



**SCOTTISH BORDERS  
LICENSING BOARD  
FRIDAY, 18TH AUGUST, 2017**

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**Please find attached Item No. 6 on the agenda for the  
above meeting**

6.	<b>Chief Constables Annual Report</b> (Pages 1 - 14)  Consider report by Chief Constable, Police Scotland, for the period 1 April 2016 – 31 March 2017. (Copy herewith.)	
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**POLICE  
SCOTLAND**

Keeping people safe

CHIEF CONSTABLE'S REPORT TO THE  
SCOTTISH BORDERS LICENSING BOARD  
FOR THE PERIOD  
1<sup>ST</sup> APRIL 2016 to 31<sup>ST</sup> MARCH 2017



## **FOREWORD**

It gives me great pleasure to provide my second annual licensing report, in accordance with section 12(A) of the Licensing (Scotland) Act 2005.

This report outlines what activity has been undertaken over the last twelve months for Scottish Borders, which provides me with the opportunity to outline how our services will be delivered over the coming year.

Police Scotland continues to face an increasing range of demands against the backdrop of a challenging financial environment, however we will continue to work in partnership at local and national level to ensure that our communities are safe. I cannot understate the importance of empowering our people to work with others, to innovate and solve problems.

Over the last year we have seen success in our preventative problem solving approach, with officers and staff resolving issues proportionately and at the earliest opportunity. This has been possible due to the active partnerships which exist across the licensing sector, which have led to an increase in positive outcomes.

In the year ahead our approach will continue to be based on prevention and collaboration to ensure the most efficient and effective service delivery. I will encourage officers and staff to utilise the range of options available to ensure improved licensing standards, reduced violence and to positively influence behaviour and cultural attitudes across Scotland.

Finally, I would like to take this opportunity to record my thanks to all who work towards the shared aim of effective licensing regulation and I am sure that with the continued hard work and dedication of all staff, Police Scotland will continue to deliver a service that our communities can be proud of.

Mr Philip Gormley QPM  
Chief Constable  
Police Service of Scotland

## **Police Scotland Licensing Overview**

The National Licensing Policy Unit (NLPU) sits within the Specialist Crime Division – Safer Communities based at Dalmarnock Police Office, Glasgow.

The NLPU upholds the two-tier structure for licensing, which supports both national and local priorities through service delivery. They have overall responsibility for determining and delivering national licensing strategy and policy, by providing advice, guidance and support to divisional licensing teams.

Each of the 13 Local Policing divisions have a licensing team wholly committed to the day-to-day management of licensing administration complying with statutory requirements as well as addressing any issues that may arise within licensed premises within their local area.

Police Scotland Licensing is supported and governed by a National IT solution known as 'Innkeeper'.

## **LICENSING BOARD AREA**

The Licensing area is policed by 'J' Division. Chief Superintendent Ivor Marshall is the Local Police Commander who has the responsibility for all day-to-day policing functions. The Local Area Commander, Chief Inspector Andrew McLean is based at Hawick. He is responsible for performance management, community engagement, partnership working and the daily management of local personnel.

Chief Inspector McLean is supported by three sector Inspectors, Carol Wood who is based at Hawick, Tony Hodges who is based at Galashiels and John Scott who is based at Kelso. The Scottish Borders Licensing Boards are attended by Inspector Hodges.

The Licensing Department is part of the Divisional Co-ordination Unit based at Dalkeith Police Station. The senior officers who have responsibility for Licensing are Inspector Andrew Toombs and Sergeant Gordon Latto.

The local Licensing Department is based at Galashiels Police Station, one police officer, supplemented by administration staff based at Dalkeith Police Station, controls the day-to-day function.

