

Institute of Licensing – Scottish Branch

Minute of Meeting 4 October 2017 at TLT Offices Glasgow.

In attendance:

Council Members: Stephen McGowan (Chair), Gordon Hunter (Treasurer), Peter Clyde (Secretary), Scott Blair, Janet Hood, Sarah Graham, Caroline Loudon, Neil Miller, Inspector Susan Gillon

Also in attendance: Alex Kelly (Scottish Government), Denise Borer (Scottish Government), Jim Sherval (NHS), Sgt Gareth *Griffiths* (Police Scotland),

Apologies: Mairi Millar, *Laura Mahon (AFS)*, *Aidan Collins (AFS)*

Welcome

Stephen welcomed everyone to the meeting and outlined the order of business. It was noted that this was to be a special meeting to discuss the Scottish Government direction to the IOL to assist with reviewing and updating the guidance to the Licensing (Scotland) Act 2005.

It was communicated that this was to be a special meeting of the IOL Scotland Council with a number of invited guests who have been co-opted to assist with the project and that the aim of this project was to have a sensible and constructive discussion on how to meaningfully update the guidance.

Background

The current guidance to the Licensing Act is now some 10 years old and is in dire need of an update to take account of the various changes to legislation that have taken effect and also to reflect current practice in light of case law. Following a meeting with the Justice Minister, Michael Matheson it was agreed that it would be appropriate for the IOL, to work alongside Alex Kelly to produce the new guidance.

Alex Kelly – Scottish Government

Alex detailed to the group his current role within the Scottish Government. The group noted that Alex has taken a 1 year contract with the Scottish Government to update the Licensing Act guidance.

Drafts of two sections of the guidance (Licensing Policy Statement and Overprovision) have already been completed and were circulated to the group. These sections, which cover Licensing Policy Statements and also Overprovision, which are considered to be the sections most in need of urgent change, have been addressed as a priority due to the need for Licensing Boards to be considering their new licensing policy statements.

Alex has asked the group to review these drafts and to suggest any changes that are felt necessary.

In light of this pressing need, the group agreed a short timescale for consideration of these two draft sections, the group agreed to a deadline of **Wednesday 18 October 2017** for all comments to be sent to Stephen for collation. Thereafter the group agree to have another meeting to discuss the comments tendered. This meeting is to be held on **Wednesday 25 October 2017** at TLT Solicitors, 140 West George Street, Glasgow, G2 2HG

Alex addressed the group on his work to date, and it was reported that it was hoped that the drafts which had been produced merely reflect the update and changes to the legislation and are in no way prescriptive.

Timescales, and the roles and remits of the working group

Stephen gave some observations on how he viewed the role and remit of the group, opining that the objective of this process was not to provide an opportunity to rewrite the parts of the guidance that individuals neither like nor agree with, nor is it an opportunity for members to rewrite the parts of the Act which are troublesome. This project is merely an opportunity to update the guidance in light of the various changes that have ensued and also to remove any sections of the document which have become obsolete.

Stephen also stated that it is important that the guidance continues to not seek to fetter the discretion of Licensing Boards.

In response to points raised by Janet in relation to the S142, the requirement of boards to inform the Scottish Government of any decision that they have made which might have deviated from the guidance, Stephen suggested that we may seek to make comment on this further within the revised guidance.

Progression of the project, and the proposal to have sub groups.

Stephen proposed that the project may be best served by the group splitting up into sub-groups to consider the various sections which require to be reviewed. Following a discussion on the merits of this approach it was agreed that the sub-groups model would be employed.

Members are therefore requested to submit expressions of interest on which sections they wish to be involved in reviewing to Stephen when they submit their comments on the initial two draft sections.

Timescales

Stage 1:- consideration of the draft sections re Licensing Policy Statements and Overprovision- comments to Stephen McGowan by **Wednesday 18 October 2017**. Deadline for Stephen to submit comments to Alex Kelly **Friday 20 October 2017**.

Stage 2:- Splitting into subgroups and reviewing/updating sections of the existing guidance – expressions of interest to Stephen by **Wednesday 18 October 2017**, subgroups to have completed their reviews for a date to be confirmed pre-Christmas 2017.

Stage 3:- Collation and agreement on subgroup work - a meeting will be set for the second half of January 2018

Further discussions on the project

On the subject of the legal basis of any advance interim support guidance on overprovision, Peter asked what would be the legal basis (if any) of this document, given that it will not have passed the resolution process of the Scottish Government, as required by S142. Scott Blair stated that it would be up to individual boards to place whatever weight they felt was appropriate on this interim support, whilst maintaining cognisance with the current guidance on overprovision.

Neil raised a point wondering if the two week period for responses to stage one of process would be sufficient for those in the NHS and AFS to consider this. It was agreed that this concern be noted and that the question be raised at the next meeting of the group, for further discussion if necessary.

Gordon asked whether there was scope for further co-opting of individuals onto the subgroups, once they were established. The group were fully in agreement that the sub groups should be as inclusive as possible. It was noted however that the groups should not become too full and unwieldy.

Janet noted that there was a distinct imbalance within the group in that the majority of members were based in the Central Belt, and that this was particularly evident in the Board Clerks who were involved in the project. Stephen agreed and stated that we should use the SOLAR licensing Clerks group to ensure that the views of Clerks from around the country are sought. The group also agreed to contact Fiona Stewart, Clerk to the Aberdeenshire Board directly for her views on the drafts.

Neil suggested that each subgroup should appoint a lead to ensure the delivery of the work. This was agreed.

AOCB

Stephen informed the group that Patrick Browne, Partnership Specialist at the Gambling Commission had expressed an interest in joining the IOL Scotland Council. This appointment was agreed unanimously by the group.