

MINUTE OF JOINT MEETING OF THE
SCOTTISH BORDERS LICENSING BOARD
AND THE LOCAL LICENSING FORUM held
at Council Headquarters, Newtown St
Boswells on 6 December 2017 at 4.00 p.m.

Present:- Board:- Councillors J. Greenwell (Convener), J. Brown, D. Paterson,
N. Richards, S. Scott, R. Tatler and E. Thornton-Nicol.
Forum:- S. Bell, S. Elliot, R. Mackay, A. Maybury, G. Todd, I. Tunnah,
M. Wynne.

Apologies:- Councillors G. Turnbull and T. Weatherston; Forum:- M. Hay.

In Attendance:- Clerk to the Licensing Board, Managing Solicitor (Property and Licensing),
Research and Policy Officer, PC T. Ray - Police Scotland,
Democratic Services Officer (F. Walling).

Mr Aidan Collins – Alcohol Focus Scotland

1. **WELCOME BY COUNCILLOR GREENWELL, CONVENER OF SCOTTISH BORDERS
LICENSING BOARD**

The Convener of the Licensing Board, Councillor Greenwell gave a welcome to the meeting and asked for a round of introductions.

2. **MINUTE**

There had been circulated copies of the Minute of Meeting of 22 November 2016.

**DECISION
APPROVED.**

3. **LICENSING BOARD ANNUAL REPORT DECEMBER 2016 TO NOVEMBER 2017**

3.1 There had been circulated copies of a report by the Clerk to the Licensing Board presenting a summary of the work of the Scottish Borders Licensing Board and the staff supporting the Board. It was hoped that the report would assist the Forum to facilitate its scrutiny role of how the Board discharged its duties and responsibilities in terms of the Licensing (Scotland) Act 2005 as amended. The Managing Solicitor, Ron Kirk, presented the report and highlighted the main points. Since the last joint meeting on 22 November 2016 the Board had met eleven times. At each Board meeting, in addition to determining applications and reviews, Members considered all matters which had been dealt with under the delegated powers of the Clerk where both the Act permitted this method of determination and there had been no objection or representation in respect of the application. The majority of delegated decisions were in connection with grants of occasional licences which were a feature of sporting fixtures and local festivals in the Community. 1,220 Occasional Licences had been granted in this period of which 425 were granted to voluntary organisations. In addition, 56 applications by the holders of a Premises Licence for extended hours were granted. The other reported decisions related to minor variations of premises licences, substitution of premises managers, grants of personal licences and transfers of premises licences.

3.2 The report went on to refer to Hearings which took place as part of the Board's business. The Board must hold a Hearing for the Grant or Provisional Grant of a Premises Licence. Sixteen new Premises Licences were granted during the period. Nine Licence Holders chose to surrender their Licence and the Board suspended six Licences. The Board

considered 39 applications to vary Premises Licences in this period. These included both non minor variations which must be determined by the Board and applications which attracted objections or representations. The Board arranged Review Hearings in respect of 8 Premises Licences. All were in relation to notices for failure of premises to make a payment of the annual fee. This resulted in six licences being suspended with the other two licence holders making payment prior to the Hearing taking place.

- 3.3 Following the Local Government elections at the beginning of May 2017, a new Board was created consisting of nine elected Members appointed by Scottish Borders Council. Three of these Members had served on the previous Board and one of those Members, Councillor John Greenwell, was appointed Convenor. Members underwent mandatory training, attained the required statutory qualification and the new Board sat for the first time on 23 June 2017.
- 3.4 The Air Weapons and Licensing (Scotland) Act 2015 introduced a requirement that Licensing Boards produce annual financial reports. The Board's report for the financial year 2016/17 was considered at their meeting on 22 September and the report subsequently published.
- 3.5 One of the first functions of the new Board was to consider a review of its Licensing Policy Statement. The new policy statement required to be implemented in November 2018 for a 5 year period to November 2023. The Board had formed a working group comprising 4 of its members who along with the Board's officers would carry out an initial review of its policy before reporting back its findings and recommendations to the full Board prior to the consultation with the relevant consultees.
- 3.6 On 28 October 2016, eight Members of the new Board, joined by two Members of the Licensing Forum, attended the Board's late night premises visits, organised by Police Scotland. During the evening the Members visited functions in the Volunteer Hall in Galashiels and at Kelso Racecourse before visiting the town centres of Kelso, Hawick and Galashiels. The Members witnessed how the night time economy functioned in each of these towns and also met with Street Pastors whilst in Galashiels, gaining an insight of their role within the community.

DECISION

AGREED to:-

- (a) **note the report; and**
- (b) **request that the Clerk continue to provide updates to the joint meeting on an annual basis.**

