

Dear Sir/Madame,

I refer to my previous e-mail.

1. *What Boards see as the main challenges and opportunities to delivering public health objectives via the licensing system.*

In terms of a refusal in terms of Overprovision and whether a Board feels empowered to refuse application on the grounds of Overprovision then we would respond as follows:

West Dunbartonshire Licensing Board has for a number of years taken an evidence based led approach to assessing Overprovision. In terms of the case of *Martin McColl Limited v West Dunbartonshire Licensing Board 2017 SC Dumb 27*, the Board believes that where a policy is determined and consulted upon in terms of the Act then there should be a level of confidence that where the legal requirements are met that Board's should feel empowered to refuse on the grounds of overprovision in situations where they are applying their policy. This is of course taking into account any relevant factors that may rebut the presumption against grant of the licence, and allow it to be granted. Refusal on the basis of inconsistency with the licensing objectives ( Section 23 5(c) ) e.g. of protecting and improving public health is more problematic though, we would submit with regard to individual premises and establishing a link to individual premises. The above referred to case explored that very point in its Judgement. Therefore, we would welcome clarification in terms of the licensing objectives and how they may relate to grounds of refusal.

We do not believe that the law is insufficiently clear with regard to refusal on the basis of overprovision, but welcome further clarification in terms of the approved Section 142 guidance.

2. *The Committee would welcome views from Boards on what role, if any, Boards could have in working with CPPs to advance public health objectives.*

It is already recognised the important role of the local licensing forums in community engagement, and recent positive measures in increased reporting of the Board's functions in terms of the Functions report. The Board has no current experience dealing with CPPs. The Board's primary role is to deal with and determine applications in front of it. Boards would need to be mindful of this in any dealings with bodies to advance public health objectives, and how that may relate to individual applications and any conflict with its primary role in determining matters in front of it. There is a balance between considerations of looking at potential community interests whilst considering the position of any applicants and determining applications.

We would be happy to further assist the Committee as required.

Raymond Lynch  
Solicitor, Section Head-Licensing, West Dunbartonshire Council