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SCOTTISH BORDERS - LICENSING BOARD/LOCAL LICENSING FORUM WEDNESDAY, 6 DECEMBER, 2017

A JOINT MEETING of the SCOTTISH BORDERS LICENSING BOARD/LOCAL LICENSING FORUM will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS. on WEDNESDAY, 6 DECEMBER 2017 at 4.00 pm

Nuala McKinlay
Clerk to the Licensing Board

29 November 2017

BUSINESS		
1.	Welcome by Councillor Greenwell, Convener of Scottish Borders Licensing Board	
2.	Apologies for Absence	
3.	Order of Business	
4.	Declarations of Interest	
5.	Minute (Pages 3 - 6) Consider the Minute of Joint Meeting of 22 November 2016 (copy attached).	2 mins
6.	Licensing Board Annual Report December 2016 to November 2017 (Pages 7 - 10) Consider report by the Clerk presenting a summary of the work of the Scottish Borders Licensing Board and the staff supporting the Board (copy attached).	10 mins
7.	Local Licensing Forum Overview 2016-2017	10 mins
8.	Agent Purchase Campaign Verbal update by Senior Development Officer – Alcohol and Drugs Partnership.	10 mins
9.	Update on National Policies and Policy Statement Presentation by Alcohol Focus Scotland.	30 mins

10.	PRIVATE BUSINESS Before proceeding with the private business, the following motion should be approved:- “That under Section 50A(4) of the Local Government (Scotland) Act 1973, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 7A to the aforementioned Act”.	
11.	Alcohol Profile (Pages 11 - 36) Consider working draft (copy attached).	10 mins
12.	Any other items which the Convener decides are Urgent	

NOTES

1. Timings given above are only indicative and not intended to inhibit Members' discussions.
2. Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.

Please direct any enquiries to Fiona Walling
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MINUTE OF JOINT MEETING OF THE
SCOTTISH BORDERS LICENSING BOARD
AND THE LOCAL LICENSING FORUM held
in Council Headquarters, Newtown St
Boswells on 22 November 2016 at 4.00 p.m.

Present:-

Board Councillors W. Archibald (Convener), J. Greenwell, B. Herd, D. Paterson,
Members:- J. Torrance, T. Weatherston.
Forum I. Tunnah (Convener), M. Hay, R. Mackay, A. Maybury, J. Taylor,
Members:- G. Todd, S. Walker, M. Wynne.

Apologies:- Board Members:- Councillor B. White
Forum Members:- S. Bell

In attendance:- Managing Solicitor Property and Licensing Group,
Inspector A. Hodges, PC C. Lackenby - Police Scotland,
Democratic Services Officer (F. Walling).

1. **WELCOME**

The Convener of the Licensing Board, Councillor Archibald welcomed those present to the meeting and asked for a round of introductions.

2. **MINUTE.**

There had been circulated copies of the Minute of Meeting of 1 December 2015.

**DECISION
APPROVED.**

3. **LICENSING BOARD ANNUAL REPORT DECEMBER 2015 TO NOVEMBER 2016.**

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. The Managing Solicitor, Ron Kirk, presented the report and highlighted the main points. Since the last joint meeting on 1 December 2015 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. 1,257 Occasional Licences had been granted in this period of which 380 were granted to voluntary organisations. In addition, 82 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. Of the 674 Scottish Borders Personal Licence Holders who were required to submit their refresher training certificates by 1 December 2015, 396 failed to do so. 308 of these licences were revoked between December 2015 and January 2016 and the other 88 licences were surrendered. In response to a question about this the Licensing Standards Officer, Ian Tunnah, provided further clarification. He explained that the majority of those Personal Licence Holders who did not apply for refresher training were simply no longer in the trade and had allowed their licences to

lapse. He confirmed that there was no cost to the Council when these licences were subsequently revoked automatically by delegated powers.

