms Hotel	42 High Street	Fochabers	IV32 7DX		278	0
Midas	13 Lossie Wynd	Elgin	IV30 1PU		55	0
Cragganmore Distillery	Cragganmore	Ballindalloch	AB37 9AB		67	0
Carisbrooke Hotel	Drumduan Road	Forres	IV36 1BS		140	9.7
The Highlander Hotel	75 West Church Street	Buckie	AB56 1BQ		185	0
The Aberlour Hotel	High Street	Charlestown of Aberlour	AB38 9QB		160	0
Eagle Hotel	North Street	Forres	IV36 1AD		240	0
Glenfarclas Distillery	Ballindalloch	Banffshire	AB37 9BD		120	0
Silver Sands	Covesea West Beach	Lossiemouth	IV31 6SP		540	26.65
Crannoch Hotel	12 Blantyre Street	Cullen	AB56 4RP		130	1.54
Royal Oak Hotel	Station Road	Urquhart	IV30 8LQ		69	0
Clifton Hotel	5 Clifton Road	Lossiemouth	IV31 6DJ		344	0

Crown Anchor &	44 Findhorn	Findhorn	Forres	IV36 3YF	196	0
Lossie Inn	18 Clifton Road	Lossiemouth	IV31 6DJ		141	0
Bayview Hotel	57 Seafield Street	Cullen	AB56 4SU		84	0
Thistle Bar	6 West Church Street	Buckie	AB56 1QS		100	0
Laichmoray Hotel	Maisondieu Road	Elgin	IV30 1QR		560	0
The Seafield Inn	2-4 Victoria Place	Portknockie	AB56 4LH		162	0
Stuart Arms	22 Conval Street	Dufftown	AB55 4AE		117	0
Grant Arms Hotel	31 Grant Street	Cullen	Buckie	AB56 4RS	98	0
Eastbank Hotel	15-17 High Street	Rothies	Aberlour	AB38 7AU	75	0
Fiddichside Inn	Craigellachie	Aberlour	AB38 9RR		37	0
Crown Bar	7 The Square	Newmill	Keith	AB55 6TT	102	0
Bonnie Earl Bar	Munro Place	Bishopmill	Elgin	IV30 4LL	224	0
The Birnie Inn	Birnie	IV30 8SP			190	0
Archiestown Hotel	The Square	Archiestown	AB38 7QL		136	0
Dacey Rileys	185B High Street	Elgin	IV30 1DW		103	0
Craigellachie Hotel	Victoria Street	Craigellachie	Aberlour	AB38 9SR	442	0
The Cottar Hoose	Thornhill Road	New Elgin	IV30 6DX		169	0
The Muckle Cross	34 High Street	Elgin	IV30 1BU		472	0
Legends	122 High Street	Forres	IV36 1NP		80	26.21
Sunninghill Hotel Limited	Hay Street	Elgin	IV30 1NH		140	0
Old Mill Inn	Brodie	Forres	IV36 2TD		135	0
Commercial Hotel	4-8 Young Street	Burghead	IV30 5UB		190	0
Torr House Hotel	8 Moss Street	Elgin	IV30 1LU		247	0
Pizzeria Toscana	20 Thunderton Place	Elgin	IV30 1BG		43	7.12

Highlander Inn	10 Victoria Street	Craigella chie	Aberlour	AB38 9SR	137	0
Garmouth Hotel	South Road	Garmouth	IV32 7LU		259	0
Rising Sun Bar	38 Bridge Street	Bishopmill	Elgin	IV30 4DE	50	0
Benromach Distillery and Malt Whisky Visitor Centre	Invererne Road	Forres	IV36 3EB		80	0
The Old Coach House Hotel	26 High Street	Buckie	AB56 1AR		303	17.3
The Grouse Inn	Cabrach	by Huntly	AB54 4EL		293	0
The Forbes Arms Hotel	Milltown of Rothiemay	Huntly	Aberdeenshire	AB54 7LT	123	0
The Three Kings Inn	17/21 North Castle Street	Cullen	AB56 4SA		99	0
Kimberley Inn	94 Findhorn	Forres	IV36 3YG		133	0
The Linkwood Lodge	15 Linkwood Way	Elgin	IV30 1HY		456	0
Thistle Bar	168 High Street	Forres	IV36 1NP		75	4.95
Richmond Hotel	The Square	Tomintoul	Ballindalloch	AB37 9ET	220	0
Highland Village	Baxters Food Group	Fochabers	IV32 7LD		1900	0
Abbey Inn	Findhorn Road	Kinloss	IV36 3YX		249	13.04
Thunderton House	Thunderton Place	Elgin	IV30 1BG		200	0
The Cooperage	178 High Street	Elgin	IV30 1BA		346	0
Rock House Hotel	Clifton Road	Lossiemouth	IV31 6DP		450	0
St Andrews	Garmouth Road	Lhanbryde	Elgin	IV30 8PD	150	0
Crooked Inn	13 Main Street	Alves	IV30 8UU		132	0
Croft Inn	Glenlivet	Ballindalloch	AB37 9DP		160	0
Red Lion Hotel	65-67 High Street	Fochabers	IV32 7DU		144	0

Granary Elgin	14-18 Thunderton Place	Elgin	IV30 1BG		542	0
Gordon Arms Hotel	80 High Street	Fochabers	IV32 7DH		273	0
The Old Pantry	The Square	Aberlour	AB38 9PX		42	0
The Golden Pheasant Bar	North Street	Bishopmill	Elgin	IV30 4EF	190	0
Knockomie Hotel	Grantown Road	Forres	IV36 2SG		237	0
The Stotfield Hotel	Stotfield Road	Lossiemouth	IV36 6QS		690	0
Springfield Bar	Glenmoray Drive	Elgin	IV30 6YA		140	0
The Marine Hotel	Marine Place	Buckie	AB56 5BB		362	0
Drouthy Cobbler	48a High Street	Elgin	IV30 1BU		205	0
Glenlivet Distillery	Ballindalloch	Banffshire	AB37 9DB		222	0
The Seaforth Club	Academy Street	Elgin	IV30 1LJ		495	20.25
Elgin & District Indoor Bowling Club	Moycroft Road	Elgin	IV30 1XZ		130	0
Spice Tandoori	9A Moss Street	Elgin	IV30 1LU		143	0
Red Lion	2-6 Tolbooth Street	Forres	IV36 1PH		253	0
Lossiemouth FC Social Club	39-41 Macduff Street	Lossiemouth	IV31 6ET		180	0
Royal British Legion Club	65 High Street	Buckie	AB56 1AX		365	0
Elgin Golf Club	Hardhillock	Birnie Road	Elgin	IV30 8SX	400	0
Royal Findhorn Yacht Club	Findhorn	Forres	IV36 3YE		195	0
Hopeman Golf Club	The Clubhouse	Hopeman	IV30 5YA		170	0
Moray Golf Club	Stotfield Road	Lossiemouth	IV31 6QS		200	0
The Elgin Bridge Centre	1 Academy Street	Elgin	IV30 1LP		160	0
Forres Golf Club	Muiryshade	Forres	IV36 2RD		200	0
Cullen Golf Club	The Links	Cullen	Buckie	AB56 4WB	120	0

The Elgin District Ex-Service Men's Club	St Giles	9 High Street	Elgin	IV30 1EQ	250	0
Buckpool Golf Club	Barhill Road	Buckie	AB56 1DU		380	0
Royal Naval Association	26 Commerce Street	Lossiemouth	IV31 6QD		485	0
Strathlene Buckie Golf Club	Portessie	Buckie	AB56 4DJ		200	0
Keith Golf Club	Fife Park	Keith	AB55 5GF		110	0
The Time Out Cafe	79 High Street	Forres	IV36 1AE		76	0
Pattaya Thai Restaurant	54 High Street	Elgin	IV30 1BU		42	0
Royal British Legion	The Clubrooms	Balloch Road	Keith	AB55 5EN	443	0
Grampian Hotel	5 Regent Square	Keith	AB55 5BX		215	0
Mill House Hotel	Tynet	Fochabers	AB56 5HJ		397	0
Aurora Restaurant	Strathlene	Great Eastern Road	Buckie	AB56 4DJ	120	20.25
Tee Shack	Hopeman Road	Duffus	IV30 5QS		60	0
Spey Bay Hotel and Golf Lodges	Spey Bay	Fochabers	IV32 7PJ		60	0
					32300	724.94

Premises_Name	Premises Address	Premises Address 2	Premises Address 3	Premises Address 4	Premises Address 5	OP Capacity On
Victoria Bar	211 High Street	Elgin	IV30 1DJ			88
Tannochbrae Guest House and Restaurant	22 Fife Street	Dufftown	AB55 4AL			38
The World Famous Glenfiddich Restaurant	9-13 Church Street	Dufftown	AB55 4AR			51
The Loft Bistro & Venue	East Grange Farm	Kinloss	Forres	IV36 2UD		150