## **Local Policing Priorities**

Following our public consultation process, the policing priorities for J Division, as set out in our Local Policing Plan are as follows;

- Reducing Antisocial Behaviour
- Tackling Substance Misuse
- Reducing Violence
- Protecting People
- Tackling Serious & Organised crime
- Making our Roads safer
- Reducing Housebreaking

## **Description of Board Area**

The Command area of Scottish Borders serves approximately 112,000 local residents along in an area covering 1,827 square miles. The area covers a large and diverse geographical location with rolling hills, moor land, valleys, high agricultural plains and the rocky Berwickshire coastline. The policing headquarters is located in Hawick.

There are currently 479 licensed premises within Scottish Borders.

There are 4 nightclub premises, of which 3 have a terminal hour of 03.00am and 1 has a terminal hour of 02.00am. They are spread out between Galashiels, Hawick and Kelso, placing a high demand on Policing resources.

The number of large supermarkets continues to rise, in particular within Hawick and Galashiels. Both towns have areas of Social Deprivation and availability of cheap alcohol from off sales compounds issues in relation to antisocial behaviour and alcohol fuelled violence.

## **OPERATION OF THE LICENSING (SCOTLAND) ACT 2005**

### **Introduction**

The Licensing Officer is responsible for processing all correspondence received from the Licensing Board. The officer reviews applications on behalf of the Chief Constable as part of the consultation process in conjunction with the Local Area Commander. This consultation process forms part of the Police support of the Licensing Objectives.

This section concentrates on how the Act has been applied by the Licensing team and other Local Policing officers to support the Licensing Objectives in tandem with the local and national policing objectives for 2016-17.

- Road Safety and Road Crime
- Violence, Disorder and Antisocial Behaviour
- Counter Terrorism
- Serious Organised Crime
- Protecting People at Risk of Harm

In Scottish Borders there were 307 recorded incidents in licensed premises between 1<sup>st</sup> April 2016 and 31<sup>st</sup> March 2017, this is a decrease on previous years. The proactive

## NOT PROTECTIVELY MARKED

use of exclusion orders and anti social behaviour legislation continues to contribute hugely to this reduction.

In the same period, Police Scotland carried out 865 recorded inspections of licensed premises during the reporting year, the majority of these inspection are carried out by response officers as part of the Policing plan.

### **Partnerships**

Licensing Standards Officer (LSO)

The local police Licensing Officer works regularly with a number of partner agencies including the LSO. Sharing information and carrying out joint visits to licensed premises, dealing with any noise complaints or antisocial behaviour issues. This unified approach has resulted in a number of successful resolutions.

In this reporting year Licensing officers and LSOs worked together to address any incidents that had been reported during this period.

One incident involved patrons at an event within a members club in Hawick being shot with an air rifle. Although there were committee members present and they were aware of the incident, they did not contact the police to report the incident.

A premises in Galashiels has been the subject of increased visits due to concerns that the staff were not able to cope when the DPM was not present. Working with the DPM to resolve the issues has reduced the number of issues that are being identified by the routine weekend visits.

Also a members club in which the bar steward allowed a 1 year old birthday party. However, he left the premises in the care of the partygoers and went home. A joint intervention took place, which has resulted in the removal of the bar steward.

### **Best Bar None (BBN)**

Best Bar None is a unique National Award Scheme aimed at raising standards and rewarding licensed premises that undertake positive management practices in support of a safe night out.

The purpose of the Best Bar None Scheme is to

- Reduce alcohol related crime.
- Promote social responsibility and duty of care.
- Improves knowledge and skills to assist in responsible management.
- Promotes partnership working to identify good practices and areas for improvement.
- Supports due diligence.
- Awards both locally and nationally to reward success.
- Operating more responsibly can improve the commercial viability and attractiveness of a venue and locality.



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During this reporting year there were 18 premises that took part in the BBN scheme. 5 premises attained a Gold Award and 9 premises attained a Silver Award. One premise in Kelso is going through as a finalist to the National Awards.

