

LICENSING BOARD – CONSULTATION ON STATEMENT OF LICENSING POLICY

The Scottish Grocer's Federation

The Scottish Grocers' Federation (SGF) is the trade association for the Scottish Convenience Store Sector. There are 5,098 convenience stores in Scotland, which includes all the major symbol groups, co-op and convenience multiples in Scotland. SGF promotes responsible community retailing and works with key stakeholders to encourage a greater understanding of the contribution convenience retailers make to Scotland's communities. In total, convenience stores provide over 49,000 jobs in Scotland.

Modern local convenience stores are community assets, from offering busy families a top-up shop facility on the one hand, to helping patrons (particularly vulnerable people) manage their weekly household budgets during the cost-of-living crisis and providing an essential alternative to larger or out of town supermarkets. Many people rely on their local convenience store with the average shopper visiting their local store 2.7 times per week and with 57% of customers choosing to walk as a mode of travel to stores. During the Covid pandemic in particular, local shops were on the front line, providing essential services for many vulnerable people and communities.

Local shopping has, over the years, often been replaced by large destination retail parks, gone from many areas are the local butcher, baker and grocers. The personal interaction with your local retailer is now almost uniquely reserved for your local convenience store.

Many convenience retail businesses are operating in an extremely challenging trading environment, however, and the Scottish Government has acknowledged that continuing to add to the legislative burden could put businesses at risk. In addition to meeting the requirements of new regulations, such as Minimum Unit Pricing; potential restrictions to the promotion of alcohol products and foods high in fat, sugar & salt; and Scotland's Deposit Return Scheme, the sector as a whole is among the hardest hit by issues such as food inflation, cost-of-living and rising energy costs. The cumulative cost burden of legislation on top of the pressure of these other factors are significantly adding to vulnerability of many businesses.

Being able to offer a diverse range is of paramount importance. Modern convenience stores now offer a wide range of products and services, from deli counters and coffee to collection lockers. A more restrictive range simply provides the potential customer with a reason to shop at a competitor. Whilst it is ancillary to wider ranges of grocery and retail, alcohol is an important sales category for our member's stores. A typical convenience store offers a range of at least 17 kinds of different product categories. Alcohol accounts for 18.1 % of total sales turnover. 76% of convenience stores have an alcohol licence.

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Introduction

SGF welcomes the opportunity to contribute to the consultation exercise. We trust that you will find our comments helpful. Our comments relate primarily to Management of Premises, Licensed Hours and Overprovision.

Management of Premises

Proof of Age

SGF promote responsible community retailing and recognise the importance of selling alcohol in a responsible way.

This happens through the following key areas:

- Full compliance with the Challenge 25 regulations (an initiative developed in partnership with SGF)
- Staff training
- Appropriate signage
- In-house test purchasing
- Refusal books
- Use of CCTV
- Full compliance with the stores operating plan
- Age restricted till prompts, upon customer checkout

CCTV

SGF do not believe that it should be a requirement for all staff to be trained in the use of CCTV (or for a CCTV trained member of staff to always be present during licensed trading hours). SGF would see such a condition as an additional burden on convenience sector retailers who often have to operate with the minimum amount of staff due to cumulated cost pressures. On top of this, retailers are having to do more hours themselves with 11% of shop owners in Scotland working more than 70 hours a week. It is already the case that all off-sales premises must have a compliant CCTV system in place.

Delivery of Alcohol and consumption by persons under 18 or drunk persons

The increased use of apps and the use of third-party delivery agents allows convenience stores to offer another important and valued facility for customers. The SGF Local Shop Report highlights that 26% of convenience stores offer some form of grocery delivery, providing an important service to their communities.

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SGF members use these facilities responsibly and have strict measures, such as record keeping and age verification in place, to ensure the rules around delivery are observed.

Drivers are trained to -

1. Always hand over alcohol to an adult.
2. If no adult able to accept deliver then return all goods back to shop.
3. Never leave items on the door step.

SGF members have reported that they ban any household where they suspect underage sales maybe taking place, and go out of the way to ensure they abide by the regulation.

SGF promotes responsible retailing, including the sale of alcohol and any of the other 222 products restricted under legislation.

Licensed Hours

Off-Sales

The Licensing (Scotland) Act 2005 sets out the maximum permitted hours for off sales type premises are 10am to 10pm, each day of the week. SGF supports this policy on licensed hours.

Retailers are used to the current licensed hours and so SGF would not want to see them changed. Also, SGF would not support any reduction to the available licensed hours as we believe there would be no evidential basis for such a decision and would also leave applicants for new stores at a disadvantage. There is not, in the SGF's view, any evidence to suggest that alcohol purchased later in the day is more harmful than purchased earlier or vice versa.

SGF would not support any reduction to the available licensed hours. Convenience stores are community assets which offer key services to local communities. Our members are responsible retailers and they put considerable effort into ensuring that alcohol is sold in a responsible way.