- 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. Eleven new Premises Licences were granted during the period. The Board considered 17 applications to vary Premises Licenses in this period. These included both non minor variations which must be determined by the Board and applications which attracted objections or representations. As in previous years, much work had been generated by established businesses who had realigned their layout and/or operating plans or as a result of transfer of business to a new licence holder or manager. Applications were also generated from store refits where national retailers changed corporate layout and/or practice such as playing music in store. The majority of these had also contained an increase in the area of alcohol sales in shops. These had all been within policy and had not attracted objections from the statutory consultees.
- 3.3 Mr Kirk referred to the Board's triennium statement of Licensing Policy which had been due for review and renewal during the last year. However Section 42 of the Air Weapons and Licensing (Scotland) Act 2015, which became effective on 30 September 2016, changed this requirement. The Board's Licensing Policy Statement would now require to be reviewed after the Council elections and the creation of a new Board in May 2017 with the new policy statement to become effective in November 2018 for a 5 year period to November 2023. In the meantime the Board's current Licensing Policy Statement would remain in place subject to any supplementary statements the Board may wish to implement. The report summarised other effects of the Act. Section 75 of the 2015 Act came into effect on 1 November 2016, and had the effect of removing the exemption from the requirement to hold a public entertainment licence where the premises/venue had been granted an occasional licence under the Licensing (Scotland) Act 2005 for the sale of alcohol. Only those venues which held a premises licence would be exempt from holding a public entertainment licence. Mr Kirk advised that, potentially, this may reduce the number of occasional licence applications received by the Board.
- 3.4 An Equality Outcomes and Mainstreaming Report was approved by the Board on 21 June 2013. As part of its duties under the Act the Board was required to publish a report, every two years, on the progress that had been made. An update report was published in September 2015. A further report would be required by April 2017. The Board's officers were currently reviewing the same for public consultation early in the new year with the intention of presenting this for consideration by the Board at its meeting in February 2017.
- 3.5 In conclusion, the Managing Solicitor reported an average attendance rate of 80% for the ten members of the Licensing Board over the past year. The Board would continue to meet on a monthly basis in the coming year. The last meeting of the current Board would take place in April 2017. Following the local government elections in May 2017 a new Board would be appointed and would be required to undertake the mandatory training before it could formally meet for the first time in June 2017. In the discussion that followed it was agreed that, once the new Board was in place, opportunities for joint training sessions with the Local Licensing Forum should be taken forward.

DECISION

AGREED to:-

- (a) note the report; and**
- (b) request that the Clerk provide these reports on an annual basis.**