### Problem Solving

#### The Intervention Process

As detailed in previous reports to the Licensing Board, issues in licensed premises are assessed using a well-established interventions process. Incidents connected to premises are identified by Licensing Officers who evaluate the licensing objectives to determine if any have been compromised.

Depending on the severity of the incident and history of the premises, Licensing Officers will categorise the premises/incident as follows:-

Police Intervention Categories	
Red	Problematic Premises - those operating in a manner inconsistent with the Licensing Objectives or out with the conditions of a premises licence and where local police intervention and support has failed or is unlikely to succeed in resolving the issues. A premises review request to the local Licensing Board is considered the most appropriate way to address the issue.
Amber	Premises that require Formal Intervention. Issues have arisen and a formal intervention agreement is entered into between premises licence holders and Divisional Licensing teams to resolve them. This action may be taken with more serious or repeat issues.
Green	Monitored - The premises have come to note for a minor adverse issue and are being monitored. This may result in an informal intervention in terms of advice/support to the premises along with police visits.
No Action	Action - An incident review has highlighted no issues regarding the management of the Premises or Licensing Legislation. No further police action.

Police intervention usually results in a meeting with the appropriate representatives of the premises concerned e.g. premises licence holder, designated premises manager and, if appropriate, any stewarding company to discuss concerns and agree a way forward to resolve these.

Premises being monitored by way of the above system and are subject to weekly tasked visits by either local officer's and/or Licensing Officers to monitor progress, measure improvements and ensure that agreed remedial measures are implemented.

The intervention system is ultimately designed to support the licence holder before any premises review is sought, although a serious or significant incident may obviously merit an immediate review application.

During the reporting year there were no Problematic premises in Scottish Borders and 3 Monitored premises.

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In 2016 the Licensing Admin Tool was introduced, which is designed to streamline the review process. J Division was involved in the initial pilot of the Tool, which allows Licensing Officers to direct their focus to highlighted incidents.

### **Summary**

#### **Section 1 – Unlicensed Sale of Alcohol**

Alcohol is not to be sold on any licensed premises except and in accordance with a Premises Licence or Occasional Licence. As the Licensing (Scotland) Act 2005 is well bedded into everyday working practices.

In this reporting period there have been no incidents of the unlicensed sale of alcohol reported to the Police.

#### **Section 22 – Applications**

Over the course of the reporting year there have been 8 New Premises Licence applications, which have been granted by the Board.

#### **Section 36 – Application for Review of Licence**

Police Scotland only seek review of a Premises Licence when an intervention (or a number of interventions) has failed, is likely to fail or there is a serious risk to public safety if the premises continues to operate in the same manner e.g. the resulting problems as well as community impact must be considered.

I am please to say there were no Review Applications submitted by Police Scotland in this reporting year.

#### **Section 63 – Sale or Supply out with licensed hours**

Officers in Scottish Borders monitor the sale or supply of alcohol out with licensed hours closely. Local Officers continue to make pro-active visits to licensed premises, particularly at weekends to ensure premises are being managed appropriately.

The new Innkeeper application can be accessed by police control staff and officers alike, twenty four seven, providing any information on licensed hours etc. that are required, out with normal office hours of the Licensing Department.

There have been no incidents reported.

#### **Section 72 – Personal Licence Applications**

There were 110 applications made for personal licenses during this reporting year in Scottish Borders.

The amendment to legislation permitting the Chief Constable to request refusal for the purposes of 'any' Licensing Objective has widened the scope for making appropriate representations to the Board.

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The legislation was used on two occasions. Both applicants were required to attend a Licensing Board hearing and subsequently their licenses were granted.

### **Section 84 (84A) – Personal Licence Reviews**

Police Licensing Officers are responsible for monitoring the conduct of Personal Licence Holders. In particular, there have been occasions when the holders of a personal licence have failed to report conviction(s) for a relevant offence to the Court and/or Licensing Board. Again, the amendment to legislation in terms of the Criminal Justice and Licensing (Scotland) Act 2010 and the Police and Fire Reform (Scotland) Act 2012 has widened the ability for the Chief Constable to report conduct inconsistent with the Licensing Objectives.