Keith & Dufftown Railway Assoc The Railway Carraige Forming Restaurant	Dufftown Station	Dufftown	AB55 4BA			36
The Captains Table	The Boatyard	Findhorn	IV36 3YE			90
Newmarket Bar & Simply Red Restaurant	3-5 Tolbooth Street	Forres	IV36 1PH			170
The Fife Arms Hotel	28-30 Regent Street	Keith	AB55 5DZ			239
The Royal Oak	30 Fife Street	Dufftown	AB55 4AL			100
Carlton Bingo	25/27 South Street	Elgin	IV30 1JZ			601
The Mosset Tavern	Gordon Street	Forres	IV36 1DY			231
Royal Oak Hotel	43-45 Castle Terrace	Cullen	AB56 4SD			58
The Mansion House Hotel and Country Club	The Haugh	Elgin	IV30 1AW			380
The Bakehouse	91 Findhorn	Findhorn	IV36 3YG			50
Cardamon Spice	64/66 High Street	Forres	IV36 0PQ			56
Delnashaugh Hotel	Ballindalloch	Banffshire	AB37 9AS			163
Ballindalloch Castle Golfing Limited	Lagmore	Ballindalloch	AB37 9AA			38
The Warehouse Theatre	Pitgavney Quay	Lossiemouth	IV31 6TW			235
A Taste of Speyside	10 Balvenie Street	Dufftown	AB55 4AB			60
Victoria Hotel	1 Tytler Street	Forres	IV36 1EL			320
Victoria Hotel	1 Tytler Street	Forres	IV36 1EL			138
Spice Tandoori	36 High Street	Lossiemouth	IV31 6AA			79
Pub in the Square	7 Culny Square	Buckie	AB56 1AH			75

Bowl 2000 Ltd	2 Moycroft Industrial Estate	Elgin	IV30 1XZ			400
Harbour Bar	83 Main Street	Buckpool	AB56 4XQ			150
The Day Lodge	The Lecht Ski Centre	Strathdon	Aberdeenshire	AB36 8YP		350
Sandisons	22 East Church Street	Buckie	AB56 1AE			70
Logie Steadings Cafe	Logie	By Forres	IV36 2QN			72
Bengal Spice	94 Mid Street	Keith	AB55 5AE			48
Al-Bahar Tandoori Restaurant	156 High Street	Elgin	IV30 4NE			110
Qismat Tandoori Restaurant	202/204 High Street	Elgin	IV30 1BA			115
Ashvale Fish Restaurant	13 Moss Street	Elgin	IV30 1LU			85
B&B Parrandier	Meft Road	Urquhart	IV30 8NH			10
Zed Bar Joannas Downtown USA Moray Playhouse	195-199 High Street	Elgin	IV30 1DJ			1852
Beechtree Restaurant	Moray College	Hay Street	Elgin	IV30 1JJ		140
Duffus Inn	1 Hopeman Road	Duffus	IV30 5RR			140
Fresh Coffee House & Bistro	121 High Street	Aberlour	AB38 9PB			32
Carlton Bingo	29 West Church Street	Buckie	AB56 1BP			606
Amici Ristorante	118 High Street	Forres	IV36 1NP			60
Chinatown Restaurant	52 West Church Street	Buckie	AB56 1HP			106
Northern Lights Public House	29 Yuill Avenue	Buckie	AB56 1NX			120
Innes House	Elgin	IV30 8NG				281
Carlton Hotel	67 High Street	Forres	IV36 1AE			116
The Seafield	17-19	Cullen	AB56 4SG			322

Arms Hotel	Seafield Street					
Fournet House Holdings	Fournet House	Balvenie Street	Dufftown	Keith	AB55 4AB	25
Ugie House Hotel	Church Road	Keith	AB55 5BR			424
Michaela Bellamy and David William	Fife Arms Hotel	2 The Square	Dufftown	AB55 4AD		84
La Faisanderie	2 Balvenie Street	Dufftown	AB55 4AD			30
Cluny Bank Hotel	69 St Leonards Road	Forres	IV36 1DW			43
The Clockhouse Restaurant	The Square	Tomintoul	AB37 9ET			60
Chapter One Resturant	39 High Street	Forres	IV36 1PB			60
The Universal Hall	The Park	Findhorn	Forres	IV36 3TZ		656
Akash Tandoori	21 South Street	Elgin	IV30 1JZ			46
Glenlivet Public Hall	Glenlivet	AB37 9BX				152
Emperor Restaurant	7 North College Street	Elgin	IV30 1EL			65
Jimmy Chungs	15 Greyfriars Street	Elgin	IV30 1LF			128
The Visitor Centre	Knockando Distillery	Knockando	AB38 7RT			270
China Town Buffet	222 High Street	Elgin	IV30 1BA			42
Royal Hotel	Station Road	Elgin	IV30 1QW			167
Buckie Victoria Bowling Club	West Church Street	Buckie	AB56 1BP			60
JiCs	Newlands Lane	Buckie	AB56 1PB			90
Xoriatiki	87-91 High Street	Elgin	IV30 1EA			50
Christies of Fochabers Garden Centre Restaurant	The Nurseries	Fochabers	IV32 7PF			190
Scribbles Pizza House	154 High Street	Elgin	IV30 1BD			96
Lossiemouth Bowling Club	St Gerardines Road	Lossiemouth	IV31 6JX			200

The Keith Railway Club	11 Union Street	Keith	AB55 5BP			120
Rothies Golf Club	Blackhall	Rothies	Aberlour	AB38 7AN		75
Garmouth and Kingston Golf Club	Spey Street	Garmouth	IV32 7NJ			110
Dufftown Bowling Club	Tininver Street	Dufftown	AB55 4AD			86
Moray Rugby Football Club	Rugby Club	Morrison Plyaing Fields	Elgin			120
Lodge Pitgaveny No. 681	Masonic Hall	9 James Street	Lossiemouth	IV31 6AU		183
Buckie Thistle Football Club	Victoria Park Function Hall	Buckie	AB56 1BG			140
The New Club	8 Greyfriars Street	Elgin	IV30 1LF			170
The Elgin Bowling Club	10 Reidhaven Street	Elgin	IV30 1QG			96
Lodge St John 37 Club	3 High Street	Forres	IV36 1BU			150
Dufftown Golf Club	Tomintoul Road	Dufftown	AB55 4BS			70
Elgin City Social Club	Boroughbri ggs Road	Elgin	IV30 1AP			430
Forres Mechanics Football Club Members Lounge	Mosset Park	Lea Road	Forres	IV36 1AU		50
Rothies Football Club Social Club	15 Seafiel Square	Rothies	Aberlour	AB38 7AZ		190
Portknockie Bowling Club	Seafiel Terrace	Portknockie	Buckie	AB56 4NA		48
Dufftown & District Royal British Legion Club Ltd	50 Balvenie Street	Dufftown	AB55 4AS			160
Lossiemouth Indoor Sports & Social Club	Market Cross	Queens Lane	Lossiemouth	IV31 6DR		250
Hopeman Bowling Club	Forsyth Street	Hopeman	IV30 5SY			216
Keith Bowling club	Church Road	Keith	AB55 5BR			180
Bengal	5 Cluny	Buckie	AB56			40

Brasserie	Square					
Buckie Bowling Club	2 Low Street	Buckie	AB56 1UX			60
The Fochabers Cricket Social Club	Fochabers Cricket Social Club	Fochabers	IV32 7EH			150
Moray Bowling Club	The Greens	Seafield Street	Elgin	IV30 1QZ		120
Cullen Bowling and Tennis Club	Reidhaven Place	Cullen	AB56 4RN			200
Kiss	9 Cluny Square	Buckie	AB56 1AH			225
Royal British Legion Scotland (Forres Branch Club)	Sanquhar Road	Forres	IV36 1DG			200
Fochabers Bowling Club	16 Spey Street	Fochabers	IV32 7EH			70
Harbour Lights	5 Pitgaveny Quay	Lossiemouth	IV31 6TW			97
Grand Central	3 West Church Street	Buckie	AB56 1BN			140
Grand Central	3 West Church Street	Buckie	AB56 1BN			140
Benali Ltd T/As Akash Tandoori	31 West Church Street	Buckie	AB56 1BP			30
Barn Bistro and Steak House	Greenfields	Lhanbryde	Elgin	IV30 8LN		50
The Bothy	16 Grant Street	Burghead	Elgin	IV30 5UE		50
The Haven at Home Hardware	107-111 High Street	Forres	IV36 1AA			40
						16025

Premises Name	Premises Address	Premises Address 2	Premises Address 3	Premises Address 4	Premises Address 5	OP Capacity Off
Scotmid Morning Noon and Night	73 High Street	Fochabers	IV32 7DH			22.5
Miele's of Lossie	17 Clifton Road	Lossiemouth	IV31 6DJ			9.4
39 High Street	Fochabers	IV32 7DX				11.965