4. LOCAL LICENSING FORUM ANNUAL REPORT 2015 - 16

- 4.1 There had been circulated copies of the Scottish Borders Licensing Forum Annual Report 2015 – 16. The Convener, Ian Tunnah, advised that the Forum had continued to be active during the previous year. Membership had remained relatively stable with Mike Wynne (Licensing Standards Officer) joining the Forum in January 2016. The Forum would also like to acknowledge the ongoing support via Alcohol Focus Scotland throughout 2016. With regard to the amendment of the normal duration of the Licensing Policy Statement, referred to earlier in the Board's report, Mr Tunnah explained that the Forum had agreed that it would be helpful to start reviewing the current Policy and make recommendations for a supplementary policy statement to be created and bring it up to date with the most recent data available. A short life working group was therefore convened in January 2016 to look at this and recommendations were sent on 17 October 2016 to the Licensing Board for consideration. Mr Tunnah added that the Forum was pleased to know that these recommendations would be kept on board in preparation for a review of the Policy once the new Licensing Board was in place.
- 4.2 Mr Tunnah went on to highlight work carried out during the past year by Alcohol Focus Scotland, with the launch of a new toolkit to help people raise concerns about the impact of alcohol in their community. The toolkit outlined action that people could take about problems alcohol was causing in their local area. It also explained how the licensing process worked in Scotland and provided practical tips for people who wanted to get involved. The Forum had supported dissemination and awareness raising in Scottish Borders communities of this toolkit by delivering presentations to all Area Forums. Further inputs were to be planned with Community Learning and Development and young people in particular. On 27th September 2016, in Edinburgh, Alcohol Focus Scotland (AFS) hosted a seminar on the alcohol licensing system in Scotland. This was the fourth of four regional events taking place across the country throughout the month. With future newly constituted licensing boards and a fresh round of Statements of Licensing Policy in 2017/18, attendees were invited to explore their experiences and learning gained in licensing over the past four years, and to identify any areas of ongoing challenge. Susan Walker (ADP Support Team) was invited to present at this event to share her experiences as a member of the Forum. Members of the Legal & Licensing Team also attended this event. The forum was kept up to date on national licensing news and this year received inputs on Monitoring and Evaluating Scotland's Alcohol Strategy Final Annual Report (MESAS) and Alcohol (Minimum Pricing) (Scotland) Act 2012.
- 4.3 In recognition of the difficulties for members of the Forum being able to attend regular Licensing Board meetings, the board minutes were now a standing item at Forum meetings. It was felt that knowledge of the current Board's policy continued to be lacking on occasions. A suggestion had previously been made by the Forum to hold regular awareness/training sessions with the Board. These would be particularly relevant when applications highlighted as being outwith policy were listed on the Board's agenda and perhaps would provide greater clarity with reference to the Policy once any such applications were determined. The Forum members did appreciate however that every application was determined on its own merits and that the Boards Policy did allow a fair degree of flexibility. The report went on to refer to the Alcohol Profile, the third edition of which had been published in January 2016. Mr Tunnah acknowledged the huge amount of work carried out by Susan Walker and Erin Murray to produce this. Alcohol statistics were available both nationally and locally relating to the five licensing objectives within the Profile. This was designed to inform and strengthen local licensing policy and allow informed decision making. Challenges had been made against the Profile this year particularly where data had shown less favourable situations in certain Intermediate Geographies. The Forum recognised that it could be challenging when Licensing Board Members represented local communities in their other roles. However this Profile was designed as a tool to support the Board and could form a necessary evidence base if any decisions were challenged in the courts. Rather than hide the facts contained within the Profile it may be more appropriate to use them to come to a fully informed decision. The Forum would welcome input from Licensing Board members in the development of the next Profile to ensure this document remained active in decision making. Discussion of

the report included reference to the proactive move by the Licensing Board, in the Spring of 2016, to accompany police in their night time work in Borders towns. Several members of the Forum also joined the group who gained a valuable insight into the night time economy of the area. There was universal agreement that this type of public facing activity should be repeated.

DECISION

NOTED the report.

5. **ALCOHOL PROFILE 2016.**

Susan Walker, Senior Development Officer – Alcohol and Drugs Partnership, advised that, due to reduced capacity, a summary document of data available from the past year would be produced rather than a full updated profile. This would enable the Licensing Board to be in possession of the most up to date information on which to base decisions. A draft of the summary document would be sent to Licensing Board members for comment before publication. Feedback would be welcomed. The ensuing discussion focused on the ongoing legal process relating to Minimum Unit Pricing (MUP). Views were expressed about the importance of the effect on drinking levels of low pricing and move to off-license sales. It was noted that the professional agencies were confident that a move to Minimum Unit Pricing would target those drinking to hazardous levels. Ms Walker agreed to circulate to members a link to the evidence for MUP following the meeting. Inspector Hodges welcomed the Licensing Board's recent decision to turn down a licence application for alcohol at an entertainment event where children would be present. He urged members to continue to consider future similar applications very carefully, pointing out that every entertainment event should not have to involve alcohol to be a success.

DECISION

NOTED

6. **CLOSING REMARKS**

Councillor Archibald referred to the fact that this would be his last joint meeting. He thanked members of the Licensing Board, Local Licensing Forum, officers and the Police for their efforts and commitment whilst he had been Convener of the Board and expressed his best wishes for their work in the future.