There was 1 Personal Licence Review requested by Police Scotland in this reporting year for a DPM working in Edinburgh, who was charged with sexual assault. This was heard at the Board in March 2017 and resulted in revocation of his licence.

### **Section 94 – Exclusion Orders**

When a person has been charged with a violent offence within or in the immediate vicinity of any licensed premises a request for an Exclusion Order is included in the 'remarks' section of the police report. Exclusion Orders are granted by the Courts, 'on conviction', and can exclude a person from specific licensed premises for between 3 months up to 2 years.

The Police Licensing Officer proactively drives the use of exclusion orders whenever there is an incident in or in the immediate vicinity of licensed premises.

The proactive use of exclusion orders has contributed to a reduction alcohol fuelled violence. Persistent offenders can also be dealt with under the Anti-Social Behaviour legislation.

We are committed to keeping people safe and improving the quality of life for residents in Scottish Borders.

There was 1 exclusion order issued in this reporting year.

### **Section 97 – Closure Orders**

There were no closure orders used within Scottish Borders during the reporting year. It is fully expected that should a premises require to cease trading, due to a serious risk to public safety, that we would receive full cooperation from the licence holder or person in charge.

### **Sections 111- 116 – Drunkenness / Disorder Offences**

The following licensing offences have been reported to the COPFS during the reporting year.

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Number of offences reported to COPFS	Total
Section 111 (drunk persons within licensed premises)	0
Section 112 (obtaining alcohol by or for a drunk person)	0
Section 113 (sale of alcohol to a drunk person)	0
Section 114 (DPM to be drunk whilst on duty)	0
Section 115 (disorderly conduct within licensed premises)	0
Section 116 (refusal to leave licensed premises)	6

### PREVENTING THE SALE OR SUPPLY OF ALCOHOL TO CHILDREN OR YOUNG PEOPLE

Police Scotland can make a positive impact on the future outcomes for children and families, by addressing the sale and supply of alcohol to young persons and working with our partners, taking the appropriate action to address both the potential and actual misuse of alcohol within the early years.

#### Activity

In terms of Section 105 of the Licensing (Scotland) Act 2005, the Chief Constable may authorise a young person to buy or attempt to buy alcohol to determine whether an offence is being committed.

The use of young persons to conduct Test Purchase Operations provides Police with an effective tool in the fight against underage sales and represents an important safeguard against underage drinking and the resultant antisocial behaviour that adversely affect many communities.

These operations form part of the ongoing proactive activity, focussed where problems merit such a response.

The following licensing offences have been reported to the COPFS during the reporting year.

Number of offences reported to COPFS	Total
Section 102 (sale of alcohol to a child)	0
Section 103 (allowing the sale of alcohol to a child)	0
Section 105 (purchase of alcohol by or for a child)	3

There have been 3 incidents involving agent purchase of alcohol for children. Each incident has been thoroughly investigated and resulted in 3 reports being submitted to the Procurator Fiscal.

These incidents do not reflect on the management of the premises, as on each occasion the staff were unaware of the agent purchase.

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### Proposed Activity

Officers will continue to routinely proactively visit premises licensed for 'off sales' to ensure that they are aware of their responsibilities under the 2005 Act and in particular in the run up to school holidays.

Likewise officers will continue to routinely proactively visit premises licensed for 'on sales' to ensure that management have taken all appropriate measures to prevent the sale or supply of alcohol to young people under age.

Test Purchasing remains a useful tactic to highlight underage drinking and alcohol related antisocial behaviour involving under 18's. Future operations are being planned in the Scottish Borders.

## **TACKLING SERIOUS AND ORGANISED CRIME**

### Introduction

The Serious Organised Crime Task Force was set up by the Scottish Government to provide direction and co-ordination for all organisations involved in tackling Serious Organised Crime in Scotland.