36 East Church Street	Buckie	AB56 1EX				27.15
Co-operative Group Limited	62 Glenmoray Drive	New Elgin	Elgin	IV30 3YA		107.64
12 Grant Street	Cullen	AB56 2RS				12.84568
Tesco Extra	Haugh Road/Alexandra Road	Elgin	IV30 1TY			246
Moray House	1 Trinity Road	Elgin	IV30 1UF			9.58
L & C McBain	40 Balvenie Street	Dufftown	AB55 4AS			17.35
The Buccaneer	66 Main Street	New Elgin	Elgin	IV30 6BH		50
Portgordon Stores	6 Station Road	Portgordon	Buckie	AB56 5RZ		9
Keystore	172 High Street	Forres	IV36 1QQ			42
McColls	Fleurs Place	Forres	IV36 1LX			12.5
Costcutter	19-21 Harbour Street	Hopeman	IV30 5SJ			5.56
A & K McKenzie	89-91 New Mill Road	Lesmurdie	Elgin	IV30 4AH		8.84
Visitors Centre	Macallan Distillery	Easter Elchies	Craigellachie	AB38 9RX		34.56
Duffus Village Shop and Post Office	1 Hopeman Road	Duffus	Elgin	IV30 5RR		1.09
Spar	16 St Pauls Street	Buckpool	Buckie	AB56 1EJ		12.5
Lidl UK GmbH (Store 1157)	10 East Cathcart Street	Buckie	AB56 1PJ			59.18
Alkowna	Burnside Road	Garmouth	IV32 7NY			0
Lidl UK GmbH (Store 1001)	Station Road	Elgin	IV30 1QW			55.51
Craigellachie Filling Station & Grocery Store	Hill Street	Craigellachie	AB38 9TB			4.38
Craigellachie Distillery	Hill Street	Aberlour	AB38 9ST			0
Burghead Post Office and Stores	49-53 Grant Street	Burghead	IV30 5TT			2.86

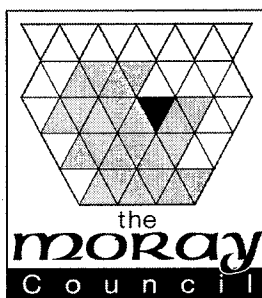
Co-operative Group Limited	Pansport Road	Elgin	IV30 1HE			15.005
Gordon and MacPhail	George House	Boroughbriggs Road	Elgin	IV30 1JY		1.05
Aultmore Distillery	Keith	AB55 6QY				0
The Co-operative Food	170 Mid Street	Keith	AB55 5BL			13.21
Aldi Stores Ltd	11 Trinity Place	Elgin	IV30 1VL			23.63
Spar Shop	21 Regent Street	Keith	AB55 5DY			35.87
C & W A Longmore	35 High Street	Rothes	AB38 7AU			3.5
McKenzie Newsagents Limited	60 Glenmoray Drive	New Elgin	Elgin	IV30 6YA		2.8
Elgin Minimarket	11 Commerce Street	Elgin	IV30 1BS			3.68
Balvenie Castle	PO Box 32	Dufftown	Keith	AB55 4YD		16.8
Phoenix Community Stores Ltd	The Park	Findhorn	Forres	IV36 3TZ		3.76
Keystore	11 Main Street	New Elgin	Elgin	IV30 6BH		10.18
Glen Grant Distillery	Elgin Road	Rothes	AB38 7BS			9.941
Co-operative Group Limited	52/56 High Street	Forres	IV36 0PF			33.75
Co-operative Group Limited	80 Queens Street	Lossiemouth	IV31 6PY			13.1376
Spar Shop	West Road Service Station	West Road	Elgin	IV30 1SA		0
Tesco Store	Moss Street	Keith	AB55 5HB			233.7
Marks and Spencer PLC	213-225 High Street	Elgin	IV30 1DJ			20.83
Co-operative Group Limited	91 High Street	Aberlour	AB38 9QB			18.98
Justerini & Brooks Limited	per Diageo distilling Limited	Strathmill Distillery	Keith	AB55 5DQ		97.784
Co-operative Group Limited	18 Fife Street	Dufftown	AB55 4AL			17

Premier Convenience Store	31 Reidhaven Square	Keith	AB55 5AB			7.05
Scotmid	9-11 Brander Street	Burghead	IV30 5UD			13.2
Scotmid	20-22 North Street	Bishopmill	Elgin	IV30 4EF		21.15
The Bonnie Earl Shop	Munro Place	Bishopmill	Elgin	IV30 4LL		2.97
Lhanbryde Post Office	32 St Andrews Road	Lhanbryde	Elgin	IV30 8NZ		9.27
McColls	11 St Andrew Square	Buckpool	Buckie	AB56 1BU		14.7
McColls	81 High Street	Forres	IV36 1AA			15.66
Costcutters	27 Morriston Road	Bishopmill	Elgin	IV30 4EB		8.65
The Buccaneer	Lossiemouth Road	Bishopmill	Elgin	IV30 4LF		41
Pricewise Service Station and Shop	Main Road	Mosstodloch	IV32 7JS			32
Scotmid	103-105 Milton Drive	Buckie	AB56 1NZ			15.9
Booker Limited	2 Chanonry Road South	Elgin	IV30 6NG			261.44
McColls	16/18 New Street	Rothies	Aberlour	AB38 7BQ		19.79
Asda Store	Edgar Road	Elgin	IV30 6YQ			196.28
Spar	Main Street	Abbeyview	Burghead	Kinloss	IV36 3TL	13.33
Ballindalloch Shop, Post Office & Filling Station	Ballindalloch	AB37 9AS				2.2
Dallas Dhu Distillery	Mannachie Road	Forres	IV36 2RR			31.05
Tomintoul Distillery	Ballindalloch	AB37 9AQ				0
Sheena's Shop Limited	5 Church Street	Portknockie	Buckie	AB56 4LN		1.6
The Portessie Shop Ltd	47 Samson Avenue	Buckie	AB56 1TR			2.81
Speyside Cooperage Visitors Centre	Dufftown Road	Craigellachie	Aberlour	Banffshire	AB38 9RS	5.94

Findhorn Village Store	114 Findhorn	Forres	IV36 3YJ			8.015
Spar Shop	Greshop Filling Station	Nairn Road	Forres	IV36 2EY		6.79
CSS Newsagents Limited	172 High Street	Elgin	IV30 1BD			2.61
Cullen Corner Shop	14-18 The Square	Cullen	Buckie	AB56 4RL		1.47
Scotmid	1 Thornhill Road	Elgin	IV30 6GR			23.1
Christies of Fochabers (Chemists) Ltd	62 High Street	Fochabers	IV32 7DU			0.62
Tesco Store	Nairn Road	Forres	IV36 2EY			101
The Whisky Castle and Highland Market	6 Main Street	Tomintoul	Ballindalloch	AB37 9EX		23.18
Co-operative Group Limited	Coulardbank Road	Lossiemouth	IV31 6ED			34.86
5 Seaview Road	Findochty	Banffshire	AB56 4QJ			7.3
Lidl UK GmbH (Store 1184)	18 West Road	Forres	IV36 2GW			48.49
The Spey Larder	96-98 High Street	Aberlour	AB38 9QA			5.31
Key Store	82 Mid Street	Keith	AB55 5AF			16.669
Inver House Distillers Ltd	Knockdhu Distillery	Knock	by Huntly	AB54 7LJ		2.8
Tesco	High Street	Buckie	AB56 4AD			150.2
BenRiach Distillery	by Elgin	IV30 8SJ				1.32
Home Bargains	Unit 2	Elgin Retail Park	Edgar Road	Elgin	IV30 6QY	17.6
						2504.34 228

Alcohol Focus Scotland Local Cost-Profiles

Authority	Total Cost £	Cost per head £
East Renfrewshire	19.13m	214
East Dunbartonshire	25.50m	244
Aberdeenshire	64.31m	262
Borders	30.50m	270
East Lothian	26.77m	275
Perth and Kinross	42.04m	284
South Lanarkshire	93.83m	301
Angus	33.46m	302
Dumfries and Galloway	44.87m	303
Orkney Islands	6.30m	313
Argyll and Bute	27.98m	314
Midlothian	27.14m	335
West Lothian	60.15m	349
Stirling	31.79m	354
Fife	130.62m	358
North Lanarkshire	116.75m	358
Falkirk	55.80m	364
South Ayrshire	41.77m	375
Eilean Siar	9.94m	379
Moray	33.31m	380
Highland	84.85m	383
Clackmananshire	19.55m	386
Shetland Islands	8.84m	395
East Ayrshire	47.63m	396
Renfrewshire	72.23m	424
North Ayrshire	58.60m	443
Inverclyde	35.40m	444
West Dunbartonshire	40.65m	449
Edinburgh City	221.28m	455
Dundee City	71.05m	492
Aberdeen City	120.92m	557
Glasgow City	364.79m	615



REPORT TO: THE MORAY LICENSING BOARD 3 OCTOBER 2013

SUBJECT: LICENSING BILL – FURTHER OPTIONS FOR ALCOHOL LICENSING

BY: CLERK TO THE BOARD

1. Reason for Report

1.1 The reason for this report is to update members as to legislative developments in connection with further options for alcohol licensing.

