

# CONSULTATION ON DRAFT STATEMENT OF LICENSING POLICY 2020

## TABLE OF RESPONSES AND SUGGESTED ACTIONS

(Consultation period: 24<sup>th</sup> February 2020 – 15<sup>th</sup> May 2020)

Ref.	Date	Consultee details	Response	Suggestion Action/Response
1.	4/3/2020	Alan Wilson	<p><i>How much taxpayers' money has been spent on producing such a wordy document?</i></p> <p><i>A complete waste of council employees' time.</i></p>	<p>Document is required by legislation and must be sufficiently detailed for the benefit of all parties using it.</p> <p>No further action required.</p>
2.	4/3/2020	Raymond Park and Eric Dearie (Argyll & Bute Licensing Standards Officers)	<p><i>9:15; could this paragraph be deemed as imposing a condition more onerous than the national;</i></p> <p><i>i.e., the national condition is silent on training for Vol/Orgs in terms of occasional licences. The policy suggesting "will impose" seems to go beyond policy and stray into requirement for legislative adjustment?</i></p> <p><i>14:1 This paragraph could possible confuse applicants. I have highlighted those parts in red.</i></p> <p><i>"In respect of premises which sell alcohol solely for consumption off the premises, it will be a condition that <b>displays of alcohol on those premises is confined to a single area</b>. The applicant must clearly identify the alcohol display area by delineating it in the layout plan</i></p> <p><i>The policy goes onto suggest an exemption to this single area which could be misconstrued as <b>multiple</b> inaccessible areas;</i></p> <p><i>"The only exception to the foregoing is that <b>the Board may agree to</b></i></p>	<p>Consider whether 9.15 should still be included.</p> <p>Consider re-wording of 14.1 in order to clarify the position.</p>

			<p><i>alcohol being displayed in other areas provided they are inaccessible to the public – e.g. behind the counter, locked display cabinet, etc.”</i></p> <p><i>our understanding is that there can be only two areas, one accessible and one inaccessible.</i></p> <p><i>It may be better to utilise the phrase in condition 13;</i></p> <p><i>“alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following–</i>  <i>(a) A single area of the premises agreed between the Licensing Board and the holder of the licence; or</i>  <i>(b) A single area of the premises which is inaccessible to the public.”</i></p>	
3.	4/3/2020	Julian Wormleighton	<p><i>Thank you for sending me for consultation your draft Statement of Licensing Policy 2020. I have examined that document and have no comments to offer.</i></p>	No further action required.
4.	5/3/2020	Brian Linington	<p><i>As a resident &amp; householder living in Helensburgh I complement the author(s) on an excellent job. No comment on text. Please note a minor typo @ Para 8.19, line 2.</i></p>	<p>Minor typo identified in 8.19 to be corrected:</p> <p><i>“curtailment of music at a certain a time”</i></p>
5.	23/3/2020	James McCallum (Lodge Loch Fyne Social Club)	<p><i>Dear Sir, I note the consultation period on the statement of licensing policy has been extended till 17th April, 2020.</i></p> <p><i>I propose this is extended indefinitely till the coronavirus outbreak has been controlled.</i></p> <p><i>I also think the proposed policy will need re-drafted from scratch in a more sympathetic, business-positive way, if there is to be any future of the licensing trade in Argyll and Bute, once that period comes.</i></p>	<p>Consultation was extended again until 15<sup>th</sup> May. Responses are submitted remotely so coronavirus outbreak has not impacted on ability to make representations. Stakeholders have been given ample opportunity to participate and the process is already behind schedule. Therefore there is no scope to extend indefinitely.</p>

				<p>Policy does not need to be re-drafted from scratch. It covers the areas prescribed by regulations and is drafted in accordance with the model form.</p> <p>No further action required.</p>
6.	9/4/2020	Esther Cairney Duff	<p><i>I had written an enquiry to a Licensing Officer some months ago about the use of vape e-cigarettes in licensed premises in Argyll and Bute. At that time I was told that the use of e-cigarettes on licensed premises was at the discretion of the license holder.</i></p> <p><i>I write now to ask if this policy could be reconsidered. In other council areas around Scotland, the use of e-cigarettes in public premises, including licensed premises, is banned. I feel that Argyll and Bute is slightly behind the times in its policy in this area.</i></p> <p><i>I know that some license holders in Argyll and Bute instil a ban, voluntarily, on e-cigarettes. However, I feel that a stronger lead from the Council, towards outlawing the use of e-cigarettes across all licensed premises, is overdue and would bring the council in line with other local authority areas in Scotland.</i></p> <p><i>I would be grateful if you would give this further consideration before you publish your final policy for this year.</i></p>	<p>Research has been carried out to determine whether other Boards across the country have been taking a policy stance in relation to e-cigarettes in pubs. No other policies of the other Boards looked at take a stance on the use of e-cigarettes at Board level. The majority, like us only have measures relating to provision of ashtrays, monitoring noise in smoking areas, sweeping up smoking litter from the front of premises, etc.</p> <p>The relevant legislation in terms of smoking in public places is the Smoking, Health and Social Care (Scotland) Act 2005. This is the legislation banning smoking in enclosed public places in Scotland, but it only applies to products containing tobacco. There is no equivalent legislation which prohibits vaping in public places. Premises may introduce their own policies on this, but as they're not legal obligations - any enforcement is limited. Even if Argyll and Bute Council looks to introduce its own policy, that would be limited to Council property, and it</p>