The task force has a remit to disrupt, deter and detect Serious Organised Crime Groups (SOCGs). Key partners include Police Scotland, NCA, HMRC, COPFS, SOLACE and the Scottish Business Resilience Centre, amongst others.

If SOCGs gain a foothold in licensed premises then this would afford the criminal group a seemingly legitimate income stream, which could be no more than a veneer for other criminal activities such as money laundering, tax evasion, drug and people trafficking and other dishonest activities.

### Activity

Over the past year, the Police Licensing Officer has scrutinised and interrogated licence applications to identify where OCG's may be trying to enter legitimate businesses. This is particularly detailed when processing New Premises and Transfer applications, where the applicant may be asked to evidence the source of any financing.

Earlier this year an operation was conducted in relation to Serious Organised Crime. The enquiry is ongoing and no further information can be divulged at this time.

## **PROPOSED ACTIVITY FOR THE YEAR AHEAD**

Police Scotland and the Fire Service continue to work closely with the Scottish Business Resilience Centre to evolve the Best Bar None scheme. Organisers of this scheme recognise that standards are improving on a year-by-year basis and hope to continue in the coming year, increasing the number of premises taking part.

As previously mentioned Police Officers in Scottish Borders are identifying persons who should be considered for an 'Exclusion Order' from licensed premises, in terms of Section 94 of the principle legislation, and making appropriate requests as a matter of course to the Procurator Fiscal. This should have a positive impact on Licensing Objectives.

Test Purchasing will also continue to be used as a tactic to increase awareness of underage drinking and the associated antisocial behaviour that can result.

## **NATIONAL PERSPECTIVE**

Our Priorities and Policing Plans continue to be shaped by the objectives contained within Scottish Government's Strategic Objectives and National Outcomes and the Strategic Police Plan that are delivered locally through single outcome agreements. Consultation and engagement is combined with our own analysis of the issues likely to impact on the safety of the public to inform our local and national Strategic Assessments that identify our priorities and provide a firm evidence base for local policing teams across Scotland to deliver operational plans to prevent crime and disorder and Keep People Safe.

Our National Priorities are:

- Violence Disorder and Anti-social Behaviour
- Serious Organised Crime
- Road Safety and Road Crime
- Protecting People at Risk of Harm
- Counter Terrorism

The National Licensing Policy Unit (NLPU) is a specialist department, which consists of a small team of officers, based in Glasgow. The officers within the unit work with divisional licensing teams and partner agencies to help shape policy and strategy around the police licensing function. They provide practical and tactical advice to police licensing practitioners, operational officers, supervisors and policing commanders.

The NLPU seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across the country and all opportunities are taken to stop the illegal or irresponsible sale, supply or consumption of alcohol with the intention of preventing and reducing crime and disorder.

During 2017/18, from a licensing perspective, our particular focus will be on the following;

- Scrutiny of the serious incidents of violence, disorder and antisocial behaviour linked to licensed premises.
- Working closely with partners within a National Licensing Trade Forum we will continue to develop and promote positive partnership working between Police Scotland and the Licensed trade, in order to increase legal understanding and support a shared aim of best practice, responsible operation and respect.
- Governance and ongoing development of the National ICT Licensing System, known as "Inn Keeper", to increase the efficiency and effectiveness of liquor and civic licensing administration and management and to ensure problem solving is at the heart of our Licensing approach.

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- The implementation and ongoing development of a Licensing Admin tool which provides divisional licensing officers with an ICT product which negates the need to research police systems independently and which builds on our problem solving approach.

To conclude we would like to thank you for your continued support and stress the importance of this collaborative, problem solving approach, which ensures that police, licence holders and licensed premises staff have a better understanding of their responsibilities. This strengthens locally-led alcohol licensing practices, in order to preserve order and promote safety and public health.

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