2. Recommendations

2.1 It is recommended that the Board note that the Scottish Government have proposed to implement changes to alcohol licensing in parliamentary session 2013-14 through the Licensing Bill.

3. Background

3.1 In December 2012, the Scottish Government issued their consultation on future provisions for alcohol licensing. Following this, at the meeting of the Board on 17 January 2013 (para. 7 of the minute refers), members were provided with details of this consultation. The Board agreed to remit consideration of the consultation to the policy sub group, which met on 14 February 2013.

3.2 At the meeting of the Board on 7 March 2013 (para. 9 of the minute refers), members were asked to endorse the views of the policy sub group, provide any additional views on the consultation and, as a Board, to provide the Clerk with instructions to respond to the Scottish Government. Members approved the comments prepared by the Depute Clerk. A copy of the consultation response, as approved, has been placed on the Member's Portal for the Board's information.

3.3 The Scottish Government took responses to this consultation from around the country and fed them into a licensing review process.

4. Progress

4.1 Following a statement by the First Minister on 3 September 2013, the Scottish Government published its 2013-14 Programme for Government, setting out the legislative priorities for the forthcoming year. Included in the programme

is a Licensing Bill, which the Scottish Government state will improve licensing in a range of areas to preserve public order and safety, reduce crime and advance public health.

- 4.2 It has been announced that the new Bill will introduce a new offence of supplying alcohol to under 18 year olds. As well as introducing changes to alcohol licensing, the Bill will:
- extend powers for local authorities in relation to the regulation of metal dealers;
 - add to the powers of local authorities in relation to taxi and private hire licensing;
 - establish new licensing regimes for air weapons; and
 - introduce legislation regarding sexual entertainment venues.
- 4.3 The Licensing Bill is still in its early stages and has not yet been formally introduced to Parliament. Further details of provisions that will be included in the Bill have not yet been announced.
- 4.4 The Board will be kept advised as to any developments regarding the Licensing Bill.

5. Implications

(a) **Single Outcome Agreement / Service Improvement Plan**

In the exercise of its functions under the Licensing (Scotland) Act 2005, the Licensing Board is to have regard to and promote the licensing objectives, which are:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The licensing objectives closely reflect some of the objectives of the Community Plan and are intended to promote community involvement and prevent the consumption of alcohol from being the source of nuisance, anti-social behaviour and harm. This is also true of the social inclusion and environmental aspects of the Corporate Plan.

(b) **Policy and Legal**

As far as is known, there are no further policy implications other than those expanded upon, above. As explained above, the full policy and legal implications of the Licensing Bill are yet to be published,

(c) **Financial Implications**

None.

(d) **Risk Implications**

None.

(e) **Staffing Implications**
None identified at this time.

(f) **Property**
None.

(g) **Equalities**
None identified at this time.

(h) **Consultations**
N/A.

6. **Conclusion**

6.1 **It is recommended that the Board note that the Scottish Government have proposed to implement changes to alcohol licensing in parliamentary session 2013-14 through a Licensing Bill. Further updates will be provided to the Board in due course.**

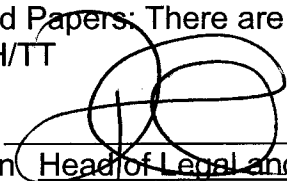
Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board
and Sonia Campbell, Trainee Solicitor

Background Papers: There are no background papers

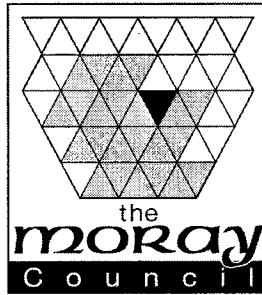
Ref: SAH/TT

Signature

Date


Designation Head of Legal and Democratic Services, Clerk to the Board

Name Rhona Gunn



ITEM: 7

PAGE: 1

REPORT TO: THE MORAY LICENSING BOARD 3 OCTOBER 2013

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – CHRISTMAS/NEW YEAR ARRANGEMENTS 2013/2014

BY: CLERK TO THE BOARD

1. Reason for Report

- 1.1 The reason for this report is to invite the Board to consider licensed premises opening hours for Christmas and New Year 2013/2014.

2. Recommendations

It is recommended that the Board :-

- 2.1 Agree the opening hours proposed for Christmas and New Year 2013/2014 at Appendix 1; and**
- 2.2 Determine whether the opening hours will be published by way of:**
- 2.2.1. Purely guidance as to what will be accepted for occasional licence and extended hours applications; or**
- 2.2.2. A general extension to licensing hours in accordance with the Board's power described in 3.3 and 3.4 below as well as guidance as to what will be accepted for occasional licence and extended hours applications.**
- 2.3 Instruct the Clerk to advise all licence holders of the agreed arrangement.**

3. Background

- 3.1 The Board considers annually the arrangements for the forthcoming Christmas/New Year period in relation to licensing hours.
- 3.2 Premises trade under a premises licence, which includes an operating plan. Within the operating plan it is possible for premises to detail seasonal opening hours that may be outwith their core operational hours. Applicants were reminded of this during the processing of their applications and, as a result, many premises may have allowed for seasonal opening hours already. Those

allowed would have been within the guidelines set by the Board in recent years.

- 3.3 Under section 67 of the Licensing (Scotland) Act 2005 the Board has the power to grant a general extension to licensing hours where it is considered appropriate to do so in connection with a special event of local or national significance. Christmas and New Year would be such an appropriate time. A general extension can be for such period as the Board may determine and can apply to:
- (a) the whole of the Licensing Board's area or only to specified parts of the area,
 - (b) licensed hours generally or only to specified descriptions of licensed hours, and
 - (c) all licensed premises in the Board's area or only to specified descriptions of such premises.
- 3.4 Upon making a general extension determination the Board must—
- (a) give notice of the determination to—
 - (i) the appropriate chief constable, and
 - (ii) the holders of premises licences and occasional licences in respect of premises to which the determination applies, and
 - (b) publicise it in such manner as the Board sees fit.
- 3.5 A general extension of hours does not require any licensed premises to be open for the sale of alcohol during the period of any extension of licensed hours specified i.e. there is no duty to trade to the extended hours.
- 3.6 A general extension would obviate the need for individual premises to apply for extended hours unless they wished to open outwith the terms of the general extension, in which case each application would be considered on its own merits. In determining an extended hours application the Board is to take into account any notice of objection from the police and/or any report from the Licensing Standards Officer.
- 3.7 In relation to unlicensed premises, or in respect of a function outwith a general extension of hours at a members' club subject to a premises licence, it will be necessary to apply for an occasional licence rather than extended hours. The processing and determination of an occasional licence application differs from that for an extension of hours. The application is sent to consultees and publicly advertised so that anyone can object or make representations on an occasional licence application. However if there are no objections or representations then the occasional licence must be granted.
4. **The Proposals**
- 4.1 It is proposed that the Board consider and approve the licensed premises opening hours as described in **Appendix 1** attached.

- 4.2 It is then proposed that the Board determine whether the hours will be granted by way of a general extension of hours in accordance with the Board's power or whether the same will be issued by way of guidance as to what will be accepted for occasional licence and extended hours applications.
- 4.3 It is proposed that the Board instruct the Clerk to publicise the arrangements in accordance with the Board's decision, both on the Board's website and in a newsletter to be issued to all licensed premises.
- 4.4 In the absence of a general extension of hours all licence holders seeking operating hours outside of those detailed in their operating plan will require to apply for extended hours. All non licensed premises (and premises licensed for members' clubs) could apply for occasional licences. In both cases the hours would simply be issued as a guideline for hours that would be deemed acceptable without further enquiry other than the usual consultations. It will remain the case that each application will need to be decided on it's own merits.

5. Implications

(a) **Single Outcome Agreement / Service Improvement Plan**

The licensing policy statement sets out how the Moray Licensing Board will exercise it's functions under the Licensing (Scotland) Act 2005 and promote the licensing objectives which are

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The licensing objectives closely reflect some of the objectives of the Community Plan and, therefore, judicious employment of licensing policy statement will promote community involvement and prevent the consumption of alcohol from being the source of nuisance, anti-social behaviour and harm. This is also true of the social inclusion and environmental aspects of the Corporate Plan.

(b) **Policy and Legal**

Legal implications have been explained above.

(c) **Financial Implications**

None

(d) **Risk Implications**

It is not believed that the extended hours will increase the risk of adverse impact on the licensing objectives despite the fact that this option bypasses the consultations which form part of the occasional/extended hours application process.

(e) **Staffing Implications**

Staff time would be saved by the granting of a general extension of hours as it will not be necessary to process as many extended hours applications.

(f) **Property**

None

(g) **Equalities**

There are no issues.

(h) **Consultations**

Consultation is not required.