4. LOCAL LICENSING FORUM OVERVIEW 2016-2017

- 4.1 Mr Ian Tunnah, Licensing Standards Officer, gave an overview of the work of the Local Licensing Forum during the year. Due to the elections the Forum had met on just two occasions since the last joint meeting. There had also been two resignations and a recruitment campaign for new members had recently been started. The Forum had not yet appointed a new Convenor and this role was currently being carried out on a rolling, meeting by meeting, basis. At the meeting on 3 October 2017, PC Lackenby was thanked for his contribution to the Forum over the previous five years, his place as Police Scotland representative being taken over by PC Terrie Ray.
- 4.2 With regard to the review of the Board's Licensing Policy Statement, the Forum's working group set up to look at the policy, had met on two occasions. The group had focused on areas where unnecessary content could be removed, with the purpose of leaving condensed information which would be easier for the Board to digest. Findings would be fed back to the Board's working group which had been set up to review the policy. The Forum would have a further opportunity to comment during the consultation period on the

proposed new policy statement. There had also been a significant amount of work being carried out in the background of the Forum in terms of the preparation of the Alcohol Profile. In other activity the Forum had participated in discussions around the formation of a National Licensing Forum which had been proposed by East Ayrshire Local Licensing Forum. It had been recognised that a National Forum could be beneficial as a sounding board for Local Licensing Forums to exchange best practice ideas and discuss the way forward. Councillor Paterson commented that he would like to see more Forum members in attendance to observe meetings of the Licensing Board in order to gain an insight into problems encountered as part of license applications. In a discussion about the likely effect of the introduction of minimum unit pricing, in May 2018, it was accepted that this was just one tool within the overall strategy to reduce alcohol-related harm. Mr Collins (Alcohol Focus Scotland) advised that the effect of the increase in price of the strongest and cheapest alcohol should start to be seen after a year. He offered to forward further information in the form of statistics.

DECISION

NOTED the update.

5. AGENT PURCHASE CAMPAIGN

Ms Susan Elliot, Senior Development Officer – Alcohol and Drugs Partnership, drew attention to a new campaign, inspired by concerns raised by young people in Galashiels, to be launched on 8 December 2017. The ‘Don’t Buy It, Don’t Supply It’ initiative would aim to highlight new legislation which made it an offence to supply alcohol to anyone under 18. Mr Tunnah explained that there was a change in legislation under the Air Weapons and Licensing (Scotland) Act 2015 as previously it was necessary to prove that an adult had purchased alcohol for a person under 18. The situation now was that if an adult was caught supplying or buying alcohol for an under 18 they could face a fine of up to £5,000 or up to three months in prison. This applied in a public place and on private premises to which the public had access. The campaign was being taken forward by the Scottish Borders Safer Communities Team, incorporating the Council, Police Scotland and the Scottish Fire and Rescue Service, with support from the Borders Alcohol and Drugs Partnership.

DECISION

NOTED

6. UPDATE ON NATIONAL POLICIES AND POLICY STATEMENT

- 6.1 The Convener welcomed to the meeting Mr Aidan Collins, from Alcohol Focus Scotland, to give a presentation, as a joint CPD session, on Alcohol Licensing in Scotland and linking licensing policy to practice. Mr Collins began with some background information about Alcohol in Scotland where there was the highest consumption and harm in the UK. 17% more alcohol was bought per adult in Scotland each year than in England and Wales. There was increased availability and changing patterns of sales and consumption. Each year around 96% of applications for new licensed premises were approved. In 2016, almost three-quarters of alcohol sold in Scotland was sold in supermarkets and off-licences. Looking at trends in patterns of sales and consumption, in deprived areas there were 40% more places to buy alcohol than in more affluent areas; Scottish neighbourhoods with the most alcohol outlets had double the alcohol-related death rate compared to those with the fewest outlets. Mr Collins went on to refer to the five objectives set out in The Licensing (Scotland) Act 2005:- preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and protecting children and young people from harm.
- 6.2 Alcohol Focus Scotland had recently held regional seminars which identified key themes within the licensing system and highlighted what was relevant to developing new policy statements:

- *Joint working and collaboration* – it emerged that parties were getting better at joint working. Police felt that their relationship with the trade had improved. Boards and Forums were starting to work together – in this respect the Borders worked well and was used as an example of good practice.
- *Inconsistencies in policy and practice* - there was an inconsistency within Boards and between areas - with significant divergence of opinion. It was suggested that Boards look at neighbouring areas and identify examples of good practice.
- *Transparency, accountability and public participation* – the importance of involving communities was emphasised. Consulting on a draft policy statement gave local people an opportunity to have their say in shaping the local licensing environment. Alcohol Focus Scotland's Community Toolkit was designed to help anyone who would like to have a say on how alcohol impacted on their community.
- *Legislative complexity and litigation* – there had been a raft of changes that were difficult to navigate, much based on emerging case law.
- *Resourcing of the licensing system* – the licensing system needed to be adequately resourced. The work of Licensing Standards Officers was valued but on a reducing budget they were required to do more.

There were 20 recommendations which arose from the key themes identified. These were outlined in the publication 'Taking Stock' which would be launched shortly. Mr Collins concluded his presentation by handing out copies of the updated Licensing Resource Pack. This provided resources to support the collection of evidence on local alcohol-related harm, the development of licensing board policy statements and effective overprovision policies.

- 6.3 In response to a question in relation to decisions by the Licensing Board on grounds of overprovision and the risk of litigation from applicants, Mr Collins advised that if the Board's decisions were well-reasoned, consistent and linked to policy a legal challenge was unlikely to succeed. It was noted that the evidence-based Alcohol Profile was a legitimate reference on which to base decisions. With regard to community engagement, Mr Tunnah confirmed that every licence application was sent to Community Councils for comment. As there appeared to be a lack of understanding about how to get involved, Licensing Standards Officers had recently taken presentations to Area Forum meetings. The Convener thanked Mr Collins for his attendance and interesting presentation.

DECISION
NOTED the presentation

7. **PRIVATE BUSINESS**
DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Part I of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

8. **ALCOHOL PROFILE 2017**

The Senior Development Officer, Alcohol and Drugs Partnership, presented for consideration a working draft of the Alcohol Profile.

The meeting concluded at 5.05 pm