Overprovision

We recognise the Board's duty to assess overprovision under Section 7 of the Licensing (Scotland) Act 2005 in respect of licensed premises or licensed premises of a particular description in any locality within the Board's area.

We also recognise that, in determining if there is overprovision, the Board must have regard to the number and capacity of licensed premises in the locality together with any other matter the Board sees fit.

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We respectfully suggest that overprovision is a blunt instrument and does little to reduce alcohol related harm. If the licensing board decided to develop an overprovision policy, SGF would strongly urge that this is based on a locality as opposed to whole area approach.

There is no simple cause-and-effect relationship between the number of premises and alcohol-related problems and overall, it is becoming increasingly difficult to make a link between individual premises and problems in a specific locality. Inequality continues to be the main determining factor: alcohol-related harm in Scotland is still disproportionately experienced by those from more deprived areas.

Rather than taking a 'blanket' approach to overprovision regarding off-sales and public house type premises, the Board should continue to take into account the specific activities and mode of operation of the applicant. It is important to note that arguably the number or capacity of premises in a locality is unlikely to be the key factor in deciding whether there is overprovision. Instead, the determining factor is the extent to which there are alcohol-related, health, and crime problems in the area. In addition, the case law has shown that a licensing board must base any decision around overprovision in a targeted, evidence-led basis. Decisions from Aberdeen and Dundee have shown that selecting an arbitrary location which is not based on probative evidence would be unlawful. In addition, boards must consider the positive benefits that a thriving local convenience sector can bring to communities, and that evidence should be weighed up as part of the exercise. Our members are responsible retailers and they put considerable effort into ensuring that alcohol is sold in a responsible way.

SGF recognise the associated benefits that come from a convenience store opening in a local area. A store opening will create jobs and offer access to fruit and vegetables to the local community. The SGF Healthy Living Programme (HLP) has been successful in enabling customers to make healthy eating purchases in-store and now has over 2,400 stores participating. With 5,098 convenience stores in Scotland and with 75% of independent retailers engaged in some form of community activity in the last year convenience stores have an increasingly important role in their local communities. In addition, the SGF Go Local Programme, backed by the Scottish Government, supports convenience stores provide dedicated, long-term display space for locally sourced Scottish products. On average, participating stores generated an annual local multiplier figure of £723k, based on retail scanning data provided for all Scottish products. These initiatives may be relevant to the licensing objective of Improving and Protecting Public Health and supporting local businesses, and therefore, may be taken into account when the Board is determining whether to introduce an overprovision policy.

Convenience stores provide a range of key services for their customers, and this includes that ability to be able to offer their customers a full range of products, i.e. giving the customer the chance purchase an alcoholic beverage as an accompaniment with home dining. Therefore, a consequence of overprovision is that new entrants to the market are unable to obtain premises licences to authorise the sale of alcohol and are therefore, disadvantaged. The availability of alcohol in a pre-existing competitor store gives the prospective customer a reason to choose to

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shop there. The convenience element of being able to get their "full basket" from the competitor provides an unfair commercial advantage.

Capacity is an important issue in determining overprovision. If the entire Board area was regarded as being overprovided for it would prevent retailers from ever increasing the capacity of their alcohol sales area. However, in practice such increases would not dramatically increase the amount of alcohol being sold. It would be a paradox if a 20m² increase in selling area of a convenience store was counted as just as big a threat to an overprovision assessment as a new out-of-town hypermarket. Retailers frequently remerchandise and refit stores to best meet consumer needs. Most of the time these will just involve 'micro-space': keeping the existing shelving and general space splits but moving products around on the shelves. Sometimes, however, to meet consumer demand, to fit in with new brand ideas or to roll out improved formats 'macro-space' revisions are necessary. These may involve changing old shelves for new, increasing or decreasing the splits in store space between different categories, or gutting and refitting the store entirely. Extensions to the selling area might be necessary under macro-space refits. It should be noted that, of course, retailers are charged a fee for any major or minor variation to their licences.

Creating a general presumption that no increase in alcohol capacity would be approved in the entire Board area would almost certainly mean that existing retailers would not invest in modernising and refitting stores.

SGF believe that the entire concept of overprovision should be reviewed to consider whether it remains fit for purpose. We live in an age where customers can order alcohol online as part of their shop from a supermarket and have it delivered to their home. This order can be made from anywhere given the prevalence of smartphones. Given this, what does declaring a geographical area as being overprovided for achieve? It would seem, arguable, that overprovision has not kept up the development of modern technology and consumer shopping habits. For example, a resident may order an online grocery shop, and this could quite legitimately be dispatched from many miles away.

Irresponsible Promotions & Price Variation of Alcohol

SGF works with its membership and the convenience sector as a whole to ensure that they are fully compliant with licensing legislation and are selling alcohol responsibly both in terms of pricing and promotions.

While we welcome this consultation exercise the SGF believe the licensing system should not be onerous on retailers. We hope that you find these comments helpful.

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