6. **Conclusion**

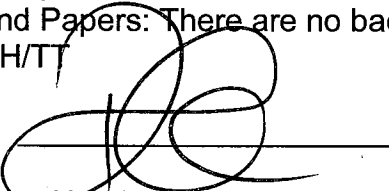
6.1 It is recommended that the Board agree the licensed premises opening hours proposed for Christmas and New Year 2013/2014 and determine whether the hours will be published by way of purely guidance as to what will be accepted for occasional licence and extended hours applications or as a general extension to licensing hours.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers: There are no background papers

Ref: SAH/TJ

Signature



Date:

24/9/13

Designation Head of Legal and Democratic Services, Clerk to the Board

Name

Rhona Gunn

LICENSING (SCOTLAND) ACT 2005
FESTIVE SEASON ARRANGEMENTS – 2013/2014

All Premises

Licensing hours as per the operating plan for the individual premises (whether within the core hours or the seasonal hours or both) or as per the general extension whichever is the later i.e.

- Where the operating plan (within core hours and/or seasonal hours) allows for later hours than those within the general extension then the operating plan will take precedence.
- Where the operating plan (within core hours and/or seasonal hours) does not allow for hours as late as those detailed within the general extension then the premises may continue to (but would not be forced to) trade to the terminal hour(s) detailed in the general extension (rather than the hour(s) in the operating plan) without the need for an extended hours application.

This general extension of hours applies to the sale of alcohol for consumption ON the premises only. Off sales must remain within the hours 10.00am to 10.00pm.

Christmas General Extension

Applicable to: All Premises
Extension: 24 December 2013 – until 1.30am
25 December 2013 – until 1.30am

Festive Period General Extension

Applicable to: All Premises
Extension: 26 December 2013 - until 1.30am
27 December 2013 - until 1.30am
28 December 2013 - until 1.30am
29 December 2013 - until 1.30am
30 December 2013 - until 1.30am

New Year General Extension

Applicable to: All Premises
Extension: 31 December 2013 - until 3.00am
1 January 2014 - until 3.00am
2 January 2014 - until 3.00am

Notes: -

Applications for beyond the times stated above on these dates will still be considered on their merits.

Extended hours applications in respect of hours that are not covered by either the applicant's operating plan or the general extension period AND occasional licence applications :-

- (1) 24 & 25 December 2013 – may be submitted on one application form with a fee of only £10.00
- (2) 26 to 30 December 2013 – may be submitted on one application form with a fee of only £10.00
- (3) 31 December 2013 and 1 & 2 January 2014 – may be submitted on one application form with a fee of only £10.00

Applications by licensed premises for extended hours and applications for occasional licences between 24 and 31 December 2013 and 1 and 2 January 2014 will not require to state a specific event for which the extension is required other than "festive opening".

All applications for occasional licences and extended hours for the festive period require to be lodged with the Clerk to the Licensing Board at least four weeks before the events stipulated in the application and the last lodging date for applications will be **22 November 2013.**

Please note that due to the processing times set by the Licensing (Scotland) Act 2005 applications must be submitted by this date in order to be processed in time for festive events.

Application forms may be obtained:

- From the Moray Council website at www.moray.gov.uk/licensing OR
- From the Moray Council Access Points OR
- By contacting:
Address – Council Office, High Street, Elgin, IV30 1BX
Telephone – 01343 563637
Fax – 01343 563221
DX – 520666
E-mail – licensing@moray.gov.uk

Conditions for All Late Opening Premises i.e. Open Past 1.00am

All premises opening past 1am will need a first aider trained to the satisfaction of the Moray Licensing Board from 1am until closure or 5am, whichever is earlier.

Guidance has previously been issued to all licence holders on what is an acceptable level of first aid training.

All premises opening past 1.30am will be subject to the Board's curfew. That condition is :

"The premises will be subject to a curfew at any time when the premises will open after 01:30 (1:30am), including seasonal variations. A curfew will apply at 00:30 (12:30am) such that the premises must deny entry to patrons after 00:30, including re-entry to those patrons that leave the licensed area of the premises for any reason after 00:30."

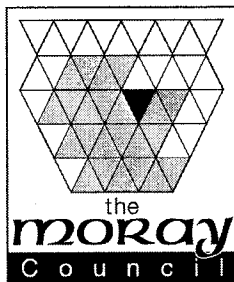
Conditions for Certain Late Opening Premises i.e. Open Past 1.00am

Additional conditions will apply to certain premises (unless exempt) where the capacity is at least 250 people and which–

- (a) will regularly provide at any time in the period between 1:00 am and 5:00 am–
- (i) live or recorded music with a decibel level exceeding 85dB;
 - (ii) facilities for dancing; or
 - (iii) adult entertainment; or
- (b) when fully occupied, are likely to have more customers standing than seated.

Where the above criteria are met then those premises will also be subject to the following conditions past 1.00am :

- A designated person who is the holder of a personal licence must be present on the premises from 1:00 am until closure or 5am, whichever is earlier
- There must be written policies in existence concerning the evacuation of the premises and the prevention of the misuse of drugs on the premises.
- A CCTV system must be installed on the premises to the satisfaction of the appropriate chief constable and must be kept in good working order.
- There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
- A person who holds a licence granted under section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 1:00 am until closure or 5am, whichever is earlier.



REPORT TO: THE MORAY LICENSING BOARD 3 OCTOBER 2013

**SUBJECT: THE MORAY COUNCIL AND MORAY LICENSING BOARD
RECORDS MANAGEMENT PLAN 2013**

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

- 1.1 The reason for this report is to present members with a draft Records Management Plan (RMP) for the Moray Council and Moray Licensing Board 2013 within the timescales set by the Keeper of the Registers of Scotland.

2. RECOMMENDATION

2.1 It is recommended that the Board:

- 2.1.1 Approve The Moray Council and Moray Licensing Board RMP 2013 in its current draft;**
- 2.1.2 Note and agree that the draft will be subject to further amendment by the Records Manager and/or the Depute Clerk and approval by the Clerk;**
- 2.1.3 Note that the final draft will be submitted to the Keeper of the Registers of Scotland for approval and then published in accordance with para 3.8 below.**

3. BACKGROUND

- 3.1 The Public Records (Scotland) Act 2011 makes the public bodies listed, including Councils and Licensing Boards, subject to a duty to prepare a records management plan, setting out the arrangements for the management of records, and to submit the plan to the Keeper of the Registers of Scotland for approval.
- 3.2 The Keeper issued the Licensing Board with an Invitation to Submit the Board's plan for approval in a letter dated 21 March 2013. In this letter, the Keeper issued a submission date of no later than 26 November 2013.
- 3.3 In the report to the Licensing Board of 7 March 2013 on the duty to prepare a Records Management Plan, members were informed that the Keeper had advised the Depute Clerk that whilst licensing boards could submit plans separate to local authorities, they fully expected local authorities to include boards within their RMPs. The Keeper noted that the Act allows for this under section 1(9) of the Public Records (Scotland) Act 2011 and regarded this as a way of preventing duplication and of minimising burdens. In view of these comments, it was seen to be prudent to join with the Council's RMP.

- 3.4 At the meeting of the Licensing Board on 7 March 2013 (Paragraph 12 of the minute of the meeting refers) members agreed to:
- 3.4.1 join with the Council in developing, publishing and implementing a records management plan to comply with the Board's duty as a named authority under the the Public Records (Scotland) Act 2011; and
 - 3.4.2 instruct the Depute Clerk to liaise with the Council's Records Manager to develop the records management plan across both the Council and the Licensing Board and report back on progress at a subsequent meeting of the Board.
- 3.5 The Council's Records Manager has taken the lead and is still in the process of preparing a draft plan for the Council and Licensing Board, as agreed. The draft RMP as it stands is near completion and the draft is at **Appendix I**. The RMP still requires some minor amendments in order to be finalised and then appendices will be attached.
- 3.6 There will not be time to report again on progress to members and as such members are asked to note and agree that there will be further minor changes made by officers.
- 3.7 When ready, the RMP will then be submitted to the Keeper for approval before the deadline. Members are also asked to note that there may also be further amendments required by the Keeper before final publication.
- 3.8 The scheme will then be published on the Council's web pages with a link from the Board's web pages.

4. SUMMARY OF IMPLICATIONS

- (a) **Council/Community Planning Priorities**
No specific implications.
- (b) **Policy and Legal**
The proposals will assist in meeting the duties under the Public Records (Scotland) Act 2011.
- (c) **Financial implications**
There are no specific financial implications arising from this report. Financial impact in terms of staff time is minimised by joining in with the Council's RMP.
- (d) **Risk Implications**
There is a risk that if the RMC is not published on time then the matter will be reviewed by the Keeper of the Registers of Scotland with a view to compliance action.

- (e) **Staffing Implications**
As with financial implications. Requirements have been met within current resources.
- (f) **Property**
There are no implications on property arising from this report.
- (g) **Equalities**
No implications.
- (h) **Consultations**
Consultation is not required.

