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**SCOTTISH BORDERS LICENSING BOARD  
STATEMENT OF LICENSING POLICY**

**Report by Clerk to the Licensing Board**

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**SCOTTISH BORDERS LICENSING BOARD**

**20 April 2018**

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**1 PURPOSE AND SUMMARY**

- 1.1 **This report seeks approval of the Scottish Borders Licensing Board to the draft Statement of Licensing Policy for the period November 2018 to November 2023 and also seeks authority to carry out the statutory consultation on the statement to allow consideration of a final Statement thereafter.**
- 1.2 In terms of the Licensing (Scotland) Act 2005 as amended (“the Act”), the Scottish Borders Licensing Board (“the Board”) must publish a Statement of their Policy (“the Statement”) with respect to the exercise of their functions under the Act. The current Statement was originally for the period November 2013 to November 2016 but its effect was extended by Section 42 of the Air Weapons and Licensing (Scotland) Act 2015 up to the date falling eighteen months after the local government election. The period of the new statement will be from November 2018 to November 2023.
- 1.3 The Board must ensure that their Statement seeks to promote the five licensing objectives, must carry out consultation on it prior to publication and have regard to it when exercising their functions once the statement has been finalised and published following the consultation process.
- 1.4 The Statement must also set out the extent to which the Board considers there to be overprovision of licensed premises or those of a particular description in any locality within the Board’s area.

**2 RECOMMENDATIONS**

- 2.1 **I recommend that the Board:-**
  - (a) **Approves the draft Statement of Licensing Policy for the period November 2018 to November 2023;**
  - (b) **Agrees to carry out the statutory consultation on the draft Statement of Policy for the period November 2018 to November 2023; and**
  - (c) **Instructs the Clerk to bring forward a report to the Board on the outcome of the consultation following the expiry of the consultation period.**

### **3 BACKGROUND**

- 3.1 The Act requires that the Board publish a statement of their policy within eighteen months of any local government election which will have effect until eighteen months after the next local government election with respect to the exercise of their functions under the Act during that period. In preparing this, the Board must ensure that the Statement seeks to promote the five licensing objectives. The Board must consult on the Statement with the Local Licensing Forum for their area, and if the membership of the Forum is not representative of these parties then also:
- holders of premises and personal licences,
  - the Chief Constable
  - persons having functions relating to health, education or social work,
  - young people and
  - persons resident within the area
- and such other persons as the Board thinks appropriate. A list of suggested consultees has been given in Appendix 1 to the Draft Statement.
- 3.2 Once finalised and published, the Board must have regard to the Statement for that period. The Board are required to make copies of the Statement available for public inspection free of charge and publicise that the Statement has been published and how the public can inspect.
- 3.3 The Board agreed at their meeting on 22 September 2017 to appoint Councillors Greenwell, Richards, Tatler and Thornton-Nicol to a Short Life Working Group ("the Group") to consider the current Statement valid for the period November 2013 to November 2018. The Group considered what revisals might be required.
- 3.4 The Group met on 15 November 2017 and 14 February 2018 assisted by the Managing Solicitor of Property and Licensing and Officers from the Licensing Unit to consider matters and the attached draft Statement is the outcome of these deliberations.
- 3.5 The Board are now required to consider the draft Statement and to instruct the Clerk to carry out the statutory consultation. Appendix 1 of the draft statement contains the list of Consultees being both the statutory consultees and others as identified by the Board as having an interest. It is suggested that a twelve week period be allowed for such consultation, that being the time period favoured by the Scottish Borders Council for consultations. The consultation will be available on the Council's website to ensure that the general public can easily engage with the consultation process.
- 3.6 The Clerk will bring forward a further report in September 2018 following the conclusion of the consultation period on the outcome of that consultation process. This will allow the Board to determine the Statement for publication in order that the Statement can be effective from November 2018.

## **4 IMPLICATIONS**

### **4.1 Financial**

The costs attached to the recommendations contained in this report can be met within the Board's budget.

### **4.2 Risk and Mitigations**

When revising the Policy Statement, the statutory consultation process helps mitigate the risk of challenge to the Statement post-approval, as all comments will be considered before it is finalised. The Policy also details the role of the Board, the obligations of the licensee within the Act and recommendations on how they can adhere to them. The multi-agency approach to Licensing in the Scottish Borders should help ensure that the objectives of the Act are achieved, although the risks can never fully be mitigated by the Policy alone.

### **4.3 Equalities**

An Equalities Impact Assessment is in the process of being carried out and will be finalised upon conclusion of the public consultation process. A copy of the signed off assessment will be attached to the further report to be brought to the Board following the expiry of the consultation period.

### **4.4 Acting Sustainably**

There will be positive impacts upon the quality of community life and improvements in local amenities as the activities described in the report will result in the Board promoting the five Licensing Objectives in the exercise of its duties.

### **4.5 Carbon Management**

There are no effects on carbon emissions arising from the proposals contained in this report.

### **4.6 Rural Proofing**

There are no effects on rural proofing arising from the proposals contained in this report.

### **4.7 Changes to Scheme of Administration or Scheme of Delegation**

There are no changes required to either the Scheme of Administration or the Scheme of Delegation arising from the proposals contained in this report.

## **5 CONSULTATION**

- 5.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Service Director HR and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

**Approved by**

**Nuala McKinlay**

**Clerk, Scottish Borders Licensing Board Signature .....**

**Author(s)**

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**Background Papers:**

**Previous Minute Reference:** Licensing Board, 22 September 2017

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Ron Kirk can also give information on other language translations as well as providing additional copies.

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