The meeting concluded at 4.40 pm

Scottish Borders Licensing Board

Report by Clerk

Annual Report December 2016 to November 2017

6 December 2017

1 PURPOSE AND SUMMARY

- 1.1 **The purpose of this report is to give a summary of the work of the Scottish Borders Licensing Board and the staff supporting the Board**
- 1.2 **It is hoped that this report will assist the Forum to facilitate its scrutiny role of how the Board discharges its duties and responsibilities in terms of the Licensing (Scotland) Act 2005 (the Act), as amended.**

2 RECOMMENDATIONS

- 2.1 **I recommend that the Board and the Forum note the report and request that the Clerk continues to provide updates to the joint meeting on an annual basis.**

**Nuala McKinlay
Clerk
Scottish Borders Licensing Board**

3 SUMMARY OF ACTIVITY

- 3.1 Since the last joint meeting on 22 November 2016, the Board have met 11 times. At each Board meeting, in addition to determining applications and reviews, members consider all matters which have been dealt with under the delegated powers of the Clerk where both the Act permits this method of determination and there have been no objection or representation in respect of the application.

3.2 Delegated Decisions

The majority of delegated decisions are in connection with grants of occasional licences which are a feature of sporting fixtures and local festivals in the Community.

1220 Occasional Licences have 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 relate to minor variations of premises licences, substitution of premises managers, grants of personal licences and transfers of premises licences.

3.3 Hearings

The hearings take place as part of the Board's business as narrated in the published agenda. Hearings are held in public and parties have the right to address the Board or rely solely on their written submissions.

3.4 Grants Including Provisional Grants

The Board must hold a hearing for the Grant or Provisional Grant of a Premises Licence. 16 new Premises Licences were granted. 9 Licence Holders chose to surrender their Licence and the Board suspended 6 Licences as referred to at 3.6.

3.5 Variations

The Board considered 39 applications to vary Premises Licences in this period. This included both non minor variations which must be determined by the Board and applications which attracted objections or representations.

As in previous years much work has been generated by established businesses who realign their layout and/or operating plans or as a result of transfer of business to a new licence holder or manager. Such applications can be the outcome of visits by the Licensing Standards Enforcement Officer when it is apparent that the current operation does not comply with the Licence or the Licence Holders discuss how they can amend their Licence to move with their perceived training and business needs. When subsequent applications are submitted and processed often these do not generate objections and are granted by the Board at the meetings after due consideration of the application in relation to the statement of policy.

Such non contentious applications can relate to changes in opening hours often relating to the times for sales of alcohol where premises wish the opportunity to open earlier for the sale of breakfasts, coffees etc. Applications are also generated from store refits where national retailers change corporate layout and/or practice such as playing music in store. The majority of these have also contained an increase in the area of alcohol sales in shops and these have all been within policy and have not attracted objections from the statutory consultees.

3.6 Reviews

Premises Licences

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 6 licences being suspended with the other 2 licence holders making payment of the annual fee prior to the hearing taking place.

4 **OTHER MATTERS**

- (a) 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 of the new board.
- (b) Eight of the members of the new board underwent training on 2 June 2017 and attained the statutory qualification covering the key areas of knowledge necessary to support their roles as a Licensing Board Member as required by the Act. The one other member subsequently underwent the mandatory training externally and attained the required qualification. The new board sat for the first time on 23 June 2017.
- (c) The Air Weapons and Licensing (Scotland) Act 2015 introduced a requirement that Licensing Boards produce annual financial reports. The requirement to produce such a report came into effect on 15 May 2017. The Boards annual financial report must be prepared not later than three months after the end of each financial year. This means that the Board's report for the financial year 2016/2017 should have been published no later than the end of June 2017. However, the Scottish Government recognised that due to the short notice of this requirement coming into effect together with the local government elections at the beginning of May 2017 which resulted in the creation of new Licensing Boards the requirement to have financial reports published by the end of June 2017 was unrealistic and that Boards should therefore be allowed some leeway and should strive to publish their financial report as soon as possible. The Board considered their financial report at their meeting on 22 September and the report was subsequently published thereafter.
- (d) One of the first functions of the new board was to consider its review of its Licensing Policy statement. The new policy statement requires to be implemented in November 2018 for a 5 year period to November 2023. The Board has formed a working comprising 4 of its members who along with the Board's officers will 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.
- (e) On 28 October 2016, eight members of the new board attended the Board's late night premises visits. 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 functions in each of these towns and also met with Street Pastors

whilst in Galashiels and gained an insight of their role within the community.

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