5. **CONCLUSION**

- 5.1 **The Board is asked to approve The Moray Council and Moray Licensing Board RMP 2013 in draft ahead of final amendments/additions and submission to the Keeper of the Registers of Scotland for approval.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board and Sonia Campbell, Trainee Solicitor

Background Papers: There are no background papers

Ref: SAH/TT

Signature

Date

26/9/13

Designation Head of Legal and Democratic Services, Clerk to the Board

Name Rhona Gunn

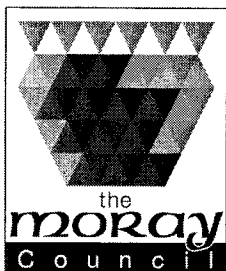
The Moray Council

And Moray Council Licensing Board

Records Management Plan

2013

DRAFT



Document Control Sheet

Name of Document:	The Moray Council Records Management Plan 2013
Author:	Eleanor Rowe, Records Manager
Description of Content:	Records Management plan, covering 14 elements as required under the Public Records Scotland Act. To be submitted to the Registrar General and Keeper of the Records of Scotland.
Distribution:	Council wide upon approval
Embargoed	Until approved by the National Records of Scotland as required by the Public Records Scotland Act
Status:	Version 0.1 Draft
Date of Submission to NRS	
Date of approval by Keeper of the Records of Scotland	
Approved by CMT	
Date of Approval	
Revision date	

The Moray Council Records Management Plan (RMP) 2013

The Public Records (Scotland) Act 2011 (PRSA)

Introduction to the Act

Under the Public Records (Scotland) Act 2011 (“the Act”) Scottish public authorities must produce and submit a records management plan (“RMP”) setting out proper arrangements for the management of an authority’s public records to the Keeper of the Records of Scotland (“the Keeper”) for his agreement under section 1 of the Act.

The Act came into force in January 2013.

The Moray Council records management plan is based on the model provided by the National Records of Scotland and covers the 14 elements required in this plan plus some elements of particular importance to the Council.

It is important to note that establishing effective records management arrangements will deliver significant benefits for the Council including:-

- Increasing efficiency and effectiveness, delivering savings in administration costs
- Improving, supporting and developing service delivery
- Ensuring legislative compliance with the Public Records (Scotland) Act 2011 and other legislative requirements, standards and codes of conduct
- Support transparency and open government

The Act specifically requires a public authority to include certain information within its records management plan:

An authority’s records management plan must identify:-

- (i) the individual who is responsible for management of the authority’s public records,
- (ii) (if different) the individual who is responsible for ensuring compliance with the plan

An authority’s records management plan must include provision for:-

- (i) the procedures to be followed in managing the authority’s public records,
- (ii) maintaining the security of information contained in the authority’s public records
- (iii) the archiving and destruction or other disposal of the authority’s public records.

Records Management

The aims of records management in the Council are to ensure that:

- The business of the Council is adequately documented to meet operational needs, accountability and statutory requirements and community expectations through effective policies and procedures for creating, managing, and disposing records.
- Corporate records are adequately identified and described so that they can be appropriately managed, retrieved and stored throughout their life cycle; and that subsequent disposal, by archiving or destruction, should be in accordance with fully documented and approved corporate retention schedules.

The Council will manage its records by:

- creating reliable, accurate, up to date information
- ensuring that personal, sensitive and confidential information is held securely according to legislation
- ensuring records are disposed of by destruction or archiving according to the Records Retention and Disposal Schedule
- records are fit for purpose and meet current and future administrative, regulatory and legislative needs and support the council in its day to day business and future aims
- ensuring business critical records are identified and preserved ensuring protection of vital information and ensuring business continuity
- identifying records to be permanently preserved in the council archives.
- records are kept which will provide evidence of business and cultural activities

Maintaining efficient and accurate records will help the Council to meet its statutory objectives and overall business responsibilities. Good records management will benefit the Council by:

- ensuring compliance with all relevant legislation thereby reducing the risk of being issued with enforcement notices or court fines
- ensuring information is held securely and accessed appropriately
- ensuring information is retained as appropriate in accordance with data protection and freedom of information legislation and disposed of according to agreed retention schedules
- allowing staff to adopt modern, efficient methods of working
- achieving standardisation in record keeping across the council to support continuity and consistency in practices across the Council
- supporting the streamlining of processes across the council
- allowing staff to work across different services
- saving once and sharing many times as appropriate
- supporting digitisation and workflow
- reducing the amount of storage space for paper records and server space for electronic records
- enabling staff to find information easily
- enabling staff to share information with confidence with appropriate security levels applied
- enabling all staff to make informed decisions in good time using approved, good quality data and information

- providing an audit trail to meet service users, business, regulatory and legal requirements
- protecting the rights of employees, companies with whom the council does business and the general public by keeping accurate, up to date, reliable information
- duplication of records is avoided
- digital continuity, future proofing and migration of records is done according to the best current available practices
- vital records are identified to ensure business continuity
- maintaining professional standards

A record is recorded information, in any form, created or received and maintained by the council in the transaction of business or the conduct of affairs and kept as evidence of such activity. Records include charters, deeds, legal documents, minutes, reports, accounts, agreements, licenses, registers, project work, pupil, client and staff files etc.

For the purposes of the Council, a record is recorded information that has been created or received by the Council in the regular course of its business activities or in the pursuance of legal transactions.

As such all records are the property of the Council and not of the employee, agent, or contractor. This applies regardless of the physical location of the record, or whether it is held in off-site storage, in a computer or within a service provider's system.

Public records are records created by public authorities, e.g. a local authority, in the course of conducting its business. Records are created and kept as evidence of transactions, to satisfy statutory and regulatory requirements, to facilitate good business administration, to document decisions for current and future knowledge, and for accountability.

Records Management is a corporate function within the council, and brings together responsibilities for all records held by the council, from creation through to disposition.

Records Management is concerned with the systematic creation, capture, storage and retrieval of records throughout their lifecycle. Records are dynamic and can move from being active to semi-active, and sometimes by moving from being semi-active to being active again.

The Moray Council Records Management Plan

The plan applies to all records in whatever format, paper or digital, including email, cctv and digital media however or wherever the information is stored and irrespective of the type of information created and retained.

The plan applies to the council and to its partners and third party service suppliers. It applies whether services are delivered in-house, through partnership arrangements or contracted out.

The plan includes the records of the Moray Licensing Board – any special arrangements in place are noted in the plan, including responsible personnel.

The Model Records Management Plan has 14 elements. The Keeper expects each of these elements to be addressed in a RMP submitted by an authority.

1. Senior management responsibility
2. Records manager responsibility
3. Records management policy statement
4. Business classification
5. Retention schedules
6. Destruction arrangements
7. Archiving and transfer arrangements
8. Information security
9. Data protection
10. Business continuity and vital records
11. Audit trail
12. Competency framework for records management staff
13. Assessment and review
14. Shared information

Additional elements relevant to the Moray Council records management plan have been added:-

15. Digital continuity
16. Legal admissibility
17. Standards

Element 1. Senior Management Responsibility

It is vital that the records management plan has the backing of senior management.

The person with overall responsibility for records management is:-

Roderick Burns, Chief Executive of The Moray Council

The person with specific responsibility for the Licensing Board is:-

Rhona Gunn, Head of Legal and Democratic Services, Clerk to the Licensing Board

Evidence

Appendix 1 – Letter of Support from the Chief Executive

Appendix 2 – Letter of Support from the Clerk to the Licensing Board

Element 2. Records Management Responsibility

It is essential that a member of staff has corporate responsibility for the implementation of the Records Management Plan

The person with corporate responsibility for records management for the Moray Council is:-

Records Manager: Eleanor Rowe

Evidence

Appendix 3 – Job Description of the Records Manager

Element 3. Records Management Policy and Records & Information Strategy document.

The council has had a records management policy and strategy in place since 2006. These were approved by the Full Council of the Moray Council on 18th January 2006. The policy has now been revised and the Records & Information Management strategy document now includes reference to information management to bring these elements into one document. This has been important with the introduction of a corporate EDRMS and the move away from paper towards the electronic Record.

The documents appear on the council staff intranet and also on the internet under Information Management.

Evidence

Appendix 4 – Records Management Policy

Appendix 5 – Records & Information Management Strategy

Appendix 6 – Records Management Handbook

Element 4. Moray Council Classification Scheme

A business classification scheme is a hierarchical representation of the business activity performed by the Council. It maps the functions of the Council to determine what classes of records are being created. This process allows the council to make good retention and disposal decisions and also ensures appropriate security and access permissions are granted. It also ensures compliance with the legal requirements to safeguard personal, sensitive and confidential information.

Identifying records and business information by functions and activities, rather than by their provenance or subject matter, is a more stable method of classification. While the structure of an organisation may change many times, the functions an organisation carries out usually remain much the same over time.

Level 1/Function – This is starting point for users to commence navigation at library level to find their documents. At this level all documents you have permissions for can be viewed.

Level 2/Activity – This is the 2nd level of navigation and filtering whereby users can now view documents that link to the activity only.

Level 3/Transactions – This 3rd level of navigation is further filtering whereby users can now view their working processes and documents.