				<p>would be a matter for the Council - not the Licensing Board.</p> <p>Therefore, it is proposed to add the following wording into the Policy Statement in order to clarify/confirm the above legal position: <b>"The Board acknowledges that smoking is not a licensing matter but one for other legislation. The Board agrees that licence holders will be aware of their own statutory responsibilities concerning smoking in public places."</b></p>
7.	16/4/20	Craignish Village Hall Committee	<p><i>We support the Statement of Licensing Policy and the updates that have been proposed but we are concerned of the effect that the conditions imposed in section 9.15 will have on our organisation and the community work that we do.</i></p> <p><i>Within this section it is stated that "the Board will impose a condition on the grant of occasional licences which will require any person selling, pouring or delivering alcohol in terms of the occasional licence to either hold a training qualification, or alternatively to be trained to the standard prescribed in the Licensing (Training of Staff) (Scotland) Regulations 2007. The Board will impose such a condition on events such as weddings, birthday parties and other celebratory events or concerts or large public events where the consumption of alcohol often forms a significant aspect of the occasion. The Board will not impose it on small community events such as PTA fundraisers, where the consumption of alcohol is ancillary to the event."</i></p> <p><i>Whilst we do not apply for many occasional licences, when we do it is for larger events (that fall within this condition) and these are an essential part of our fundraising efforts to keep the hall maintained and open for community use. As a not-for-profit, we rely heavily on</i></p>	<p>The proposed addition at 9.15 has been raised LSOs (see response 2, above) in terms of whether imposing such a condition could be challenged on the ground that it is <i>ultra vires</i>. This response highlights the anticipated practical problems that community/voluntary groups could face in order to comply with such a condition and the financial difficulties this could cause.</p> <p>Consider whether 9.15 should still be included in light of this response.</p>

			<p><i>the help of volunteers and committee members, many of which work behind the bar on rotation. We are concerned that the implications of this proposed change would result in an unaffordable cost to the Hall and limit the events we can run, having a real impact on our ability to continue to operate.</i></p> <p><i>We understand that someone with a personal licence has the authority to train bar staff. Whilst this is a better option for us we are also concerned about the practical implications this will have on our pool of volunteers that are frequently changing.</i></p>	
8.	15/5/20 (Late)	Kate Watt (Campbeltown Whisky Company Ltd)	<p><i>I would like to request that consideration be given to applications whose main purpose is as a visitor centre/tasting room to promote local produce (such as scotch whisky and/or gin) and/or educate consumers about locally produced alcoholic beverages.</i></p> <p><i>My husband and I are in the process of starting our own independent bottling company in Campbeltown and, as part of our business plan, would like to have a licensed tasting room at our offices, to promote our products through ticketed tastings. However our operating plan is likely to differ considerably from a traditional pub/off sales premises in that we would not want to be open to the public a set number of hours or days a week but rather operate on an 'on demand' basis so we can best respond to customer demand.</i></p> <p><i>So for example, we'd like to be able to offer tastings, and off-sales to people attending said tastings, between the hours of 11am and 10pm, 7 days a week. These may be at set times, or more likely would be pre-booked. However, we wouldn't expect to be hosting tastings all day, every day. Far from it! If there could be provision made within the policy for being able to operate within certain hours but without having to staff the premises at all stated times it would be very much appreciated. (Apologies if it's already in there - I only had time for a very quick read through).</i></p> <p><i>I'm sure given the importance of whisky, and now gin, to many economies around Argyll and Bute, that others may be in the same</i></p>	<p>Suggest that the issues raised here are more for consideration on receipt of the individual premises licence application, rather than a matter for the Policy Statement?</p> <p>Softening on the wording surrounding the purported "duty to trade" section addresses the main concern raised here that there is no requirement to stay open for all operating hours as set out in the licence.</p>

			<i>situation where they wish to apply for a premises license but the operating plan may be quite different to the traditional pub/restaurant/off licence model.</i>	
<b>9.</b>	17/5/20 (Late)	Arrochar, Tarbet and Ardlui Community Council	<i>AT&amp;A CC has looked over the revisions and the only note we made was the extension to young people being able to stay in premises till 10pm and outside areas being open til 8pm but these are minor things for us to watch within our villages. That said, we have no comments/questions to add.</i>	Changes/clarifications re children and young person terminal hours noted, but no objections raises.  No further action required.