Moray Council classification scheme is based on the Local Government classification scheme and other esd toolkits. The classification scheme is being used in the development and implementation of the corporate EDRMS – SharePoint 2010 and is a work in progress as the system has not yet been rolled out across the whole council. It is not currently used in other electronic systems or shared drives.

Evidence

Appendix xx – draft classification scheme

Appendix xx – Naming Conventions and version control

5. Retention and disposal schedules

The Council have a retention and disposal schedule in place. It was created with discussions with services about their professional, legal, audit and business requirements and with reference to existing guidance. The retention schedule was used as one of the reference guides for the Scottish Council for Archives generic retention and disposal schedules.

It is on the council intranet under Reference/Records Management and is used by staff particularly with reference to paper records.

It is currently undergoing a comprehensive review as in future Records will be stored and managed in the corporate EDRMS which handles retention and disposal using workflow.

The introduction of a central corporate scanning unit means that in future paper will only be retained for xx months according to the service level agreements and will be destroyed at this time once quality assurance checks have been undertaken. The scanning is done to the standard required for legal evidence. Where services have a requirement to retain the paper for legal, audit or business purposes this is noted in the agreement.

Evidence

Appendix xx – Council Retention and Disposal Schedule

Appendix xx – example of the EDRMS retention and disposal schedule – under development

Appendix xx – Scanning guidelines

Appendix xx – Example of a service level agreement

Element 6. Disposal (destruction) arrangements

The council have had a corporate confidential paper waste destruction contract in place since 2008. The contract is held by Shred-it, Scotland Ltd.

The contract is also used to dispose of computer disks as required.

The contract operates by regular collections from consoles at key points within offices and also by ad hoc purges as required.

The corporate EDRMS deletes records from the records centre when they reach their destruction date.

Other electronic systems rely on staff to manually apply retention.

Evidence

Appendix xx - Identification of and Secure Disposal of Confidential, Personal, Sensitive and Commercially Sensitive Records

Appendix xx - Shred-it disposal certificate

Shred-it website:- <http://www.shredit.co.uk/Edinburgh/Home.aspx>

Element 7. Archiving policy and transfer arrangements, plus details of existing archiving arrangements

The Council records retention schedule states which records are to be archived and which are to be sampled for review by the records manager. In addition the council have in place a suite of guidance on archival appraisal, collecting policy, deposit forms and advice to depositors, preservation and disaster management. The council uses the Adlib software to accession and receipt new accessions.

The council have a draft migration policy under consideration for the future proofing and migration of records including those with long or permanent retentions for the corporate EDRMS.

The council have both a corporate paper closed records store and an archive and local heritage store.

Staff are alert to the importance of historic records and will refer items to the records manager for appraisal before destruction.

Evidence

Appendix xx - Archive collecting policy

Appendix xx – Review for Archives, Appraisal Policy

Appendix xx – Deposit Form

Appendix xx – Depositor Advice

Appendix xx – Preservation Policy

Appendix xx – Archive Store – Emergency Response Plan

Appendix xx – Local Heritage Centre – Emergency Response Plan

Appendix xx – Training Notes – Adlib Accessioning

Appendix xx – Training Notes – Adlib Cataloguing

Element 8. Information security policy

The Council have an Information Assurance Group which consists of the Head of HR & ICT, the Records Manager, ICT Information Security Officer, Legal representative with special responsibility for Data Protection.

There is a portal on the council intranet under Information Security which pulls together all advice on Information assurance and records management for staff.

The Council have an ICT Information Security Policy.

The Council have a clear desk policy in line with the new flexible and mobile ways of working.

The council use Active Directory to control security and access permissions.

The EDRMS has strict rules around access and security permissions and an Access Control Policy is in place for this system.

Please also see Appendix 8 - Identification of and Secure Disposal of Confidential, Personal, Sensitive and Commercially Sensitive Records

Evidence

Appendix xx – ICT Information Security Policy

Appendix xx– Clear Desk Policy guidelines

Appendix xx – EDRMS Access Control Policy

9. Data protection policy

The council have Data Protection guidance for both staff and the public on the intranet under Information Management.

The information is also available to staff on the intranet under Data Protection and Information Security.

Posters reminding staff of their responsibilities are displayed and the intranet is used to remind staff of their responsibilities. Team briefings have also been used

A training presentation is also available for staff on the intranet. This is under development with the Employee Development Unit who are procuring an online training package to enhance the delivery of training such as this which is required for all staff.

Evidence

Internet page – Information Management

http://www.moray.gov.uk/moray_standard/page_41179.html

Intranet notice

Intranet Information Security site

Data Protection Guidelines

Information Assurance poster

Clear Desk Policy

Privacy Notice

Third party sharing guidelines

Data subject access request form

Data breach management guidelines

Team Brief on information security


Data protection training powerpoint

Element 10. Business continuity plan, including vital records policy

Through the process of Business Impact Analysis the Council has identified critical functions and service managers have identified key information required for the continuity of service delivery. Service managers then put in place arrangements to ensure that this information can be accessed during any disruptive incident. This is written up as the Council Business Continuity Plan.

Services were asked to identify critical and vital records as part of the business impact analysis.

Co-ordination of emergency planning across the three local authorities in Grampian is delivered jointly by a joint team: Grampian Emergency Planning Unit. An Emergency Planning Officer is based in Elgin.

As emergency situations arise, other Council officers are brought in to co-ordinate the Council's response and to provide expert advice and assistance. The arrangements to detailing the Council's response to the effects of major emergencies whatever their cause is contained within Emergency Planning Policy & Procedures  (82 pages, 622 KB)

The corporate EDRMS has been set up to ensure that it is regularly backed up, supported and is mirrored so that in the event of failure no data will be lost.

Evidence

Internet – Business Continuity

http://www.moray.gov.uk/moray_standard/page_57166.html

Intranet

Appendix XXX Business Continuity Policy

http://www.moray.gov.uk/moray_standard/page_57166.html

Internet – Emergency Planning

http://www.moray.gov.uk/moray_standard/page_75665.html

See Appendix xx & xx re disaster planning for the archives and local heritage service

Appendix XX – Emergency Response Plan – Closed Records Store
Appendix XX - Evidence required re build and security of EDRMS build

Element 11. Audit Trail

Paper records held in the corporate closed records are tracked from request to retrieval to return. This tracking system will be transferred to the EDRMS.

Current records are being centralised and their retrieval done by the customer services team. Services use the corporate EDRMS to request the files required which generates and automatic email and populates the master control sheet. Returned items are automatically removed from the sheet and maintained in an historic record for audit purposes.

Archive records are requested via the Local Heritage Staff using a standard request form. This is passed to the delivery staff who collect the archives from the outstore. Handling guidelines have been produced to ensure good practice in the handling of the archives. A spreadsheet is maintained to keep track of retrievals and returns and to provide statistics re usage.

Electronic systems audit creation and modification of records.

Evidence

Appendix XXX – Closed record request procedures
Appendix XXX – closed records request form
Appendix XXX- Screen shot showing request log for current paper files.
Appendix XXX – Request form
Appendix XXX – Screenshot of tracking spreadsheet

Not sure – assume same as council – check with Lorraine re retrieval

12. Competency framework for records management staff

The Records Manager is a fully qualified archivist and records manager and is a member of the Information and Records Management Society (IRMS) and a registered member of the Archives and Records Association (ARA); the Records Manager is currently on the committee of IRMS Scotland and is secretary of ARA Scotland.

There is only one member of staff responsible for records management with no dedicated budget.

Records management training for staff is currently being developed with the Employee Development Unit. The EDU are currently procuring an online training system which will enhance delivery of training to all staff.

Records Manager: Eleanor Rowe

The Records Manager sits within the Education and Social Care Service under Libraries.

The Records Administrator is currently seconded to the Records Manager, from Legal & Democratic Services, to assist with the management of the corporate paper closed records. The Record Administrator is line managed by Legal Services Manager - Property & Contracts.

The Records Administrator is responsible for managing the records of the Licensing Board.

Records Administrator: Lorraine Clayton

Please see Appendix XX for the Records Manager's job description
See Appendix XXX – screenshot of guidance on RM available for staff
See Appendix XXX for draft RM training programme
Appendix XX – Job Description of the Records Officer

13. Assessment and review procedures

Each of the policies, procedures and guidance have been produced to promote good records management practice across the council and to ensure a consistent approach to managing records. Guidelines and policies have involved consultation with relevant staff including ICT, Legal services and users.

The guidance and information has been made available to all staff via the intranet and will be enhanced once the EDRMS has been fully implemented with an information management library of documents.

Any information produced must be updated in line with new legislation and to keep abreast of changes in theory, practice and technology.

The same is true of training and career professional development.

Information has been updated to reflect the introduction of the PRSA.

However, the Council has no formal procedures in place for the review or monitoring of policies and plans.

Evidence

Please refer to Appendix XXX – screenshot of policies developed

Element 14: Shared Information

The Council have many information sharing protocols in place mainly around the areas of children and adult care. The protocols are drafted and maintained by Legal Services.

The Council have information on the intranet about sharing information under Data Protection and also guidance on when it is appropriate to share with a third party.

It is recognised that training should be provided on sharing information and the Council will be looking to develop this during 2013 – 2014.

The Government are introducing the Public Services Network which will supersede the GSX and with this change the accreditation process has moved to a zero tolerance model. The Council are working towards accreditation to ensure the continuation of access to the secure network. This will allow the council to continue to share information over a secure network with approved data sharing partners.

Licensing have a statutory mandate to consult certain parties in respect of certain applications including public advertisement on the website.

The Council have an approved publication scheme under the requirements of FOISA and are looking at compliance for datasets.

Evidence

15. Digital Continuity

It is realised that the reliance of the Council's business on electronic records can only increase. With the introduction of a central scanning unit and the introduction of a corporate EDRMs the council is moving towards the Record being the Digital Record.

Once declared a record the information will be stored in a format which cannot be edited or altered and which is capable of future migration and to ensure, as far as is possible, that it remains readable and usable. The format recommended for this purpose is pdf-A. [ISO 19005]

In order to move forward toward reliable retention of electronic records while they are current, semi-current and held for long-term preservation and to ensure their future legal admissibility, an electronic preservation strategy must be developed, which will:

- Determine compatibility across the Council
- Define appropriate levels of access to information
- Enable records in an electronic format to be kept for long-term retention to meet administrative, statutory and historical needs
- Prevent the loss of records caused by media deterioration and obsolescence
- Ensure that records and their contextual metadata are stored in such a way as to prevent future modification or deletion by users

- Preserve data and metadata in a format that is independent of proprietary hard and software

Once a system is obsolete all records that are to be preserved should be migrated to a new system or medium capable of storing, retrieving and allowing them to be understood, to ensure that the record remains useable over time.

Records should be stored on media that ensure their usability, reliability, authenticity and preservation for as long as they are needed. This may involve migration to different software or formats, when existing software become obsolete or damaged. When information has been migrated from one media to another evidence of this should be kept along with details of any variation in design and format.

16. Legal Compliance and Admissibility

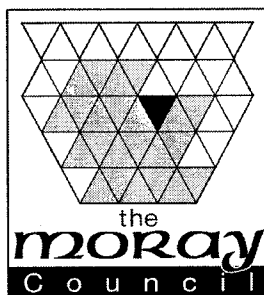
Records Management is important to ensure that in its record creation, storage, access, security, sharing of information the council are compliant with legislation thereby reducing the risk of being issued with enforcement notices or court fines

Records Management will monitor the Council's compliance with good records management practices and to ensure effective and consistent record keeping across the Council. Where it is found that the requirements of the policy are not being met, this will be reported to the appropriate director so that remedial action can be taken.

It is important as the council moves towards the electronic version being the Record that scanning and record management is done to legal evidential standards to ensure that electronic information is acceptable in court

17. Standards

The Council will use British and International Standards to support good records management practices.



ITEM: 9

PAGE: 1

REPORT TO: THE MORAY LICENSING BOARD 3 OCTOBER 2013

SUBJECT: PRIMARY AUTHORITY ARRANGEMENTS FOR DEVOLVED MATTERS IN SCOTLAND

BY: CLERK TO THE BOARD

1. Reason for Report

1.1 This report is to

1.1.1 Update members as to Scottish Government proposals to amend the Regulatory Reform (Scotland) Bill to include provisions that mirror those in England & Wales for what are known as "Primary Authority arrangements" (more particularly explained in para 3.3 below); and

1.1.2 Highlight matters raised in the response to the proposals by the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) Licensing Group.

2. Recommendations

2.1 It is recommended that the Board note the proposed amendments to the Regulatory Reform (Scotland) Bill regarding Primary Authority Arrangements.

3. Background

3.1 The Regulatory Reform (Scotland) Bill was drafted to improve the way regulation is applied in practice across Scotland and is currently progressing through the Scottish Parliament. It is designed to increase consistency of approach across authorities and reduce red tape.

3.2 The 2012 Scottish Government consultation on the Bill highlighted the omission of some equivalent of UK Primary Authority Partnerships in the context of Scottish regulation.

3.3 Therefore, in June 2013, the Scottish Government published its consultation on Primary Authority Arrangements. The consultation document has been placed on the Member's portal for the Board's information.

3.4 Unfortunately the consultation was not forwarded to licensing clerks until mid August. As the consultation was only open for responses until 23 August

2013, it was not possible to report to the Board prior to closure of the consultation.

3.5 Primary Authority arrangements were established by the UK Government under the Regulatory Enforcement and Sanctions Act 2008 and have been in operation in England and Wales – and, in relation to reserved matters, in Scotland – since 2009. The UK's Primary Authority arrangements allow businesses to form a partnership with one local authority in order to receive support in relation to regulatory matters as below.

3.6 The three ways businesses are assisted by a UK Primary Authority are described by the Government as follows:

- **Assured advice**

The primary authority provides the business with assured advice on fulfilling its regulatory obligations. This advice must also be followed by other local authorities where the business operates in order to ensure consistency for the business.

- **Co-ordinating enforcement action**

The primary authority co-ordinates enforcement action proposed against the business, again providing the business with a single point of contact and a consistent approach to enforcement. Proposed enforcement action in any area must initially be notified to the primary authority for approval.

- **Inspection plans**

Business can also work together with their chosen primary authority to develop an inspection plan, agreeing on national priorities for the inspection of the business.

3.7 The Primary Authority carries out the above functions for a business for which it is primary authority regardless of where the business is taking place. Primary Authority arrangements allow a business to form a partnership with one local authority in order to receive tailored support in relation to a range of regulatory activities.

4. **Progress**

4.1 On 29 August 2013, a response to the consultation was submitted by the SOLAR Licensing Group. A copy of the response has been placed on the Member's portal for the Board's information.

4.2 SOLAR is a society of local authority lawyers and administrators in Scotland who confer on all matters affecting local government to promote sound administrative and legal practice within Scottish local authorities. As a specialist group, the SOLAR Licensing Forum had been granted a short extension to respond to the consultation on behalf of licensing clerks in general.

4.3 The SOLAR group have expressed concerns both about the way the consultation has been handled and about the proposals themselves.

Concerns in relation to Primary Authority Arrangements were laid out broadly under the three consultation headings as follows:

- **Assured advice**

SOLAR argued that no one Primary Authority would be able to provide assured advice accurately across Licensing Board areas, because of the wide variance in licensing policies throughout Scotland. SOLAR also noted and supported the importance of administration of licensing at a local level.

- **Co-ordinating enforcement action**

SOLAR indicated that Licensing Authorities and Licensing Boards in Scotland are mainly concerned with compliance rather than 'enforcement', with enforcement being a matter for the police. It was noted that given the wide range of approaches across the country in relation to compliance and enforcement, reflecting local issues, SOLAR did not see it appropriate to address the same within the Primary Authority framework.

- **Inspection plans**

SOLAR did not believe that inspection plans could be regulated nationally under a Primary Authority arrangement. In addition, the requirement for local Licensing Standards Officers placed local emphasis on inspections and it was not seen as necessary for additional inspections to be agreed nationally.

4.4 The SOLAR response also noted that:

4.4.1. The financial implications of the introduction of the Primary Authority arrangements would be costly to local authorities at a time of budgetary constraints.

4.4.2. The UK Government excluded the Licensing Act 2003 and the Gambling Act 2005 from its Primary Authority Scheme based on consideration of similar arguments.

4.5 It is the Scottish Government's stated intention to develop a new Primary Authority model for Scotland. The Scottish Government aims to issue a report on the consultation by the end of 2013. The Board will be informed of developments regarding Primary Authority Arrangements in due course.

5. **Implications**

(a) **Single Outcome Agreement / Service Improvement Plan**

In the exercise of its functions under the Licensing (Scotland) Act 2005, the Licensing Board is to have regard to and promote the licensing objectives, which are:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The licensing objectives closely reflect some of the objectives of the Community Plan and are intended to promote community involvement and prevent the consumption of alcohol from being the source of nuisance, anti-social behaviour and harm. This is also true of the social inclusion and environmental aspects of the Corporate Plan.

(b) Policy and Legal

None.

(c) Financial Implications

None.

(d) Risk Implications

None.

(e) Staffing Implications

None identified at this time.

(f) Property

None.

(g) Equalities

Under a Primary Authority structure there would be a risk that some businesses would be treated more favourably than others.

(h) Consultations

The consultation period in relation to Primary Authority arrangements has expired. The SOLAR licensing group responded to the consultation.

6. Conclusion

6.1 It is recommended that the Board note the proposed amendments to the Regulatory Reform (Scotland) Bill regarding Primary Authority Arrangements.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board
and Sonia Campbell, Trainee Solicitor

Background Papers: There are no background papers

Ref: SAH/TT

Signature

Date

Designation Head of Legal and Democratic Services, Clerk to the Board

Name Rhona Gunn